

*No child shall be deprived of his or her liberty unlawfully or arbitrarily.
The arrest, detention or imprisonment of a child shall be in
conformity with the law and shall be used only as a
measure of last resort and for the shortest
appropriate period of time.*

Article 37, UNCRC

Monitoring the Juvenile Justice Administration in Azerbaijan

NGO Alliance for Children's Rights

This report, “Monitoring the Juvenile Justice Administration in Azerbaijan,” is the result of the collective work of many experts – national and international – in the field of juvenile justice. It is the final report of a five month project involving the monitoring of the juvenile justice administration in Azerbaijan implemented by the Azerbaijan NGO Alliance for Children’s Rights with the generous support from the OSCE Office in Baku.

The report reflects the empirical findings on the situation of children and children’s rights within the juvenile justice system and provides information about gaps in the functioning of those institutions.

The report is recommended for use by experts working in government agencies and the legal system dealing with juvenile cases, international and national NGOs working in the field, people interested in children’s rights and international human rights law, students and scholars of the law and international law faculties of the universities, colleges, national academies and training centres under the affiliations of the different government ministries.

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Office in Baku

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Executive Summary

Human rights are basic rights inherent to all persons to be treated equally and with respect for their natural worth as human beings. These rights are universal and inalienable. Human rights apply equally to men, women, adults and children. The Universal Declaration of Human Rights acknowledges the basic human rights of children as well as their entitlement to special care and assistance. As stated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care." Because children are particularly vulnerable they have rights particular to them that recognise their need for protection.

The United Nations Convention on the Rights of the Child ("CRC") compiles the human rights of children as outlined in various international instruments. The CRC provides guiding principles on how children should be treated. It also articulates rights particular to children that must be realised for them to develop to their full potential. In 1992, Azerbaijan became a party to the CRC. State parties are obligated to amend and create laws to fully implement the rights enumerated in the Convention.

The CRC provides that the right to special care and assistance extends to the treatment of juvenile offenders. When children break the law they have the right to a justice system that respects their rights.¹ The vulnerability of a child requires an approach that encourages treatment and rehabilitation and not merely punitive sanctions.

Azerbaijan, as a Member State, is obligated to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, known as the Beijing Rules. The Beijing Rules set minimum standards for the treatment of juvenile offenders. They define juvenile justice as an integral part of social justice for juveniles. The Beijing Rules acknowledge that a constructive social policy aimed at promoting the well-being of the juvenile will help prevent juvenile crime and delinquency, thus minimizing intervention by the juvenile justice system. When children are in conflict with the law, however, the Beijing Rules apply providing the necessary safeguards within the juvenile justice system.

Azerbaijan has demonstrated a recognition that new initiatives with regards to juvenile justice will be necessary, and has made strong efforts at improving its justice system overall. New programmes, such as the training of 350 police child inspectors jointly conducted by UNICEF and the Ministry of the Interior, along with recent developments by the Penitentiary Service and the Juvenile Correction Centre to further efforts to prepare juveniles for integration into society, will most certainly have a positive effect.

It would appear, however, that based on the findings in this report, there are some important specific issues that should be dealt with, and which would further the efforts of the Republic of Azerbaijan to meet its obligations in particular under the Beijing Rules.

Two of the most important objectives of juvenile justice are the promotion of the well being of the juvenile and proportionality in response to offences.² Promoting the well being of the juvenile often involves removing the juvenile from the criminal justice process. Using alternative measures minimises the potential harm to the juvenile, as does a quick resolution. The principle of proportionality seeks a fair reaction to a case taking into account the gravity of the offence and the personal circumstances of each child.

The NGO Alliance for Children's Rights report on Azerbaijan's juvenile justice system describes a system that all too often is failing its children. The report found a number of cases in which, instead of protecting juveniles and promoting rehabilitation, the system victimises juveniles, placing them

¹ See CRC Article 40.

² The Beijing Rules, Art. 5.1.

in detention facilities and often without subsequent review. The report portrays a system lacking in resources both physical and human that can meet the special needs of children. It further illustrates the country's need for a comprehensive social policy promoting the well being of juveniles.

The district Commissions on Minors' Affairs and Protection of their Rights ("Commissions on Minors") are intended to be the lead institutions charged with the care of juveniles in conflict with the law and at risk. The Commissions on Minors have a wide range of obligations; from placing and monitoring juveniles in special educational institutions, petitioning the pardoning commission, to making social policy recommendations to minimise juvenile delinquency and promote the well being of juveniles. Unfortunately, the report finds the Commissions on Minors currently not fulfilling their duties towards children at risk. The Commissions on Minors compete with other commissions also under the authority of the district executive committee (ExCom). It appears that the Commissions on Minors are not the ExCom's priority in time or money. It is of particular concern that *none* of the juveniles interviewed for the report had ever heard of the Commissions on Minors or met with a representative. Likewise, the Commissions were unable to provide any information on the number of juveniles in their districts who were arrested, awaiting trial or convicted.

The report also notes that children in conflict with the law are not prioritised by other key actors. Examples from the report show that some police child inspectors are typically police officers that have been demoted and consequently other police departments and the public do not respect them. In addition, although designated in title to work on juvenile cases, most police child inspectors have other police obligations and responsibilities unrelated to juvenile work that take priority.

The report's description of a juvenile's first encounter with the law is also of concern. There are no separate holding cells for juveniles at the police detention centres. Police in general are not trained to deal with detaining minors. Juveniles are unaware and uninformed of their rights. No effort is made by the police to educate minors or their parents on the process or of their rights. Consequently, parents and legal representatives are routinely denied timely access and the child's rights are systematically violated.

Prosecutors, advocates and judges show little interest in expediting juvenile cases. Prosecutors and advocates consistently fail to appear in court on time. In some trials monitored, juveniles waited in courtroom cages or the court basement without food or water. State-appointed advocates do not represent juveniles of their own volition. Moreover, juveniles report that state-appointed advocates merely go through the motions failing to truly advocate for them. Judges cancel, postpone or continue hearings with little or no notice to the parties.

The process ultimately victimises the juveniles who spend an average of six and a half months in a pre-trial detention facility (investigatory isolator). The report highlights the harm that can come to a juvenile during his detention in an investigatory isolator. Juveniles are not separated from adult offenders, access to parents and lawyers is not timely, there are no provisions for education, and disciplinary measures include corporal punishment and solitary confinement.

The Juvenile Correctional Institution provides the most opportunities for juveniles in regards to education and vocational training. Juveniles in the correctional institution are allowed to take the national university entrance examinations. The institution, however, still does not fully protect the rights of a child. Although established for first time offenders, the institution incarcerates repeat offenders and juveniles convicted of grave and serious crimes. The facility does not separate the juveniles based on the gravity of the crime. The report also notes there are no specialised assistance programmes. The most alarming statistic is the common use of solitary confinement as a means of punishment. In 2005, 38 disciplinary measures were taken, 22 of which utilised solitary confinement.

The report reveals improper placement of children in special educational correctional institutions. At the request of parents and based only on economic hardship, children who have done no wrong are placed in institutions with children who have behavioural problems or who have committed crimes. The same regime is employed to children with special needs. No specialised forms of assistance are available. Disciplinary measures include corporal punishment. Furthermore, the placement of a child in an institution is not reviewed. “Temporary” placements have lasted as long as two years.

The report further exposes the limited opportunity for rehabilitation of female juvenile offenders. The three primary institutions responsible for juvenile detention – the correctional facility and the two special educational correctional institutions – are exclusively for boys. Female juvenile offenders are sent to the women’s prison. At the prison, girls are incarcerated with adults who are not separated by the gravity of the crime committed. Unlike the other institutions, the women’s prison does not provide any educational opportunities other than vocational training in carpet weaving and tailoring.

During the last two years, the Ministry of the Interior and the Ministry of Justice have taken active roles in the efforts to improve the system, and the ministries have cooperated with the activities undertaken to monitor the juvenile justice system. Such cooperation was essential to the production of this report, and it is appreciated that both ministries displayed a willingness to review and provide feedback to the report. It is hoped that this necessary and important cooperation will continue as all parties seek to implement positive changes to the juvenile justice system.

Overall Azerbaijan’s juvenile justice system requires a significant strengthening of the safeguards needed to protect children. The two main objectives – promoting the well being of the juvenile and proportionality in response to offences – are not met. Children need to become a priority to those involved in the juvenile justice system. Special care as mandated by law and needed by children must be given to provide all juveniles the possibility to develop to their full potential as individuals and in society.

Glossary

AR	Republic of Azerbaijan
Beijing Rules	United Nations Standard Minimum Rules for the Administration of Juvenile Justice
Commissions on Minors	Commissions on Minors' Affairs and Protection of their Rights – part of the district Executive Power Committee
CC	Criminal Code of Azerbaijan Republic
CPC	Criminal Procedure Code of Azerbaijan
CEP	Code of Azerbaijan Republic on Execution of Penalties
District court	First instance courts in each administrative district of the country
ExCom	Executive Power Committee within each administrative district of the country
Exemplary Charter	Exemplary Charter on Special open and closed type education institutions
Havana Rules	United Nations Rules for the Protection of Juveniles Deprived of their Liberty
Investigatory Isolator	Remand facility under the Ministry of Justice
Lawyers	Advocates (the terms are used interchangeably here)
NGO Alliance	Azerbaijan NGO Alliance for Children's Rights
OSCE	Organization for Security and Co-operation in Europe
Police child inspector	Special police inspectors dealing exclusively with children
Police detention centres	Temporary detentions centres within the police stations
Riyadh Principles	United Nations Guidelines for the Prevention of Juvenile Delinquency
State Committee	State Committee on Women, Family and Children's Issues of Azerbaijan Republic
UN Committee	UN Committee on the Rights of the Child
UN CRC	United Nations Convention on the Rights of the Child
UNICEF	United Nations Children's Fund

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Introduction and Methodology

Between March and August 2006, the Azerbaijan NGO Alliance for Children's Rights monitored institutions involved in the Juvenile Justice Administration in Azerbaijan. The objective of the monitoring project was to study the administration of juvenile justice in Azerbaijan through direct observation. Monitoring the work of juvenile justice institutions included checking records and interviewing the staff and juveniles that are involved in the system. The data collected during the monitoring phase was compared with international standards on administration of juvenile justice as well as other related international treaties to which Azerbaijan is a party. The observations and information collected helped define the key problems and obstacles juveniles face in the judicial system. Recommendations for improving the situation are made in this report. The report will be presented to the government of Azerbaijan, National Parliament, international organisations, national NGOs and to the general public.

Institutions Selected for Monitoring

Monitoring was conducted countrywide, and specifically focused on the activities of the following institutions:

1. District Commissions on Minors;
2. Police Detention Centres (temporary detention centres within police stations);
3. Investigatory Isolator #3 (a pre-trial detention facility under the Ministry of Justice);
4. Juvenile Correctional Institution under the Ministry of Justice;
5. Women's Prison #4;
6. Special Educational Correctional Institutions:
 - i. Guba Correctional Technical-Vocational School for Boys;
 - ii. Mardakan Special Educational-Correctional School for Boys.

1. District Commissions on Minors

The district Commissions on Minors are key institutions directly responsible for the protection of children's rights and are mandated to lead on preventing the violation of children's rights and juvenile delinquency. The district Commissions on Minors are part of the Executive Committees (ExCom), which are the central government's authority for each administrative district in the country. The district Commissions on Minors, however, are not directly accountable to any central government agency. Instead, the district Commissions report to the Deputy Head of the ExCom who also happens to be the Head of that district's Commission on Minors. Quarterly reports collected by each ExCom are sent to the Cabinet of Ministers to the attention of the *Republican Commission on Minors' Affairs and Protection of their Rights*. The *Republican Commission on Minors*, however, has no direct supervisory power over the district Commissions on Minors.

ExComs play an important role in the field of children's rights through three different institutions: 1) the Commissions on Minors; 2) the Department for Adoption and Guardianship, and 3) the "Psycho-Medico-Pedagogical Commission". Although all three institutions deal with children's issues, this report only observed the district Commissions on Minors because they are the institutions directly involved with juveniles at risk and in conflict with the law.

2. Police Detention Centres

Police Detention Centres are temporary detention centres located in each police station and are under the authority of the Ministry of Internal Affairs. There are no special police detention centres for children. Considering the potential risk of detaining children and adults together and the special care required for children while they are kept in these centres, the centres were considered a priority for monitoring.

3. *Investigatory Isolator № 3*

The Investigatory Isolator No. 3 is a pre-trial detention facility. It detains remanded individuals who are awaiting trial. It is under the authority of the Ministry of Justice. The isolator has three separate sections for holding juveniles, women and adult men. For purposes of this report, the section for juveniles and women was monitored.

4. *Juvenile Correctional Institution*

The Juvenile Correctional Institution is a specialised institution in the penitentiary services of the Ministry of Justice. The institution is charged with incarcerating juveniles convicted of certain crimes.

5. *Women's Prison № 4*

The Women's Prison is a specialised institution in the penitentiary services of the Ministry of Justice entitled to incarcerate adult women and girls convicted of certain crimes.

6. *Special Educational Institutions*

There are two special educational institutions under the jurisdiction of the Ministry of Education for juveniles in Azerbaijan - Mardakan Special Educational-Correctional Institution for Boys and Guba Correctional Technical-Vocational Institution. The Mardakan facility is entitled to hold juveniles aged between 8 and 16. The Guba facility is for juveniles aged 11 to 18. Three categories of children are held in these facilities: (1) juveniles who are under 14 years old when they commit a crime because they are not considered criminally responsible by the Criminal Code of Azerbaijan; (2) juveniles of criminally responsible age (14-18 years old) who are convicted of committing a less serious crime and instead of imprisonment they were sentenced to confinement in a specialised educational institution; (3) juveniles of any age who have not committed any crimes but their behaviour is "difficult to manage or cope with" or have been classified as "socially dangerous."

Court Proceedings

Several juvenile criminal cases in different district courts throughout the country were also monitored to assess the application of international standards by legal professionals in juvenile justice cases.

Monitoring Organisations and Training

Monitoring was conducted by the following member-organisations of the NGO Alliance for Children's Rights:

- Reliable Future Youth Organisation;
- Prison Watch Public Association;
- Azerbaijan Young Lawyers Union;
- The World of Law Public Association; and
- "EL" Development Programmes Centre.

Twenty observers experienced in juvenile justice issues took part in the monitoring activities. They were extensively trained before the monitoring and received technical and administrative guidance to organise impartial and successful monitoring. The preparatory work for the monitoring project started in the autumn of 2005. The first training on juvenile justice was provided in November to a group of NGOs and government representatives. The training, provided by a former Swiss Juvenile court judge, André Dunant, comprised of both theoretical training and practical visits to different institutions mentioned above. In December 2005, Dr. Dierk Helmken, a juvenile justice expert and juvenile court judge from Germany, together with NGO Alliance national expert, Sevinj Aliyeva (from the Public Association on Monitoring of Detention Places), conducted a four-day training course on juvenile justice issues for prospective monitors. This training covered the implementation of the United Nations Convention on the Rights of the Child (UN CRC), international standards on the administration of juvenile justice, international experience in the field, monitoring skills and interviewing techniques. Dr. Dierk Helmken drafted the questionnaires to be used for the monitoring of the detention institutions and court proceedings. The national experts of the NGO Alliance adapted the questionnaires in accordance with Azerbaijan legislation and specific relevant issues. Five questionnaire forms were developed to specifically address the work of detention facilities, court hearings, the Commissions on Minors, and special educational correctional institutions for juveniles. The last form was used to conduct interviews with the children and staff members of these institutions. A special handbook containing all of the questionnaire forms was published and provided to the monitors. The monitors completed two-day training in February 2006 to introduce the questionnaires. These seminars also included role playing exercises.

Beginning in mid-April, eight teams of two monitors travelled to all of the regions of the country and inquired about the activities of the Commissions on Minors, police detention centres, district courts and the relevant special educational facilities. Interviews were conducted with chairpersons, heads or executive secretaries of the Commissions on Minors, child police inspectors, chiefs of police detention centres, judges in district courts, heads, teachers and children in specialised educational institutions, as well as with staff and juvenile detainees in the correction institution and investigatory isolator.

I. Key Findings

General overview of the functions of juvenile justice institutions

International standards can be found in the UN Convention on the Rights of the Child, the Riyadh Principles and the Beijing Rules encourage rehabilitation rather than punishment taking into consideration the wellbeing of a child at all stages of the justice system. The Azerbaijani Criminal Code and Criminal Procedure Code incorporate many of the principles. Implementation of these international standards, however, requires strengthening. In 2005, as part of the shadow reporting procedures to the UN Committee on the Rights of the Child,³ the NGO Alliance conducted its first research study. The results of that study revealed problems in the implementation of international standards by Commissions on Minors, police child inspectors, and district courts.

This report shows that, in general, the situation remains the same and that problems and gaps in the juvenile justice system are apparent in all regions and in the system as a whole. The problems do not appear to be due to the incapability of individuals working within the institutions. Rather, the authorities are not determined to fulfil their responsibilities under the existing national legislation and international obligations of Azerbaijan.

As a result of the observations, monitoring and surveys, the following general conclusions can be made:

1.1. Commissions on Minors

❖ Heads of Commissions are Overextended

The head of the Commissions on Minors typically occupies a high ranking position within the local ExCom. Usually, the First Deputy of the Head of the ExCom is also the head of the Commission on Minors.⁴ Because of this, it could be argued that the Commission on Minors' work is an authorised governmental body. On the other hand, having such a high ranking official as the head of the Commission, who is also involved in many other areas of local governance, leaves the government official little time to devote to the Commission on Minors. In some regions the chairpersons of the Commission on Minors also chairs two or more other commissions, leading to shortcomings in the work of all these institutions. It also leads to difficulties in prioritising issues and allocating time to each institution. Moreover, commission members are mostly executive secretaries and psychologist-consultants, who are the only paid staff members. They, however, are often enlisted to conduct other activities for the ExCom including organising meetings, ceremonies, collecting gas or electricity fees, doing repair work, and other non-relevant paper work. As a result of the high ranking officials and the paid staffs' lack of time and attention to the work of the Commission on Minors, the Commissions in all of the districts suffer from inactivity. The staff of the Commissions on Minors can also be characterised as indifferent to their work involving juvenile justice.

❖ Commissions are not separate and distinct institutions

In many instances the Commission on Minors is not established as a separate institution within the ExCom. Chairpersons and executive secretaries of the Commissions often do not know their exact responsibilities or authority. For example, in Narimanov district, the work of the Commission on Minors is widely confused with the work of another ExCom institution - the Department for Adoption and Guardianship. In most of the Baku districts, the executive secretary of the Commission on Minors is also the secretary for the Department of Adoption and Guardianship.

³ Juvenile Justice in Azerbaijan, p. 9, Alternative report of the Alliance of Azerbaijani NGOs on Children's Rights

⁴ In Barda, however, the Head of the ExCom himself was identified as a chairman of the commission on minors.

Because guardianship and adoption are common cases handled by the ExCom, the executive secretaries demonstrated more experience in this field. During most of the interviews with members of the Commissions on Minors, when they cited examples they largely dealt with adoption and guardianship. When asked to distinguish between the Commission on Minors and the Department of Guardianship and Adoption within the ExCom, most of the secretaries and psychologists told the monitors that they served both commissions. They also noted that the composition of both commissions and their heads are almost identical. In Astara, they did not even know that there should be a Commission on Minors under the ExCom. The First Deputy of Astara district ExCom told monitors, that “there is no such commission within the apparatus of Astara district ExCom, and such issues are dealt with by the police.”

❖ *Commission are Understaffed and Under Paid*

Most of the commissions mentioned that a lack of personnel hindered their ability to effectively fulfil their duties. Specifically, there is a need for social workers to work with psychologists and additional members of the Commission to work with children and their families. This is considered a serious obstacle to effective preventive work with juveniles by the Commissions.

Psychologists, employed as consultants on an hourly basis, are as a rule not qualified enough to work with juveniles in conflict with the law. The salary is also considered low. As a result, these positions often stay vacant.

Related agencies within the ExCom provide unpaid volunteers as members of the Commissions on Minors.⁵ These unpaid members are not active in most instances and rarely participate in the meetings of the Commissions. Some chairpersons and secretaries of the Commissions on Minors had difficulties providing the exact number of Commission members or the names of the agencies they represent. The numbers ranged from 7 to 11 members in different districts.

❖ *Commissions fail to monitor the placement of children*

The Commissions are entitled to monitor the placements of children.⁶ The most common type of placement considered by the Commissions is either an open or closed type educational institutions. With the exception of a few Baku Commissions on Minors, the Commissions do not monitor the placement of children in boarding schools or orphanages. Commissions cannot determine the effectiveness of the system if they fail to monitor the placement or conduct periodic reviews of placement.

❖ *Commissions fail to participate in court proceedings*

Most Commissions on Minors do not participate in juvenile court proceedings. The Commissions' representatives blame the courts for failing to inform them of the hearings. The Commissions on Minors, however, are entitled to collect, consider, analyse and report on all issues related to children within their territory of jurisdiction. There is serious concern that the commissions do not, in fact, perform these tasks. When questioned, the Commissions were unable to provide any information about juveniles in their jurisdiction who were arrested, awaiting trial or convicted.⁷ Moreover, the results from monitoring the police detention centre, investigatory isolator and juvenile correction centre show that none of the children had ever seen a representative from the Commission on Minors.

⁵ Including the police department, lawyers for the ExCom apparatus, labour and social welfare department, education department, youth and sport department, and the health department.

⁶ Article 5 (par.3), Part II of Status of Commissions on minors' affairs and protection of their rights, 31 May 2002.

⁷ None of the Commissions could provide a clear answer to the question: “Is there any child from your region that is kept in the Juvenile Correctional Facility, Distribution Centre under the Ministry of Internal Affairs or Investigatory isolator?”

None of the Commissions on Minors could provide information regarding any appeals made to the district, appellate or supreme courts (including the Court for Grave Crimes), on behalf of a juvenile requesting a less serious punishment, alternative punishment measures, conditional release, or early release.⁸

❖ *Commissions failure to make proactive recommendations*

The Commissions on Minors are entitled to analyse the situation regarding juvenile delinquency in their district, study the reasons behind juvenile delinquency cases and provide concrete recommendations.⁹ A review of the quarterly and annual reports, as well as the protocols of meetings, did not reveal any information that the Commissions are, in fact, studying, analyzing or making proactive recommendations.

The Commissions on Minors are entitled to participate in the development of different normative legal acts and by-laws that protect children's rights and their welfare.¹⁰ Almost none of the Commissions on Minors have ever participated in the development of any local, district or nationwide programme related to protecting children's rights, improving their living conditions, rehabilitating or correcting juveniles' behaviour, educating or the protecting other legal interests of juveniles. An analysis of the quarterly and annual reports submitted by the Commissions on Minors to the Cabinet of Ministers shows a lack of information that can be used to improve the child protection system in the district or the country as a whole. These one to two page reports mostly include information about the meetings held, visits to schools made, concerts or other cultural events organised for children and a brief summary of the cases considered, if any. The central government agencies, therefore, do not rely on the information coming from the Commissions on Minors. As a result, the Commissions on Minors fail to be seen as the key institution dealing with children.

❖ *Commissions failure to use alternative measures*

The Commissions on Minors have the responsibility and right to employ alternative measures to imprisonment and placement into open and closed type institutions from among a list of effective tools provided in the legislation when considering less serious crimes and crimes of less serious public threat.¹¹ None of the Commissions on Minors could provide any examples of cases in which it employed this right during the last two to three years.

Commissions on Minors have the right to submit petitions to the Pardoning Commission. None of the Commissions have ever exercised this right. Particularly of interest is the fact that no Commission has ever petitioned the Pardoning Committee on behalf of a juvenile 14-18 years old sentenced by a court.¹²

The law provides the commissions with the possibility to approach any government, non-governmental agency or private business with a request to assist them in the processes of upbringing, rehabilitation, integration, employment or education of a particular juvenile. As an example, the commission can request a supermarket to support a child through providing a part time job, or request any of the Azerbaijani Olympic Sport Centres to allow a child to use the sport facilities. However, most of the Commissions on Minors have not sent official requests¹³ to state

⁸ Article 5 (par.11), Part II of Statute on the Commissions on Minors.

⁹ Article 5 (par.18), Part II of Statute on the Commissions on Minors.

¹⁰ Article 5 (par.1&2), Part II of the Statute on the Commissions on Minors.

¹¹ Article 9 (par.1), Part III of Statute on the Commissions on Minors.

¹² Article 5 (par.13), Part II of Statute on the Commissions on Minors.

¹³ Article 5 (par.10), Part II of the Statute on the Commissions on Minors.

bodies, private companies or state-owned companies, firms or organisations, with regard to upbringing, employment or education of juveniles.¹⁴

❖ *Commissions fail to hold regular meetings*

Many Commissions on Minors fail to meet on a regular basis. Meetings are not scheduled at definite times or regular intervals. Some of the chairpersons and secretaries in the main districts could not recall the last meeting of the Commission on Minors or the issues discussed.

❖ *Commissions Misuse the Institutions*

Most of the Commissions on Minors base their decision to place a child in a special education institution on reports from parents or schools. The institutions are intended for children with behavioural problems. Unfortunately, most of the cases referred to the Commissions are from parents who complain of poor economic conditions, not behavioural problems, but still request their child be placed in a boarding school or orphanage.

❖ *Commissions Lack of Basic Resources*

Most Commissions on Minors have problems in terms of transport and logistics. They have difficulties travelling to distant villages. Consequently, their sphere of influence is limited to children's cases located nearby. Local ExCom administrations have, at the most, one or two computers (or typewriters). The employees wait in line to use them. The ability to exchange information between Commissions is also weak.¹⁵ The Commissions do not appear to have any type of database system.

Considering the aforementioned, it can be concluded, that the Commissions on Minors do not have the proper structure or level of required activity and resources to fulfil their duties regarding child rights and juvenile delinquency. The Commissions are also unable to effectively address drug-addiction, HIV/AIDS, early marriages, and smoking, which are common and widespread among juveniles.¹⁶

1.2. Police Child Inspectors - Teams for Preventive Work with Juveniles under the Public Security Section of the District Police Departments:

❖ *Public and Departmental Apathy*

Members of the teams for preventive work with juveniles under the Public Security Section of the District Police Departments are more commonly referred to as Police Child Inspectors. There is a low level of public recognition of the work by Police Child Inspectors which often leads to a lack of interest and attention by police officers to their work. Most police officers working in juvenile teams prefer to switch to other positions in order to be promoted.

¹⁴ During a conversation with the chairman of the commission in Hajigabul town (Deputy Head of ExCom) it appeared that they had applied to private organisations regarding employment of juveniles but, did not achieve the desired results. Even though a company agrees to employ a juvenile a contract is needed to limit their workdays, which then results in laying them off.

¹⁵ According to commission members, the major problem is logistics. To ensure efficient activities, they need to be better equipped (computers, copiers, fax, etc.), have access to new technologies (e-mail, internet) and relevant training courses.

¹⁶ In the course of conversation with a children's inspector in Hajigabul town, it appeared that drug addiction cases among juveniles were noticed recently. It was also noted, that the rate of drug-addiction among adults in Hajigabul town is also higher than in other regions, and that it would be naive to expect that it would not influence the children. According to the inspector, building sport facilities in the region, as well as arranging excursions for students would have positive results.

Most of the police child inspectors have no particular skills or knowledge in dealing with juveniles and no special qualifications appear to be required. During the survey it was noticed that the police officers assigned as police child inspectors are those who have been demoted in rank or position due to various reasons, or those approaching pension age.

The functions of police child inspectors are also not clearly defined. Police child inspectors are mostly involved in performing other police responsibilities sometimes keeping 24-hour duties in police departments and tracking adult criminals. Accordingly, they cannot fulfil their main responsibilities targeting the prevention of juvenile delinquency

❖ *Low Salaries*

The monthly salary of a Police Child Inspector is around 107-112 manats (or 110-115 USD). By comparison, the salary for a traffic police officer is five to seven times higher.

❖ *Lack of Resources*

Police child inspectors do not have the means to travel to far villages. If they have to travel outside of their town, they have to use their own car or pay for a taxi. This, obviously, affects the efficiency of their work.¹⁷

❖ *Limited number of Female Inspectors*

The number of female inspectors is quite low. The monitors met one female inspector in Gazakh and seven inspectors in the Baku district. No female inspectors were noted in other regions.

❖ *Limited involvement in the development of preventative programmes*

In most districts, the police child inspectors are the most active members of the Commissions on Minors. They are not, however, involved to the extent needed to formulate local and nation-wide policies and programmes to tackle juvenile delinquency.

In a number of regions the relationships between police, Commissions on Minors and schools is either poor or confrontational.¹⁸

¹⁷ People working in police structures mentioned that the salaries paid to traffic police exceed the salaries of police child inspectors for 5-6 times, and it is discriminatory and is evaluated by police officers as social injustice.

¹⁸ Police Child Inspectors from Agdash said it was difficult to keep gypsy kids from truancy, vagrancy and panhandling. According to them, even if they prevent the illegal acts in the district, the children go to Baku and continue their illegal actions in the capital. A point complicates the situation even more is that the school principals do not report the truants or vagrants to the police or to the Commissions on Minors. According to one inspector, a personal control worksheet is opened for every vagrant child. As a rule, the child should report to the police every two weeks. However, sometimes it becomes clear that immediately after reporting to the officer the child returns to Baku to continue his/her illegal activities. The chances of keeping him/her under continuous control are limited. School principles charged with controlling the children's attendance, hide the situation or do not want to deal with these issues at all.

1.3. Police Detention Centres ¹⁹

❖ *No Separate Detention Centres for Juveniles*

There are no special police detention centres for keeping children in custody. The general police detention centres are used both for temporary confinement of children and adults. None of the centres visited had specially dedicated cells for children. The chiefs of the police detention centres stated that they always keep children in separate cells and far from adults. Some also mentioned that if two or more children are not suspected of being a part of the same offence, they can be kept in the same cell. Because children in police custody were observed in very few districts during the period of monitoring, it was difficult for the monitoring teams to confirm the veracity of these statements.

❖ *No Specialised Training for Staff*

Only some chiefs of police detention centres received special training regarding the detention of juveniles before taking on their positions.²⁰ None of the staff members of the police detention centres interviewed could cite any juvenile-specific guidelines and/or rules, including international guidelines for the detention of children in custody under the UN Convention on the Rights of the Child.

❖ *No Uniform Recreation Time*

The time allocated for children in police detention centres to walk outside in fresh air varies greatly. Some centres provide 10-15 minutes while others provide 50-60 minutes.

❖ *Low Salaries*

Most of chiefs of the police detention centres said they are satisfied with the jobs but, the low salaries discourage them from doing their work with enthusiasm and interest. Chiefs receive about 95 manats and custodians receive about 80-90 manats per months.

❖ *Failure to Inform Juveniles of their Rights*

Juveniles placed in police detention centres are not informed of their rights and responsibilities in a clear manner. No booklets, brochures or posters related to children's rights or child-friendly versions of the rights and responsibilities of persons detained were observed as accessible to children in police detention centres.

❖ *Lack of Laundry Facilities*

In some districts, those accused of committing a crime can be kept for longer periods (until they are transferred to the investigatory isolators located in Baku or Ganja). The absence of laundry facilities in most police detention centres is also cause for concern.

¹⁹During monitoring, it was impossible to examine the police detention centre in Barda District Police Department (DPD). The DPD Chief did not allow the monitors to enter the police detention centre. The reason given was that the monitoring team did not have an official letter from the Ministry of Internal Affairs. The chief also refused to meet or speak over the phone to the monitors. A similar situation took place in Sumgayit City Police Department. In Sumgayit, the monitors were not allowed to approach the administration of the police department as they were told that all of the staff were at a meeting. Despite numerous efforts, it was impossible to monitor the police detention centre in Sumgayit City Police Department. Several attempts were made over several days but, the monitors were constantly told that there was an ongoing staff meeting.

²⁰ Whether the special issues concerning the detention of children are actually taught during these courses could not be confirmed

1.4. The Courts

A letter from the Ministry of Justice or the Supreme Court was required from monitors to conduct their survey. The majority of the courts did not required presentation of the letter. The Barda court, however, refused to allow any monitoring.²¹

❖ *Failure to Apply International Standards*

Judges, lawyers and prosecutors lack the basic knowledge of international standards on the treatment of juveniles in conflict with the law. Most judges, lawyers and prosecutors were aware of the UN Convention on the Rights of the Child but they did not explicitly know the main requirements provided by the Convention. In several court hearings in Baku and other districts, the lawyers appealed to the UN CRC but, the appeal was general in nature and not specific.

❖ *Failure to use Alternatives Measures*

Alternatives to imprisonment were observed in districts for children who committed minor crimes, like theft. In serious and grave crime cases, however, imprisonment was the only punishment measure employed by the courts.

❖ *Failure to involve the Commissions on Minors*

In most regions, the courts do not inform representatives of the Commissions on Minors about the trials and court hearings concerning juvenile cases.

❖ *Low Salaries*

State appointed lawyers were reluctant to fulfil their duties because of low payments provided by the State.

❖ *Failure to hear cases timely*

The Court on Grave Crimes was by far the most active court dealing with juvenile delinquencies although only one case monitored involved a serious and grave crime allegedly committed by children. A number of shortcomings were observed in the work of the court. The court frequently changed the date and time for the hearings with no advance notice to the children, their lawyers or their parents. The children, therefore, were transported to the court and then back to investigatory isolator several times. While at the court, the children waited in the basement for long periods of time with no access to drinks or meals. Cases are under consideration by the court for a very long time, some as long as 10-12 months. This type of treatment is considered inhuman and degrading.

1.5. Investigatory Isolators

❖ *Failure to keep Juveniles separate from Adults*

The investigatory isolator in Shuvelyan settlement of Baku has a special section for juveniles. Despite this, adults are sometimes placed with juveniles for no legal reason.

²¹ In contrast, the heads of the police detention centres in most of the districts did require a letter or phone call from the Ministry of Interior to confirm that the Ministry was aware of the monitoring and permitted the teams to enter the centres.

❖ *No Educational Resources*

The children do not have access to any educational resource despite the fact that many of the children are kept in the investigatory isolators for months pending trial. This fact was previously mentioned in the report by the NGO Alliance entitled “Juvenile Justice System in Azerbaijan” submitted to the UN Committee on the Rights of the Child in 2005. Since that time, it appears, no changes have occurred.

According to Article 434.2 of the Criminal Procedures Code, arrest of a juvenile as a preventive measure is considered an exceptional measure and should last for the shortest amount of time. When defining a term of imprisonment, international standards require the principles of “proportionality” and “reasonableness” be considered. The detention of juveniles in Investigatory Isolator # 3 makes clear that the provisions of article 434.2 of the Criminal Procedure Code are not followed.²²

1.6. Special Educational Correctional Institutions for Juveniles

❖ *Failure to Review and Monitor Placement*

The placement of children in special educational correctional institutions is not regularly reviewed, if at all. Most children placed in these institutions as a temporary measure have stayed there for more than two years.

The effectiveness of institutional placement for different categories of juveniles has not been reviewed, discussed and studied. This leads to blind placement of children in these institutions under the broad definition of “behavioural problems.”

The special educational correctional institutions, whether officially open or closed, in practice employ a closed regime. The institutions do not have any public monitoring or accountability mechanisms. The public has no access unless permission is granted by the Ministry of Education. Children are under strict supervision and are not entitled to leave the institution without permission. If permission is granted, a juvenile must be accompanied by a member of the institution’s staff. The lack of oversight has resulted in widespread violation of children’s rights, violence against children, and abuse of power by teachers and other staff members.

❖ *Failure to Provide Rehabilitation Services*

Plans for development or rehabilitation are not created for the particular needs and problems of each individual child.

The specialised institutions are used as “closed schools” aimed at confining children with behavioural problems or who are in conflict with the law until they reach 18 years of age. At that time they are released unprepared to live outside of the institution.

No social rehabilitation or social integration measures are employed in the institutions targeting the specific problems of the children.

²² Article 434.2 of Criminal Procedure Code of Azerbaijan: “The restrictive measure of arrest may be applied to a minor as an exceptional measure and for the shortest possible time”.

There is a lack of social workers and fully dedicated personnel within the Commissions on Minors as well as a noted absence of collect accumulated data about juvenile delinquencies. These issues should be addressed and the practices of Commissions on Minors should be reformed to encourage the use of preventive and rehabilitation measures. A decision to place a child in a specialised institution should be applied only after other alternatives have proven ineffective.

II. Data by Single Institutions of Interest

2.0. Special Educational Correctional Institutions – Comparison Chart

There are two special educational correctional institutions in Azerbaijan – the Guba district Correctional Technical-Vocational School for Boys and the Mardakan settlement Special Educational-Correctional School for Boys. A comparison of the main factors of each institution follows:

Criteria	Mardakan settlement special education institution	Guba district special education institution
Age limits	8-18 years old	11-18 years old
Reasons for placement	<ol style="list-style-type: none"> 1. Non-compliance with a previous order by the police or Commission; 2. not attending school; 3. difficulties communicating with parents; 4. having experienced psychological trauma; 5. continuously misbehaving. 	<ol style="list-style-type: none"> 1. Illegal behaviour; 2. committing a serious or very serious crime when under the age of 14; 3. children that have not been rehabilitated while under police supervision; 4. children breaking the law 5. those who were non-compliant with previous orders; 6. having an immoral life style
Sending organisation	Commissions on Minors based on the request of the parents. The written consent of the child is required if he/she is 14 years old or older.	Courts (based on a decision by the Commissions on Minors)
Functions	Preventive work, protection of juveniles in conflict with the law and those in the need of special protection. Provision of education and social integration and rehabilitation.	Provision for education and social integration and rehabilitation.
Conditions in institutions	Open	Closed with special regime
Features	Children can not freely leave the institution without permission.	Temporary detention regime. Juveniles can leave the institution only with special permission and under the guidance and supervision of the school staff.
Correspondence	Not censored. Phone conversations are not limited.	Fully censored including all phone conversations and all correspondence.
Supervision/control	No around-the-clock surveillance or supervision is required.	Supervision and surveillance is required at all times, including the time allocated for sleeping.

2.1. Guba district Correctional Technical-Vocational School for Boys

Category and number of juveniles in the facility

According to the Exemplary Statute “On Special Open and Closed-type Education Institutions,” the following categories of juveniles can be referred to a closed-type special educational-correctional facility:²³

- 1) children of 11-18 years old;
- 2) children continuously behaving illegally;
- 3) children registered by the police for previous misbehaviours but who were not rehabilitated;
- 4) children committed a serious or very serious crime while under the age of 14;
- 5) children committed less serious crimes while 14-16 years old but who are released from punishment by the court which considers that a purpose of punishment can be achieved by placing a child in educational or medical-disciplinary institution;

The Commissions on Minors are entitled to request the courts to place a child in a closed institution if they committed a serious or very serious crime, but are considered not criminally responsible under the Criminal Code of Azerbaijan because of their age (under 14 years of age)²⁴. The courts may decide to place a juvenile of 14-16 years old in this institution for a less serious crime, if it is accepted that the placement would achieve the purpose of punishment. The duration of placement can not exceed the maximal term of the punishment provided by the Criminal Code of Azerbaijan for the crime committed by the juvenile.

At the time of monitoring, 23 boys between 13 and 18 years of age were residing at the Guba institution. This is less than the minimum number of residence required by law which is 25.²⁵ According to the Exemplary Statute, the institution should be closed because it has less than 25 juveniles.²⁶ The juveniles should be transferred to another institution or released to the supervision of their parents or legal guardians.

Of the 23 juveniles, 22 were placed in the Guba institution based on a decision by a district Commission on Minors. One was sent by the Ministry of Education through a request to the distribution centre for juveniles within the Ministry of Internal Affairs.

At the time of monitoring, three juveniles at the institution had been found guilty of committing a crime.

The youngest juvenile was 13, and the oldest 18. The 18-year old was kept there upon his own application.

There is a three year limit for the length of time a juvenile can be held in a closed type institution. During the survey, it was observed that one of the juveniles has been at the institution for three years, which is the longest allowable period.

Early release can be granted only by a recommendation from the head of the institution and court approval.²⁷ When deciding to release a juvenile based on their good behaviour, or when they attain the age of adulthood, the institution’s administration must apply to the Commission on Minors.

²³ Article 1.4 of Exemplary Statute “On Special Open and Close-type education institutions”.

²⁴ AR CC, articles 20.1 and 20.2.

²⁵ Article 2.1 of Exemplary Statute “On Special Open and Close-type education institutions”: “Institution is created when the number of juveniles is no less than 25”

²⁶ Article 2.1 of Exemplary Statute “On Special Open and Close-type education institutions”: “Institution is created when the number of juveniles is no less than 25”

²⁷ Article 3.3 of Exemplary Statute “On Special Open and Close-type education institutions”: “The release of a juvenile from a closed-type institution is done by the recommendation of the head of the institution and a decision of the court in the district where

General Condition

The institution's campus includes a school building, canteen, supplemental household areas, backyard, and vocational workshops. The school has a library, gym, classrooms, and a teachers' room. There are also rooms within the building intended for lessons on specific subjects. The general condition of the school is satisfactory.

The condition and tidiness of the courtyards as well as the backyards of buildings correspond to existing national requirements.

The library has a small collection of books in the Azerbaijani Latin alphabet.

The supplemental household areas are used to store basic foodstuffs and household commodities.

Although the bath-house has running hot and cold water, it still needs repair. 16 juveniles complained that the sanitary-hygienic conditions were bad.

The children can gain vocational skills including plastering, house-painting, carpentry and woodworking.

According to Article 2.2 of the Exemplary Statute "On Special Open- and Closed-Type Education Institutions," no more than three children can be accommodated in any single bedroom. Monitors observed dormitories with beds for more than five to ten students. All of the 23 interviewees said they slept in a common barrack and that the bedding sets were old and damp. Five juveniles said they wanted to sleep in single bedrooms. 4 complained of bad treatment by other juveniles at night.

The law also requires that within three months from the time of admission, an individual rehabilitation plan is established for each child by the "psychological-medical-pedagogical" commission of the institution. The plan must define the child's psychological, medical and social rehabilitation level and dynamics.²⁸ Monitors noted that there were no individual development plans for the children targeting their personal needs and problems.²⁹ The institution also does not have any special rehabilitation, psychological correction or social reintegration programmes or activities.

18 out of the 23 juveniles stated their relatives or parents have never visited them. Four said they were rarely visited and one said that he was frequently visited. Ten juveniles stated that there were no opportunities for comfortable, free and unlimited communication with visitors in the facility.

When asked about disciplinary measures,³⁰ most answered that they are subjected to compulsory labour. This is in violation of the law, which forbids the use of compulsory public works as a

the institution is located. Juveniles can be placed in a closed-type institution for no longer than 3 years. Upon the request of the juvenile the duration of the stay can be prolonged" in order to finish the education year in the school.

²⁸ Article 3.4 of Exemplary Statute "On Special Open- and Closed-Types Education Institutions": "The rehabilitation of a student in closed type institution is defined by psychological-medical-pedagogical commission of the institution by the end of a 3-month diagnostic stage. The special file is opened for each student admitted to the institution to define his psychological, medical and social rehabilitation level and dynamics. This file is filled in by psychologist-pedagogue throughout the entire stay of the student in the institution. The results of the diagnostic procedures and observations, education, labour, public activism and communication with other students, parents, and teachers are indicated in the file. This data is considered confidential and can not be used against the best interests and rights of the students."

²⁹ Article 1.7. of Exemplary Statute "On Special Open- and Closed-Types Education Institutions": "The keeping, education and upbringing of juveniles in the institution is to be determined based on child's age, sex, psychological and health status. For this purpose, the followings shall be provided: conditions for the organisation of psychological correction work based on individual social-psychological diagnosis, educative measures to improve the behaviour, engagement of juveniles in useful public activities, organisation of leisure time and proportionate allocation of time during the day, protection of the juveniles from negative influence.

³⁰ The question asked of the juveniles was, "What do your teachers or instructors do when you are misbehaving?"

disciplinary measure.³¹ When asked about corporal punishment,³² six juveniles refrained from answering but four said they were sometimes beaten.

Nutrition and Medical Service

In compliance with the internal rules, juveniles are provided three meals a day in the school canteen. The kitchen area of the canteen is old and needs repair, but is clean. Food allowances are satisfactory. However, some children mentioned that they do not feel full after meals.

There is a functioning medical unit within the facility but there is no dental care. In general, the condition of the medical unit is satisfactory. In addition to a medical unit, the law requires a psychologist's room in the institution.³³ The principal claimed that they had a full-time psychologist but the monitors did not see this person during any of their visits.

2.2. Mardakan settlement Open-type Special Educational-Correctional School for Boys

Category and number of juveniles in the facility

The following categories of children can be placed in a special open style educational institution:³⁴

- children between 8-18 years old;
- those sent by the Commissions on Minors; or
- at the request of their parents and/or legal guardians;
- with written consent of a child older than 14 years old;
- juveniles continuously behaving illegally;
- children who have experienced any type of psychological trauma;
- children not attending school, or having difficulty communicating with their parents.³⁵

In addition, upon a request from the district Commissions on Minors, the following persons can be referred to an open-type special educational-correctional facility:³⁶

1. Juveniles who have attained the age of 14 with the consent of their parents or other authorised representatives;
2. Juveniles aged 8-18, requiring a special pedagogical approach;
3. Juveniles that are not criminally liable under the law due to their age and do not pose a public risk or have committed a lesser offence;
4. Juveniles that are considered difficult, with the consent of their parents or other legal representatives,
5. Juveniles registered by the department of internal affairs and who are non-compliant with other correctional measures applied.

At the time of the survey, 72 boys between the ages of 8-16 were in the Mardakan institution. Children here study until Grade 9.

³¹ Article 5.12 of Exemplary Statute "On Special Open- and Closed-Types Education Institutions": "...compulsory public works can not be used as the disciplinary measure".

³² The juveniles were asked, "Have you been beaten or insulted?"

³³ Article 2 of the Exemplary Statute "On Special Open- and Closed-Type Education Institutions."

³⁴ Article 3.1 of Exemplary Statute "On Special Open- and Closed-Types Education Institutions": "The children of 8-18 years old can be admitted to the open-type institution."

³⁵ Article 1.4 of Exemplary Statute "On Special Open- and Closed-Types Education Institutions".

³⁶ Article 13.1 of the Law "On Prevention of Juvenile Delinquency and Loneliness" dated as of May 24, 2005.

They are placed in that facility based on a request from the district Commission on Minors using the following criteria:

- escaping from school or home;
- difficulties in communicating with their parents; or
- bad behaviour.

At the time of monitoring, there were no juveniles in the institution that had committed any criminal offence. In the past, however, children under the age of 14 who committed criminal offences were kept in this institution.

The facility is intended to accept children between 8-18 years of age. The monitors were informed that children older than 14 are not usually accepted by the institution.³⁷

Children can stay at the institution for three years.³⁸ In exceptional cases they can be kept for a longer period until they graduate from one of the educational stages. According to the principal, one child has stayed in the institution for five years.

When deciding to release juveniles based on good behaviour, the institution's administration applies to the district Commission on Minors.³⁹ Based on the decision of the Commission, a rehabilitated juvenile can be handed over to his parents or, if he has no parents, other relevant institutions. The principal, however, could not provide any examples where application to the Commission on Minors was made for early release based on good behaviour.

General Conditions

The open-type special educational-correctional institution facility includes a school building, canteen, supplemental household areas and a big backyard.

The school building is almost the same as a regular school. It has a library, gym, classrooms, and a teachers' room. There are also rooms in the building intended for lessons on specific subjects. The condition of the school, in general, is satisfactory.

There are TV sets in some classrooms. The heating system was off at the time of monitoring so some of the classrooms were cold. The principal explained that repair work was in progress and remarked that the heating system generally work well. It should be noted, however, that the school corridors have no heaters at all, and remain quite cold.

The condition and tidiness of the playgrounds and backyards corresponded to existing requirements.

The library has examples of both Azerbaijani and Russian language literature. The Azerbaijani books are provided in both Cyrillic and Latin alphabets.

The supplemental household areas are used to store basic foodstuffs and household commodities.

³⁷ Agreeing with the fact that this criterion is not compliant with the law, the principal of the school said that neither the logistical nor educational endowment of the institution allowed adequate treatment for older juveniles. The principal of the school also based his opinion on the fact that keeping young juveniles together with 17-18 year olds is hard and unreasonable from both a psychological and pedagogical view.

³⁸ Article 3.3 of the Exemplary Charter "On Special Education Institutions of Open- and Closed-Type",

³⁹ Article 3.3. of Exemplary Statute "On Special Open- and Closed-Types Education Institutions": "The psychological-Pedagogical-medical commission shall review the dynamics of the rehabilitation process every six months and makes necessary amendments to the individual plans of the students. If there are certain improvements, the institution can request the early release of a juvenile from the institution through appeal sent to the Commission on minors in the district where the institution is resided."

The current bath-house has running hot and cold water, but still needs repair. However, a new fully furnished bath-house with separate shower-cabinets is being built and is almost complete.

According to the principal, the school grounds are supervised at all times.

Pursuant to the Exemplary Statute, bedrooms should accommodate one to three juveniles.⁴⁰ Monitors observed about 50-60 beds in the school gym and one bedroom with 24 beds. The bedroom was too small for the number of beds and it was stuffy inside. The principal explained this was due to the repair work. The principal acknowledged the requirements of the law, but said that the institution could not currently provide those accommodations. He was sure that good conditions would prevail in the school after the renovation. The bedding sets were satisfactory.

According to the administration, juveniles who continue to misbehave or who do not respond to rehabilitation measures are sent to the Guba Correctional Technical-Vocational institution. When asked what type of rehabilitation measures are used, the principal was unable to provide any examples.

When asked about disciplinary measures, some of the children admitted to being beaten. They also reported punishment methods including being dragged by their ears, being slapped in the face, and have their spare time privileges limited. Monitors witnessed a teacher slapping a child in the face. When this was reported to the principal, he denied it at first, but then promised to investigate the matter.

The institution does not provide special rehabilitation, psychological correction or social reintegration programmes or activities. There were no plans for the individual development of each child targeting their needs and problems.⁴¹

Nutrition and Medical Service

In compliance with the internal rules, juveniles are provided three meals a day in the school canteen. The kitchen area of the canteen is old and needs repair, but is clean. Food allowances are satisfactory. According to the principal, AZM 2.2-2.4 or USD 2.5-3 is spent for the daily nutrition of a single child. Although in need of renovation, the canteen is clean and in good order.

The institution has a functioning medical unit but no dental care. According to the principal, the unit has a full time staff comprised of one physician and two nurses. The condition of the medical unit is satisfactory. In addition to a medical unit, the law requires that there be a psychologist's room in the institution.⁴²

The principal claimed that the institution has a part-time psychologist. The monitors never saw the psychologist despite repeated visits to the institution.

2.3. Investigatory Isolator #3

⁴⁰ Article 2.2 of the Exemplary Statute "On Special Open and Closed-Type Education Institutions": "The institution shall have...the bedrooms, each for 1-3 students".

⁴¹ Article 1.7. of the Exemplary Statute "On Special Open- and Closed-Types Education Institutions" states as follows: "The keeping, education and upbringing of juveniles in the institution is to be determined based on child's age, sex, psychological and health status. For this purpose, the followings shall be provided: conditions for the organisation of psychological correction work based on individual social-psychological diagnosis, educative measures to improve the behaviour, engagement of juveniles in useful public activities, organisation of leisure time and proportionate allocation of time during the day, protection of the juveniles from negative influence.

⁴² Article 2 of the Exemplary Statute "On Special Open- and Closed-Type Education Institutions."

Category and number of juveniles the facility

Juveniles whose arrest was sanctioned by a district court judge as a preventive measure are kept in Investigatory Isolator #3 located in Shuvelyan settlement of Baku capital's Azizbekov district.⁴³

At the time of the survey, 31 boys between the ages of 15 and 18 were in the institution. They were accused of committing grave crimes and felonies,⁴⁴ less serious crimes⁴⁵ and crimes that do not cause a serious public threat.

General conditions

The classroom in the Isolator has a computer, a TV set, a bookcase, several desks and a very limited selection of books. According to the administration, teachers are available to juveniles who want to study. The juveniles complained, however, that the lessons are a mere formality or are not conducted at all.

The library needs repair and is equipped with old books. New books, which were previously provided to the institution, were kept in the office of the chief. They included texts on economic issues and masterpieces of Azerbaijani and world literature printed in the Latin alphabet.

The condition of the courtyard is satisfactory. The law requires that juveniles kept in isolation wards shall be entitled to two hours of walking time per day.⁴⁶ According to the principal, juveniles enjoyed one to two hours of walking daily. This was confirmed by the juveniles.

According to the law, juveniles should be kept separately from adults.⁴⁷ There are separate cells for juveniles in Investigatory Isolator #3 that accommodates 4-5 juveniles in each. The cells have 4-5 beds, a small table and a toilet in the corner of the cell. An adult, however, is placed in each cell with the juveniles. The administration stated that keeping young adults with the juveniles is important as it prevents physical or psychological peer violence.⁴⁸ The principal of the facility also stated that the young adults are specially selected from those who are not accused of grave crimes, felonies or violent offences and who can positively influence the juveniles. The adults were not, in fact, "young adults" but varied in age and included a 21, 38, 34, 42, 45, 47 and 52 year old. In addition, four juveniles reported they were kept together with previously convicted persons.⁴⁹

When the juveniles were asked their opinion about an adult being placed in their cell, most responded that it was fine with them. They also said that the "agsaqqals" (translation: *patriarchs*) played a great role in establishing discipline within the cells. When asked, "Would you like to stay in a solitary cell?" all, but one, answered no.

⁴³ According to the Article 434.1 of the CPC: "The application of restrictive measures of arrest to an under-age suspect or accused shall be admissible only if he is charged with a minor offence involving violence or a serious or very serious offence." According to Article 434.3 of the Criminal Procedure Code, arrest of a juvenile suspect can be ordered only if s/he has committed a less violent crime, felony or grave crime.

⁴⁴ The majority committed crimes against life and health, as well as against property

⁴⁵ Including non-violent offences, for instance, those provided in the following articles of Criminal Code: Art.185.2.2 - illegal occupation of automobile or a vehicle without the purpose of plunder, committed repeatedly; Art.177.2.2 - theft committed repeatedly; Art.177.2.3 - theft with illegal penetration into dwelling, warehouse, premise or other storehouse; Art.177.2.4 - theft causing damage of significant amount

⁴⁶ Article 3.1 of the Temporary Charter on Keeping of Prisons in Detention Facilities

⁴⁷ According to Article 434.3 of the Criminal Procedure Code of the Azerbaijan Republic and Article 2.10 of the Temporary Charter on Keeping of Persons in Detention Facilities, juveniles should be kept separately from adults, which is also consistent with the international rules on the deprivation of liberty of juveniles

⁴⁸ The principal of the facility also said that the mentioned young adults had been specially selected (out of those who are not accused of grave crimes, felonies or violent offences at all) and could positively influence the juveniles. It should also be noted, that in accordance with Article 37, para. C of the UN CRC, in order to ensure the interests of a child, adults can be allowed to be kept together with juveniles. However, this provision is in collision with the national legislation (see footnote above).

⁴⁹ According to the Article 434.3 of CPC of AR: "Minors remanded in custody shall be held separately from other persons. They shall be provided with the required services, defence and other personal assistance according to their age, sex and personality".

Only six juveniles said their parents regularly visit them and six mentioned rare visits by their relatives. These twelve noted that no obstacles were made to meeting with their relatives. Other juveniles, however, complained that the administration did not allow anyone, including their parents, to meet with them. Three juveniles said they had not seen their parents since the time of their detention. They thought this was because they (the juvenile) have been under investigation. When asked about this issue, a prison official said the parents are entitled to see their children only when they are recognised by the investigator as the legal representatives of the child.⁵⁰

The sanitary conditions in the isolation ward were, in general, satisfactory. The ward has its own bath-house. According to both the administration and the juveniles, the detainees are given an opportunity to use the bath-house once every ten days. The condition and sanitary-hygienic situation in the cells is also satisfactory. Cleaning products and special utilities for water were present in the toilet section of the cells and no bad odour was observed. The cells had windows, wooden floors and tiles in the toilet section. The heating system was not working very well. The condition of the bedding sets was not satisfactory and consisted of a thin, dirty mat and a blanket. This is not well suited for cold cells or during cold weather.

According to the juveniles, they spend their leisure time playing table-tennis or reading books.

The administration noted that they do not prevent religious exercises in the cells.

The institution also has penalty cells for the implementation of disciplinary measures against those who are under preliminary investigation or undergo court examination. According to the officer accompanying the monitors “preventive” punishment measures - i.e. to prevent further misbehaviour of a juvenile against himself or others - is administered by placing the juvenile in solitary confinement for several days.⁵¹ The condition of the penalty cells is not satisfactory. The floor is tiled, the heating system is out of order, and the toilet section has a bad odour. It is also important to note that according to the UN Rules for the protection of juveniles deprived of their liberty,⁵² the use of penalty cells is considered as inhuman and degrading treatment and therefore shall be prohibited.

Nutrition and Medical Services

In compliance with the institution’s internal rules, juveniles are provided three meals a day in their cells. The kitchen area of the canteen is old and needs repair, but is hygienic. The food allowance is satisfactory. According to the principal, 100 USD is spent per month per child for nutrition. The supplemental household areas are used to store basic foodstuffs and household commodities.

The chief doctor of the medical unit informed monitors that the medical staff consists of one therapist, one dermatologist (who also specialises in sexually transmitted diseases), one psychotherapist, one tuberculosis specialist, one dentist, one part-time radiologist, one medical assistant (vacant at the time of monitoring) and one registration officer. Three doctors were present during the monitoring.

⁵⁰ A conclusion can be made that the investigator had not explained to the juveniles and their legal representatives the mechanisms for implementation of their rights as the children and their parents had no idea about these procedures.

⁵¹ The preventive punishment measure by placing the juvenile in single confinement is done in compliance with Article 5.3 of the Temporary Charter on Keeping of Prisons in Detention Facilities adopted by the Ministry of Justice, duration of keeping juveniles in penalty cells as a measure of punishment should not exceed 5 days

⁵² UN Rules for the protection of Juveniles deprived of their liberty, Art.67: “All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned”.

The medical unit includes a registration area, medical compartment, X-ray compartment, laboratory and dentist's room. The laboratory, medical compartment and dentist's cabinet were in bad condition but the administration claimed that they were under renovation. The X-ray compartment had been newly renovated and equipped.

2.4. Juvenile Correctional Institution under the Ministry of Justice

Category and number of juveniles in the facility

The correctional institution is a general regime institution for the imprisonment of boys with no separate regimes based on the gravity or rate of recurrence of a crime. According to the law, the correctional institution is entitled to detain only juveniles between the ages of 14 and 18 who have been sentenced to imprisonment.⁵³ If the imprisonment period of a convicted juvenile is expected to end by the age of 20, the juvenile can be kept in the institution until he reaches that age.⁵⁴ Because there is no separate institution for repeat offenders or juveniles committing grave and serious crimes, these juveniles are also kept in the juvenile correctional institution.

The upper accommodation limit of the facility is 100 persons. At the time of monitoring, 61 boys between the ages of 16 and 19 were in the facility. Two were 16 years old; 14 were 17 years old; 32 were 18 years old; and 13 were 19 years old.

The juveniles in the correctional institution at the time of monitoring were convicted of the following types of crimes:

1. felonies – 12;
2. grave crimes – 31;
3. less serious crimes – 15;
4. offences causing no serious public threats – 3.

General conditions

The facility is adequate with regards to lighting, hygiene, temperature, smell, noise, and quality of food. The allotted space per person is provided according to the national standards. These standards, however, are not in compliance with international provisions. In addition, there are no private rooms or corners for juveniles, which is a violation of their rights to privacy.

The correctional facility has nine bedrooms each with 6 to 15 beds; 4 toilets with 8 compartments; and one bathroom with three compartments. The condition of the beds and bedding sets is satisfactory. According to both the administration and the juveniles, the inhabitants are given the opportunity to take a shower once a week.

The facility has a library in poor condition. Leisure time resources include a playground for football, board games, and table-tennis. The juveniles share a common radio, a TV set, videos and newspapers.

⁵³ Criminal Code of AR says that "The juveniles convicted of committing the crime shall serve the sentence in following institutions: Article 85.5.1 the girls and also boys who committed the crime for the first time are subject to be kept in correctional institution of general regime; 85.5.2. Those deprived of liberty before for previous crimes are subjected to be kept in correctional institutions of strengthened regime".

⁵⁴ Code on Execution of Penalties in Article 128.1. says that "The juveniles who reaches 18 years old are subject to be transferred from correctional institution to prison. In correctional institution the juveniles can be kept up to 20 years old, which shall be the subject to the court decision".

The condition of the religious corner, which is a separate small windowless room provided for praying, is satisfactory. The room, however, was not properly maintained.

According to the administration, the juveniles are allowed to wear their own clothes. The monitors observed, however, that the juveniles looked like they were wearing uniforms.

The juveniles are allowed to receive visits from their parents once a week. The condition of the room for short meetings is in satisfactory condition.⁵⁵ However, there is no room in the facility allocated for longer meetings, which is a right provided by the regulation of the institution.⁵⁶

The facility has 37 employees, including one full-time doctor, one full-time psychologist, ten full-time teachers and two full-time vocational instructors. The personnel carry no weapons.

The institution has an evening school offering computer classes. Juvenile prisoners also receive vocational training and preparatory courses are provided to juveniles intending to sit university entrance examinations. Specifically, there is no special programme or unit in the prison to provide psychological counselling for those to be released soon or provide other assistance in preparing juveniles for release.

The facility is equipped with a solitary confinement cell intended for disciplinary punishment up to seven days as authorised by the Code for Execution of Punishments.⁵⁷ This Code contradicts Rule 67 of the UN Rules for the Protection of Juveniles Deprived of their Liberty, which forbids solitary confinement of juveniles.⁵⁸ According to the administration, about 38 disciplinary measures were implemented during 2005 for violation of internal rules. 22 of the 38 were subjected to solitary confinement. The remaining 16 were subjected to admonition and a warning.

Nutrition and Medical Services

Juveniles are provided three meals a day. Meals are prepared by the female prisoners in the Women's Prison #4, located adjacent to the juvenile correctional facility. The meals are satisfactory.

There is a functioning medical unit in the institution. The condition of the unit is satisfactory.

⁵⁵ Code for Execution of Punishments, Article 124.2.3: "Prisoners of general regime institutions are subject to 48 short-term and 8 long-term meetings during a year. According to Article 124.4.3: "Prisoners of strengthened regime institutions are subject to 24 short and 3 long-term meetings a year".

⁵⁶ Code for Execution of Punishments, Article 81.3.: "The prisoners have a right to the long-period meetings during which they can live together with their relatives (husband, wife, parents, grandparents, children, legal guardians, grandchildren, brothers and sisters). The long period meetings of prisoners can be substituted with short-term period meetings."

⁵⁷ Code for Execution of Punishments, Article 125: "The disciplinary measures applied to prisoners of correctional institutions: the juveniles who violates the regime or rules of the institution are subject to the placement into disciplinary confinement for up to seven days with the possibility to attend the school".

⁵⁸ UN Rules for the protection of Juveniles deprived of their liberty, Art.67: "All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned."

2.5. Women's Prison #4

Category and number of juveniles in the facility

Female prisoners sentenced to imprisonment are subjected to incarceration at the Women's Prison #4. Girls are also kept in this prison because there is no other correctional institution devoted to confining girls convicted by the court and sentenced to imprisonment. Failing to have a separate correctional facility for juvenile girls is in violation of both national and international legislation. Three girls in the prison were sentenced as juveniles.⁵⁹

At the time of monitoring, 248 women were in the prison. The women selected for interviews were sentenced and sent to prison when they were between 16 and 19 years of age. There were sentenced between five and ten years. They were 19 and 20 years old when surveyed. They were kept together with the other prisoners in barracks with 22-30 people each. When asked if they would like to stay in a solitary cell, two answered positively, and one said it would be boring.

The young women in the prison are those convicted of grave and serious crimes. The institution is not used for confining accused or suspected individuals because there are special investigatory isolators with sections for women in Shuvelan settlement and the city of Ganja. An accused or suspected woman can be placed in the prison by court order if she is held separately from others while awaiting trial.⁶⁰ It should be noted that juveniles are not separated from adults at the Women's Prison and there is no separation of convicts based on the severity of the crime.

The relevant institution authorities were asked their opinion on establishing a correctional facility for juvenile female prisoners. They replied that it is not reasonable to create a separate facility because the number of juvenile female prisoners is small and does not exceed 2-4 persons a year. When asked about establishing a separate unit for juvenile female prisoners within the women's prison, they did not provide an answer.

General conditions

Although the facility is located in an old building, it is clean and in order. The institution is tidy, no bad odour is present and the courtyard has many water taps. The general condition is satisfactory. The bathhouse and toilets have running hot water. The bedrooms have clean bedding sets. The library, praying-room, medical/nursery centre, beauty salon, rooms for mothers with juveniles, are all in satisfactory condition. The leisure rooms have TV sets.

The prisoners spend their leisure time playing table tennis, reading books and watching TV at specified times in a common room. The prisoners live in barracks equipped with 25-30 beds and bedside-tables. The prisoners have an unlimited right to walk in the large courtyard of the facility.

The sanitary situation in the facility is satisfactory. The facility has several bath cabins with showers, a wash room, which they use on a daily basis, and a general bathing pool where they bath once a week in the winter and twice a week in the summer. The bathhouse and wash room need renovation but they have running hot and cold water. The beauty salon also provides services for the women. The equipment and accessories are provided by the relatives of the prisoners.

Supplemental household areas are used to store basic foodstuffs and household commodities.

⁵⁹ According to Article 434.3 of the Criminal Procedure Code of the Azerbaijan Republic and Article 2.10 of the Temporary Charter on Keeping of Persons in Detention Facilities, juveniles should be kept separately from adults, which is also consistent with the international rules on the deprivation of liberty of juveniles.

⁶⁰ Article 2.2 of the Temporary Charter on Keeping of Persons in Detention Facilities.

During the monitoring period, six children under three years of age were living with their mothers in the facility. The room intended for children needs to be enlarged.

School education (other than vocational training) is not provided for juveniles or adults in the facility. When asked about the provisions for education if a juvenile is sent to the prison – no answer was forthcoming.

The rehabilitation programme for prisoners includes only vocational training. No specialised individually oriented rehabilitation programmes are developed or implemented. There is no special programme or unit within the prison to provide support activities, including psychological counselling for women soon to be released.

A carpet-weaving shop with 17 weaving machines is operated in the facility. According to the administration, they have 20 teachers who teach looming and carpet-weaving.

The facility has punishment cells used for disciplinary measures against the prisoners. The punishment cells have been recently renovated and, according to the administration, are not frequently used.

As previously noted, women are not separated based on the severity of the crime. Because the prison incarcerates women convicted of both grave and less serious crimes, it is a combined-regime facility meaning all of the prisoners are subject to one strengthened regime.

Nutrition and Medical Services

The prisoners are provided three meals a day in the general canteen. The kitchen area of the canteen is old and needs repair but the sanitary condition is satisfactory. The food is prepared by the women prisoners. They also prepare the food for the juvenile correctional institution.

There is a functioning medical unit in the institution. The unit has been recently renovated and includes a large treatment room, a doctors' room and a gynaecological cabinet. In contrast to the other facilities, the medical unit at the Women's Prison is fully compliant with healthcare standards. The unit was comparable to many civilian clinics observed in Baku. The unit has a full staff comprised of a gynaecologist, a dentist and a therapist. According to the administration, the facility has a psychologist.

2.6. Court proceedings: the role and participation of judges, prosecutors and advocates in juvenile criminal cases

Monitors were able to observe several court hearings. A description of the cases appear in an annex to this report. Review of the cases allows certain conclusions to be made regarding the work of the courts in general and their work specifically in the field of juvenile justice. It also helped to identify the level of participation, knowledge and skill of the legal parties including judges, prosecutors and advocates involved in juvenile justice cases.

❖ No Reference to Laws Protecting the Rights of the Child

The first striking observation was that while monitoring the court hearings both in the district courts and in Baku, the monitors never heard or saw any reference to international conventions and/or standards and rules. None of the legal parties appealed to the requirements or provisions of

international treaties or international human rights law, including the UN Convention on the Rights of the Child.

During the court hearings, the monitors observed that the legal parties were largely inattentive, the judges were not listening to the parties and the state-provided advocates were very passive. In most instances, the advocates' argument for supporting a lighter punishment or to free a juvenile from conviction was simply to remind the court that the accused is in fact a juvenile.

❖ *Failure to use alternative measures available to juveniles*

The second striking observation was that the judges were keen to support the prosecutors' requests on punishments. Most of the court decisions were in full accordance with prosecutors' pleadings or very close to them.

The use of alternatives to arrest and imprisonment were studied very carefully because they are considered milestones when looking at an effective juvenile justice system in harmony with international standards. A study of juveniles in investigatory isolators seemed to confirm that alternatives to arrest were not sufficiently applied. About 30 juveniles were detained in the investigatory isolator awaiting trial. They were accused of theft, burglary, robbery, or illegal occupation of automobiles without a purpose of plunder. It was encouraging, however, to see that in the district courts also alternatives to arrest are being employed. Monitors observed that juveniles charged with committing crimes like theft and robbery were not arrested but put under parental supervision with restriction of movement out of the district.

❖ *Access to Lawyers*

Access to lawyers was studied and monitored in two ways; first, by observing the court hearings and second, by interviewing the juveniles who were in investigatory isolator and correctional institution.

1. Court Hearings

Observations in several district courts in the regions and in Baku, including hearings in the Court for Grave Crimes, shows that juveniles are not provided with lawyers-advocates because most retain their own legal representation. Most of the juveniles brought before the Court of Grave Crimes had their own advocates. Their parents or legal guardians explained that they do not trust the state provided advocates. They felt that the state provided advocates would appear as a matter of formality only. They believed the state provided advocates are paid very little and therefore have no real interest in the cases.

Another striking observation was that in several districts the court rooms appeared as if they had not been used for a long time. The court rooms were unclean and the tables and chairs were full of dust. There were no chairs for people to observe the court proceedings. When the monitors asked about this, it was explained that the judges receive the complaints and consider the cases in his/her personal office and not in the court room.

2. Interviews with Juveniles

According to Articles 92.3.5 and 432.2 of the Criminal Procedure Code of Azerbaijan, when a juvenile is suspected or accused of having committed a crime, it is mandatory to have his/her lawyer present from the moment of detention. All of the juveniles interviewed stated that their rights were violated in relation to access to a lawyer within the time limits provided for in the law.

In the Juvenile Correctional Institution, all of the juveniles interviewed stated that they were provided a state appointed advocate. They also unanimously stated that the participation and actions by the state appointed advocate were only formal.

In Investigatory Isolator №3, four juveniles stated that they have not seen a lawyer. The rest stated they met with their lawyers several days after their arrest. Of those who met with their lawyers, three juveniles said they had met their advocate one day after their arrest; one juvenile stated it was 15 days following his arrest; two juveniles stated it was seven days following his arrest. One juvenile indicated that he met his advocate for the first time one month following his arrest; one juvenile stated it was two weeks following his arrest; and two more juveniles state they met their advocate 3-4 days following their arrest. Other juveniles could not remember the day they met with their lawyers. All of the juveniles said the legal services provided by the state appointed advocates were a matter of form only. The juveniles also mentioned that the advocates, as well as their parents and/or legal guardians, did not have access to them for a long time when they were transferred to Shuvelan Investigatory Isolator №3. None of the juveniles remembered whether they had an advocate during the initial questioning and detention at the police detention centres.

Women interviewed in the Women's Prison №4 told monitors that the time limits indicated in the law were violated, and that their lawyers, parents or other legal representatives were only allowed to see them after they were detained for some time. According to the survey, one woman said she met with her lawyer 5-6 days after she was detained, another complained of not having a lawyer for eight months. Another women did not met with her lawyer for 3-4 days after she was detained and another said she saw her lawyer three days following her detention.

3. The Court of Grave Crimes

Monitoring the Court for Grave Crimes allowed for the opportunity to observe very serious crimes allegedly committed by juveniles and the application of international standards. The first striking observation was the negative emotional atmosphere surrounding the juveniles. The juveniles in the courtroom were kept in a cage. The court hearings were frequently cancelled without any advanced notice or reason. The juveniles were often kept in the basement of the court with no access to water or hot meals for several hours. To add to the mental, emotional and physical stress, the victims and/or relatives of the victims attacked the accused juveniles and their relatives. The judges were not capable of bringing order to the court and failed to use any restrictive measure against either party in order to bring order.

III. Suggestions and Recommendations on Improving Juvenile Justice in Azerbaijan

3.1. General Suggestions

1. Further promote the adoption and implementation of the National Action Plan on Improving Juvenile Justice. This should be based on the final document drafted at the 1st National Conference on Development Perspectives of the Juvenile Justice in Azerbaijan (13-14 April 2006) which was a joint effort of all related state and non-state actors, as well as international and local NGOs.
2. Establish a Special Commission on the Improvement of the Juvenile Justice System in Azerbaijan under the auspices of the President of Azerbaijan or the Minister of Justice that should include representatives of all relevant state and non-state actors, international and local NGOs working in the field.
3. Establish an effective mechanism for oversight and the use of physical force by departments of the juvenile justice system. NGOs should have the right to perform unannounced visits in any institution of the juvenile justice system where juveniles are deprived of their liberty or temporarily detained.
4. Ensure that joint NGO-government monitoring mechanisms are established to oversee the implementation of the UN Convention on the Rights of the Child in specialised educational institutions and correctional facilities.
5. Organise regular public discussions with the involvement of representatives from all relevant government agencies to review the situation of juvenile delinquency in the country and to develop recommendations and strategies to prevent juvenile delinquency.
6. Improve the existing mechanisms charged with rehabilitation, integration and empowerment of juveniles in conflict with the law.
7. Organise public debates on the application of alternative measures to arrest and imprisonment of juveniles. Organise the public's participation in identifying appropriate community-based alternatives.
8. Collect and regularly update data on various aspects of children's lives in each district. Ensure public access to information on the situation of children, particularly those detained or placed in corrective or education institutions. A database should incorporate all information obtained by relevant state agencies including the number of cases, number of juveniles in the institutions and under police registration, the nature and type of offences committed, decisions adopted with regard to children, actions implemented, adoption, guardianship, social or community activities, the grade of repeated offences and other issues.
9. Provide nation-wide education and training programmes for representatives of all state agencies dealing with children to ensure they are empowered with international and national child rights instruments, including the UN CRC. Priority should be given to training the members and staff of the Commissions on Minors throughout the country.

10. Develop and administer a special curriculum covering juvenile justice issues in Baku State University, Justice Academy, Police Academy, Nakhchivan State University and other relevant professional and higher education institutions.
11. Include juvenile justice issues in the qualifying examination questions for candidates to become judges, prosecutors, police officers, lawyers and members to other relevant state agencies. The questions should cover implementation and usage of international conventions, standards, rules and principles, such as the UN CRC, Riyadh Principles, Beijing Rules, Tokyo Regulations and other related laws.
12. Ensure juveniles access to legal advice, counselling and legal representation through the establishment of a Children's Rights Legal Clinic.
13. Establish the position of Ombudsman for Children's Rights to ensure the protection of children's rights and to consider complaints by children or their legal representatives and parents alleging violations of their rights.
14. Provide effective educational and training opportunities for specialised personnel in the relevant state agencies working in the field of juvenile justice or children's rights.
15. Establish a special juvenile police department integrating all if the police child inspectors.
16. Pursuant to the Criminal Procedure Code, create a juvenile prosecutors unit within the General Prosecutor's office to be responsible for cases throughout the country.⁶¹
17. Develop and administer special local and national programmes targeting the social rehabilitation, integration and correction of juveniles in conflict with the law, as well as rehabilitation and social integration of juveniles released from detention places.
18. Ensure that preference is given to the application of diversion mechanisms and alternative measures when considering criminal cases against juveniles.
19. Ensure the development and implementation of well-structured preventive programmes targeting juvenile delinquency by the Commissions on Minors and other relevant state agencies.
20. Ensure the development and implementation of specialised and individually oriented rehabilitation and social integration programmes in juvenile correctional institutions. They should target the needs of individual juveniles based on the type of crime committed, and the social background and mental status of the juvenile.

3.2. Suggestions for the work of District (ExCom) Commissions on Minors

1. Considering the overlapping characteristics of different commissions and departments within the ExComs, it is proposed to unite all of the existing bodies into one unified Department for the Protection of Children's Rights.

⁶¹ CPC of AR: Article 432.1. "The investigation concerning a minor shall be conducted, as far as possible, by special departments of the investigating authorities or by persons who have relevant work experience with minors".

2. Transfer responsibilities over the Commissions on Minors (or, as suggested, the above-mentioned unified Department for the Protection of Children's Rights if created) to the State Committee on Women, Family and Children's Issues or the Ombudsman for Children's Rights.
3. Because the current voluntary membership structure of the Commissions on Minors is ineffective, it is proposed to compose the Commissions on Minors (or the above-mentioned unified Department for the Protection of Children's Rights if created) with professional representatives from relevant state agencies as full-time paid employees.
4. Make the necessary amendments to the Criminal Procedure Code to ensure obligatory participation of representatives from the Commissions on Minors (or the previously suggested unified Department for the Protection of Children's Rights if created) in juvenile court proceedings.
5. Ensure social workers are permanent, paid members of the Commissions on Minors (or the previously suggested unified Department for the Protection of Children's Rights if created).
6. Establish vigilant reporting procedures and guidelines for reports by the Commissions on Minors (or the previously suggested unified Department for the Protection of Children's Rights if created). The reports should include a thorough analysis of the situation of children's rights and juvenile justice administration in each district, data about children coming into contact with each district Commission on Minors, and also proposals for further improvements in the field. These suggestions are not exhaustive of the information that should be included in the reports.

3.3. Suggestions for strengthening the work of Police Child Inspectors

1. Ensure police child inspectors can devote 100% of their time and resources to working juvenile cases.
2. Establish a children's room in each district police department with a separate entrance.
3. Equalise the salaries between different branches of the police force.
4. Improve coordination between police child inspectors and police officers in the villages ensuring effective communication and information sharing with regards to juvenile issues.
5. Create favourable conditions for increasing the number of female police child inspectors to at least half of the existing number of all police child inspectors in the country.

3.4. Suggestions for improving the conditions of Police Detention Centres

1. Establish special procedures for the confinement of juveniles in police detention centres cells, ensuring all safeguards are provided.
2. Ensure that juveniles in police detention centres are kept for the minimum time period and released under the supervision of their parents or legal guardians.
3. Ensure that parents and legal guardians are informed about the detention of their child and have the possibility to visit their children while in police custody.
4. Ensure that special protection is provided to juveniles according to the standards established by the relevant national authority including warm clothes, sleeping and hygienic appliances, and hot meals.
5. Ensure juveniles in police custody have access of psychologists, educators, social workers, and legal representation.
6. Ensure proper mechanisms are in place to inform the district Commissions on Minors about the detention of any juvenile.
7. Provide access of NGOs to monitor the detention of any juvenile.

3.5. Suggestions for improving the Investigation Procedures and Court Proceedings

1. In order to provide better protection and safeguards for juveniles, it is proposed to establish a juvenile court in Baku along with several juvenile courts in select larger cities to hear juvenile cases from adjacent districts.
2. At least two judges from each district court (other than the Baku district courts) should be trained intensively in the field of juvenile justice and rights of the child to hear less serious juvenile criminal cases, including petty crimes. Serious and grave crime cases should be sent to the Regional Juvenile Court or to the Juvenile Grave Crimes Court that should be established as part of the existing Grave Crimes Court of Azerbaijan.
3. A specialised department or section dealing with juveniles criminal cases should be established in the General Prosecutor's Office and Baku city Head Prosecutor's Office. The staff should be specialised juvenile prosecutors. The department in the General Prosecutor's Office would cover all juvenile cases in districts other than Baku, which would be handled by the Baku Head Prosecutor's Office.
4. The courts should require standard, uniform information about any juvenile involved in a court proceeding from the relevant district Commission on Minors including information on his/her family and social background and other relevant information. The representatives of the Commissions on Minors should be obligated to fully participate in all juvenile court hearings.
5. The Collegium of Advocates and Union of Lawyers should be encouraged to organise specialised training programmes for their members on juvenile justice and child rights issues, including international conventions, rules and guidelines in which

Azerbaijan is a party. Ongoing specialised training of advocates in the Collegium of Advocates should also be promoted.

6. NGOs should be allowed to monitor court hearings and court proceedings related to juvenile cases. Reports of the monitoring activities should be shared with the relevant government agencies and chairs of the monitored courts.
7. Improve the safeguards guaranteed by the Criminal Procedure Code⁶² for juveniles who are involved in criminal cases either as witnesses, offenders or victims. Specifically, provide unconditional participation of a educational specialist, psychologist and legal representative at all stages of the criminal procedures, including the questioning of a juvenile less than 18 years of age. The participation of parents and/or legal guardians, however, can be limited if these persons are alleged to be involved in the criminal act under investigation or if this is in best interest of a child, which shall be clearly noted in the records by the respective officer.
8. Encourage NGOs to develop special mentoring services for juveniles in detention. During detention in a police detention centres as well as in investigatory isolators and correctional facilities, a juvenile should have access to the community based mentoring services, including mentoring services provided by specialised and accredited NGOs. The accreditation of a NGO's mentoring services shall be done by a relevant national authority. The idea behind the mentoring services is to provide a juvenile in detention with a person they can trust.
9. Legal experts in the field - judges, prosecutors and lawyers - should come together to review the list of alternative measures provided in the Criminal Procedure Code. Efforts should be made to minimise the incarceration of juveniles to cases involving serious and grave crimes. The experts should also consider widening the application of alternative measures to imprisonment.
10. Changes should be made to court rooms to bring them in compliance with international standards and practice. Particularly, handcuffs should not be used on juveniles during court proceedings and juveniles should not be put in a cage in the court room. This is considered inhumane and degrading treatment. The security requirements can be met by other means such as police officers accompanying juveniles.
11. Because most children do not understand the court proceedings or legal terminology, including court decisions, the court should entitle all parties to use wording understandable to juveniles. If for some reason this is not possible, a educational specialist should be provided free of charge to assist any juvenile in understanding what is going on in the court.
12. In order to improve juveniles' understanding of court proceeding and legal terminology, the Government and NGOs are encouraged to develop and make available special explanatory materials (booklets, brochures, posters).

3.6. Suggestions for improving the work of Special Educational Institutions

⁶² CPC of AR: Article 228.1 says that "If an under-age witness can provide information of significance to the case either verbally or in another form, he may be questioned notwithstanding his age." Article 228.2.: "If a witness is under 14 years old, or, at the investigator's discretion, under 16 years old, the interview shall be held with the participation of his teacher or, where necessary, a doctor and the witness's legal representative."

1. The Exemplary Statute on Special Open and Close type Education Institutions should be amended to comply with the obligations accepted under the UN CRC and other international documents that protect the rights of the child and to which Azerbaijan is a party. Articles of the Exemplary Statute violate the right to privacy, the right to correspondence and education, the right to be protected from violence and the right to be free from inhuman and degrading treatment and punishment.
2. Special educational institutions should be periodically monitored by NGOs and members of the community.
3. Children should be educated about their rights under the UN CRC and should be given the opportunity to freely report any violations against them. A children's complaint box should be established in schools to enable children to report violations of their rights.
4. The Ombudsman for Human Rights and the Centre for Children's Rights of the Ombudsman Institution should be encouraged to conduct quarterly monitoring visits to all special educational institutions.
5. In order to improve the children's participation and sense of self-confidence, a children's parliament should be established in the institutions enabling children to express their opinions, raise issues, discuss their problems and develop negotiating skills.
6. Schools should pay more attention to the psychological rehabilitation of juveniles, and establishing a safe, protective environment that prepares children for an independent life.
7. The vocational training opportunities should be enhanced and updated based on the current needs in the labour market. Juveniles should have the opportunity to participate in the national university entrance examinations.
8. Representatives of the Commissions on Minors should be required to regularly monitor and review the placements of juveniles in special educational institutions.
9. The Guba district Correctional Technical-Vocational School for Boys should be closed for two reasons: (1) the physical conditions are not suitable for children; and (2) there are less than 25 children, which automatically predisposes its closure under the law. The children should be transferred to the Mardakan Special Educational-Correctional School for Boys.
10. Extensive training should be provided to the staff of the special educational institutions on juvenile justice, rehabilitation and integration of juveniles into society, as well as on how to develop and implement an individual development and rehabilitation plan for each child.

Annex 1. Specialised Educational Institutions

Interview with Residents of Guba Correctional Technical-Vocational School for Boys

23 juveniles ages 13-18 were interviewed anonymously during the monitoring of the facility. According to the interviewees, they were placed in the school because they had run away from home, a school or boarding school; or broke the internal disciplinary rules at a boarding school; or committed acts of public risk with elements of a crime.

When asked who had sent them to the facility, the answers varied from parents, police, to the principals of the boarding schools. Only five children considered it fair to be kept in the facility, one refrained from answering, and the rest said that it was unjust to keep them.

The majority of the children interviewed were from broken families. Most of the children do not have either mother or father, or their parents are in jail or seriously ill.

18 of the 23 children said they have never been visited by their relatives or parents; four said they are rarely visited; and one said that he is frequently visited. Ten children said that there are no opportunities for comfortable, free and unlimited communication with visitors to the facility.

16 children complained that the sanitary conditions are bad.

All 23 interviewees said they sleep in a common barrack and that the bedding sets are old and damp. Five children said they want to sleep in a single bedroom; four complained of bad treatment by other children at night.

Only four children said the food is of good quality, the rest said the quality is not bad. One complained that the food is not enough.

When asked, "What do your teachers or instructors do when you are misbehaving?" most answered that they are subjected to compulsory labour. When asked, "Have you been beaten or insulted?" six juveniles refrained from answering; and four children said they are sometimes beaten.

In regards to leisure time and activities, seven children said that the opportunities are poor, while others said they are fine. The majority of children noted that there are no sport facilities.

Interview with the Principal of Guba Correctional Technical-Vocational School for Boys

Khalyq Bayramov, the Principal, has been working in the facility since 1974 and was appointed as the principal in 1985. The Principal said that his monthly salary is 80-100 manats (90-120 USD).

The facility has one doctor and one psychologist that start working at 2 p.m. everyday. Four teachers and one vocational instructor work daily from 9 a.m. to 1 p.m. The average employee salary is 56 manats (60 USD).

Mr. Bayramov stated that the facility has no possibilities for the children to work and earn money. He evaluated the leisure opportunities and sanitary conditions as satisfactory.

Mr. Bayramov acknowledged that the inability for children to prepare and take the national university entrance exams, and thereafter receive a diploma and find a job, is a serious problem. According to him, only one child from the facility entered the university in 1988.

Mr. Bayramov also said that according to the facility's regulations, the juveniles cannot leave the facility to see their parents or for any other reason (education, etc).

According to the principal, children attaining the age of 18 are sent home by a decision of the Pedagogical Board. Children under the age of 18 are released by a decision of the Ministry of Education.

He stated that no limits are put on telephone conversations or correspondence.

He stated that no force has ever been used against the facility's residents.

Interview with Residents of Mardakan Special Educational-Correctional Facility for Boys

The NGO Alliance visited the school twice - in March and again in April 2006. The objective of the second visit was to interview the children that were not interviewed during the first visit, clarify some issues from the first visit, and find out answers to new questions.

During the first monitoring visit, 15 children aged 9-16 were interviewed anonymously during the monitoring of the facility. According to the interviewees, they were placed there due to running away from their home, school or boarding school; or breaking internal disciplinary rules at a boarding school; or having difficulties in communicating with their parents. One resident did not know why he was there. Three out of the 15 children surveyed said no warning was given to them or to their parents before they were brought to the facility.

When asked who sent them to the institution, the answers included parents, police, a principal or a teacher.

The majority of the children interviewed are from broken families. Most of the children's fathers are either not alive or are in jail or seriously ill. One child said he did not have a father and his mother had left him alone. Another said he had no parents at all.

In general, the children said the conditions in the facility are good and they are well treated.

The majority of the respondents said they sleep in the gym with 50-60 people. One of the respondents said the bedding sheets are replaced once every ten days while another said once a month.

Two of the 15 children said they have never been visited by their relatives or parents; three said they are rarely visited; and the remaining stated they are frequently visited. All of the children said they are provided relevant opportunities to meet with their relatives.

When asked "What do your teachers or instructors do when you are naughty?", most answered that they are subjected to optional labour. Only one child said the teachers dragged him by his ear and slapped him in the face.

When asked "What would be a more reasonable measure to implement against you, rather than sending you to this place?" the majority answered that it was correct that they were there. The others, however, did not have alternative ideas.

Only one child stated he was dissatisfied with the education provided in the facility. The children said they wear uniforms during lessons, and regular dress after.

In regards to leisure activities, the majority are happy with the opportunities provided. Only one child said he wished they were allowed to use the computer room more frequently.

According to the children, the resident who has stayed at the facility the longest is a boy that has been there for six years.

Interview with the Principal of Mardakan Special Educational-Correctional Facility for Boys

The Principal of the facility, Mr. Nadir Ahmadov, has been working as the principal for ten years. He said he was almost happy with his work and only regretted the low salaries. The principal receives 194.4 manats (210 USD), support staff receive about 30-50 manats (40-60 USD), teachers and instructors earn about 70-140 manats (80-160 USD). He considered this as a main obstacle to improving the work of the school.

Mr. Ahmadov evaluated the level of entertainment and leisure opportunities in the institution as average but admitted it could be better. He said the sanitary conditions are good and the logistical opportunities of the facility would increase as soon as the current renovation is over.

Results of survey conducted among 35 boys in the Open-type Special Educational-Correctional Institution for Boys

Age	No. of children	Sent by		Reason for Detention		Visited by Relatives		Want to sleep in single bedroom		Punishment		Detention is Fair	
								Yes	No			Yes	No
10	1	Commission on Minors	2	Escaping from school	18	Regularly	23	Yes	6	Corporal punishment	6	Yes	20
11	1	Parents	16	Being at odds with parents	3	Rarely	8	No	20	Placing in a solitary cell	0	No	14
12	0	School	9	Causing disorder	3	Not visited	4			Mandatory labour	3		
13	10	Police	3	Other	8					Prohibition of visits	1		
14	13	Other	3	Unknown	3					Verbal measures	20		
15	7									Other	3		
16	2												

Annex 2. Investigative Isolator No. 3

Interview with Detained Juveniles at Investigatory Isolator #3

24 juveniles were anonymously interviewed during the monitoring. The interviews focused on living conditions in the facility as well as disciplinary measures used against the juveniles.

The juveniles said they are kept in cells of 4-5 people with one adult. The ages of the adults were 21, 38, 34, 42, 45, 47 and 52. When asked about living together with an adult, most of the juveniles seemed to be happy and said that the “*agsaqqals*” (*note*: patriarchs) played a great role in establishing discipline in the cells. When asked if they would prefer a solitary cell all, except one, answered in the negative. They think it would be boring.

Three respondents did not know why they were in the facility. 11 juveniles consider it unfair to keep them in the facility.

Some stated that they had not committed a crime, and some said they were accused of crimes that are more serious than those they committed.

Four juveniles reported they are kept together with previously convicted individuals.

The great majority of the juveniles said, the conditions, leisure opportunities and sanitary conditions of the facility are normal.

Seven juveniles said that the food is of sufficient quality; four said it is bad; the rest stated it is satisfactory.

Almost all of the children (except one) said no educational or vocational training is conducted in the facility.

Generally, the juveniles said they are subjected to verbal warning and placement in a punishment cell. One child said he was kept in a solitary punishment cell where the floor was covered with chlorine. Three children said they were beaten because they violated the rules of discipline. When asked why they were beaten, one juvenile answered that he was having a conversation with another prisoner through a window. The other two children refused to answer. They all stated no cruel or humiliating actions were implemented against them as a disciplinary measure.

Six children said their parents regularly visit them; six stated their relatives rarely visit them. These children stated that no obstacles are made to meeting with their family. Other children, however, complained that the administration did not allow anyone, including their parents, to meet with them. Three said, since their detainment they have not seen their parents. They believe it is because they (the juveniles) are under investigation. When the matter was put before a prison official, he said that the parents are entitled to see their children only when they are recognised by the investigator as the legal representative of the child.⁶³

All of the respondents said that their lawyers, parents or other legal representatives were allowed to see them only after some time had passed after their detention. According to the survey, four respondents have not seen (or do not have) a lawyer. Some juveniles could not remember the day they met with their lawyer. The rest stated they met with their lawyers several days after their arrest as follows:

⁶³ A conclusion can be made that investigators do not explain to the juveniles or their legal representatives the mechanisms for implementing their visitation rights.

Length of time after detention	Number of Juveniles
1 day	3
3 days	1
4 days	1
14 days	1
15 days	1
One week or more	2
One month	1

All of the juveniles said the legal services provided by the state appointed defence lawyers were for the sake of formality only.

When asked about incidents of bribery, only two said they are aware of it happening.

When asked, “Have you ever met with representatives of the Commission on Issues and Protection of Rights of Juveniles, or have they ever been in touch with you?”, all the juveniles said they have never heard of the institution.

Interview with the Principal of Investigatory Isolator #3

Principal Elkhan Sadikhov has more than 25 years of experience in correctional facilities and at the time of the survey had been working as the Principal of the isolator for nine months.

Mr. Sadikhov believes the low salary paid to the employees is a big problem. People feel apathetic and uninterested in their work. This leads to a shortage in staff. The principal receives AZN 274 (311 USD). Other employees receive AZN 150-250 (170-284 USD). The staff of the facility also complained of hard work and low salaries.

Mr. Sadikhov considers the leisure and entertainment conditions in the facility to be satisfactory. He does not, however, think it is right to isolate and put a child behind bars. According to him, this results in harm to a child’s psychology. They become hardened and resentful. He believes children, taking into account their psychology and age, should be kept in special educational facilities.

Mr. Sadikhov said the facility does not have conditions for education or participation in the national university entrance exams but he noted that the issue has been discussed with the Ministry of Education.

He also pointed out that renovations were in progress in the facility.

The principal said the food quality and sanitary conditions of the facility are good.

According to the principal, 26 people are on duty every night.

Mr. Sadikhov said the juveniles can not temporarily leave the facility for any reason and they can not make phone calls to their parents (this is not indicated in the national law). According to the principal, the detainees are provided with opportunities to correspond as specified by the law.

He also noted that during his time as principal no force, including the use of weapons, has ever been used against the detainees.

Monitoring in Investigatory Isolator #3

№	Full name	Place of initial detention	Education	Article of Criminal Code accused under	Duration of detention at the time of monitoring
1.	D.M.	Tertter	Incomplete secondary	126.1	2 months
2.	G.R.	Absheron	Incomplete secondary	126.2.4	7 months
3.	N.A.	Salyan	Incomplete secondary	150.2.3	7,5 months
4.	S.A.	Baku, Yasamal		180.2.1	20 days
5.	R.V.	Gobustan	Incomplete secondary	150.3.3	2 months
6.	E.I.	Beylagan	Secondary	181.2.5	1,5 month
7.	R.A.	Sumgayit	Incomplete secondary	150.3.3	1 month and 20 days
8.	N.Y.	Aghjabadi	Unknown	Unknown	6 months
9.	Z.A.	Baku, Binagadi	Incomplete secondary	150.1,153.3	Doesn't know
10.	S.B.	Baku, Binagadi	Secondary	Convicted previously, 185.2.2	1,5 month
11.	V.B.	Baku, Azizbayov	Incomplete secondary	180.1	13 months
12.	R.B.	Baku, Surakhany	Secondary	120.2.1,120.2.4	15 months
13.	R.H.	Baku, Binagadi	Secondary	177.2.1, 177.2.2, 177.2.3	8 days
14.	F.H.	Baku, Binagadi		150.3.3	11 months
15.	M.G.	Baku, Surakhany	Incomplete secondary	120.2.1,120.2.4	15 months
16.	A.G.	Baku, Binagadi	Incomplete secondary	Previously convicted, 177.2.1,177.2.2	12 months
17.	A.H.	Baku, Nizami	Incomplete secondary	182.4	1 year
18.	V.H.	Imishli	Incomplete secondary	150.3.3	5 months
19.	V.H.	Baku, Narimanov	Incomplete secondary	180.2.2	13 months
20.	K.H.	Baku	Secondary	126.1	5 months
21.	E.I.	Baku, Khatai	Secondary	Previously convicted, 177.2.2	4 months
22.	A.M.	Baku, Khatai	Incomplete secondary	181.2.5	3 months and 13 days
23.	E.M.	Baku, Surakhany	Incomplete secondary	120.1	1 day
24.	A.M.	Baku, Binagadi	Incomplete secondary	150.3.3	2,5 months
25.	P.M.	Baku, Garadagh	Incomplete secondary	120.1	Unknown
26.	D.P.	Baku, Surakhany	Incomplete secondary	120.2.4	10 months
27.	K.P.	Baku, Nizami	Incomplete secondary	Unknown	unknown

Annex 3. Correctional Institution for Juveniles

Survey of Juvenile Prisoners in the Juvenile Correctional Facility of the Ministry of Justice

An anonymous survey of 61 juvenile detainees was conducted. The survey covered general topics including the conditions of the facility and the disciplinary procedures implemented against the juveniles.

The juveniles said they stay in rooms with 6, 10, 12, or 14 persons and that no adults are among them.⁶⁴ Many however, noted that adults were placed in the cells with them at the pre-trial detention facilities and in the temporary isolation ward. There they were placed with people aged 20-50 (“*agsaqqal*”) sentenced to punishment by a court decision.

When asked if they would prefer a solitary cell, the majority answered in the negative stating they would be bored and spending time together was interesting. six respondents, however, said they would prefer to stay in a solitary cell because they would feel more comfortable and free. One respondent said it would be better if they had bedrooms for 3-4 persons.

The majority of juveniles said they have good conditions and leisure opportunities, as well as normal sanitary-hygienic condition in the facility.

As for the quality of food, three respondents said it is not good, 19 said it is satisfactory and the rest stated it is good.

All the juveniles, except of four, said they are able to continue their education at the facility as normal.

In general, the juveniles said they are subjected to verbal warnings and placement in punishment cells but, no cruel or humiliating actions are implemented against them as disciplinary measures. Several of them, however, reported that they were beaten, meetings with their parents were limited, and humiliating measures (taking garbage away) were imposed on them as punishment measures.

Except for six children who said bribery was optional and was meant as a sign of respect, all the juveniles said that bribery does not exist in the facility.

17 prisoners said it is unfair to keep them in the Correctional Facility but, the rest considered it is a just decision.

All of the juveniles said the legal services provided by the state appointed defence lawyer are a matter of form, that the legal provisions on time limits for detention were violated, and that their lawyers, parents or other legal representatives had not been allowed to see them until after some time had passed from when they were detained. In addition, the juveniles were not brought before the court within the prescribed time limits under the law.

Interview with the Principal of the Juvenile Correctional Facility of the Head Office for Implementation of Court Decisions under the Ministry of Justice

The Principal of the facility, Lieutenant-Colonel of Justice Police Imran Mammadov, has been working in this field for 25 years. Mr. Mammadov has four years of experience working in a

⁶⁴ Persons younger than 20 are excepted, since the Code of Execution of Penalties allows it and when attaining the age of 18 they can be kept in the same facility without being transferred to another, by the court’s decision.

closed-type correctional facility and was appointed principal of the juvenile correctional facility in 2005.

Mr. Mammadov said he was happy with his work. Speaking about his staff, Mr. Mammadov complained about their low salaries. The principal gets 187 manats (212 USD), other staff members earns about 60-180 manats per month (68-205 USD).

According to him, conditions and leisure opportunities, as well as the sanitary conditions of the facility are good.

Mr. Mammadov said that the children can leave the facility to see their parents in the manner specified by the law. It is not allowed to leave the facility for any other reason.

The juveniles are allowed to make phone calls to their parents and they have the right to correspondence as provided for in the law.

Mr. Mammadov noted that the children have the opportunity to take the national university entrance exams and receive diplomas.

According to the Principal, the facility assists released prisoners in obtaining employment and finding accommodations.

He also stated that during his term as principal no force, including the use of weapons, has ever been used against the prisoners.

The Principal suggested that to ensure the effective use of conditional release measures, the decision should be left to the facility administration and the Board of Guardians. Currently, a court can reject a positive opinion from the facility to conditionally release a juvenile.

Mr. Mammadov noted two negative aspects about the facility: (1) it does not have a physical trainer; and (2) the number of computers needs to be increased.

Annex 4. Women's Prison #4

Interview with Women who were convicted when they were juveniles in the Women's Prison #4

Four young women were interviewed at the Women's Prison #4. Three were placed in the facility when they were juveniles. The survey covered general topics including the conditions of the facility and disciplinary rules implemented against the prisoners.

The women interviewed were sentenced and sent to prison when they were between the ages of 16 and 19. At the time of the survey they were between 19 and 20 and staying in barracks with 22-30 people. When asked if they would prefer a solitary cell, two answered positively but one said it would be boring.

The women noted good conditions and entertainment-leisure opportunities, as well as normal sanitary-hygienic conditions in the facility.

They said they obtained their clothes, bedding sheets and necessary hygienic products either at their own expense or at the expense of their relatives.

When asked about the quality of food, they stated that they cook for themselves with products brought by their relatives.

The women said they are allowed to wear dark clothes only (dark clothes and dark gowns) but, they wished they could wear colourful and varied clothes instead.

The respondents said the facility provides no education opportunities.⁶⁵ Only one woman said she completed secondary school before being imprisoned. They only provide vocational training in tailoring and weaving.

In general, the prisoners said they are subjected to verbal warnings and placement in punishment cells but no cruel or humiliating actions are implemented against them as disciplinary measures.

Two women said they are regularly visited by their parents, one said she is not visited frequently. No obstacles are created during the meetings.

The respondents said they have not witnessed bribery in the facility.

The staff members of the facility do not carry weapons.

When asked, "Have you ever met with representatives of the Commissions on Issues and Protection of Rights of Juveniles, or have they ever been in touch with you?" the women said they have never heard of the institution.

The women consider it unfair to keep them in jail. One woman believes it is unfair because despite committing a crime, the court did not consider the motive and reason for the crime or the extenuating circumstances. Two women believe that in addition to the crime committed, the court also included in its decision other aggravating circumstances that they did not commit. One woman insisted that prison is too severe of a punishment for her.

⁶⁵ According to Article 104.1 of the Code of Execution of Penalties, secondary education opportunities should be ensured for all prisoners.

All of the respondents said the time limits for detention indicated in the law were violated and that their lawyers, parents or other legal representatives were allowed to see them only after they were detained for some time.

According to the women they were not provided legal representation within the time limits provided in the law. According to survey, one woman said she met with a lawyer five to six days after she was detained. Another stated she has not had a lawyer for 8 months. A third woman said she met with her lawyer 3-4 days after she was detained and the last woman said she saw her lawyer only on the third day of her detention.

When asked how long after their arrest did they wait to see their parents, one respondent said she was arrested together with her mother, one woman said she met with her parents two years later and another woman said it was four months after her arrest. The last woman said she did not remember.

All of the respondents said the legal services provided by the state appointed defence lawyers were a matter of form only.

The respondents all mentioned that they are from poor families.

Annex 5: Court Hearings

Results from monitoring court sessions on juvenile cases in Ujar District Court

A preparatory meeting in a juvenile case was held on 11 May 2006 in Ujar District Court. Two juveniles were accused in the case:

- 1) J. N. H. (born 1989), accused of deliberately causing less serious harm to the health under Article 128 of the Criminal Code;
- 2) J. E. H. (born 1988), accused of deliberately causing battery or causing physical pain by other violent actions under Article 132 of the Criminal Code.

They were both ordered not to leave the territory of the district and their parents were given custody.

The case was presided over by Ujar District Court Judge, I. Aziziov. The secretary of the meeting was A. Aliyev. There was one adult victim in the case.

Both juveniles were represented by a lawyer, Bakhtiyar Abdullayev, hired on a contractual basis. It was clear, however, that the accused hardly recognised their lawyer indicating little or no previous meetings.

Amirkhan Abbasov was the prosecutor and entered the courtroom from the court's discussion room.

Mahammad Hasanli, the Executive Secretary of the Ujar ExCom Commission on Minors, as well as the parents of the accused and the victim were present.

No petitions or objections were provided by either party during the preparatory meeting. The judge left to discuss whether a court case was needed. He returned a few minutes later, declaring that an action should be brought against the accused juveniles. The court session was appointed for 17 May 2006 and the restrictions on leaving the district remained enforce.

The 17 May 2006 court session started at 10.45 AM although it was appointed for 10 AM. The delay was due to the prosecutor coming from another region. A teacher from the school where the juveniles studied was summoned to the session at the judge's instruction. Later it became clear, however, that Eyvaz Huseynov from the Education Department was present at the session. The Executive Secretary of the Ujar ExCom Commission on Minors also attended the session.

In the course of the proceedings there was some confusion regarding the incident in question. So, when one of the accused started speaking about an incident at a tea-house, the judge interrupted him saying, "It's not the right place."

The proceeding continued with testimonies from the accused and the victim. The judge then asked the legal representatives to provide their statements. The Prosecutor requested J.E.H be sentenced to six months of corrective works as a punishment measure, and J.N.H. be sentenced to 140 hours of compulsory community work according to Article 128 and Article 132 of the Criminal Code. The defence lawyer, in his turn, asked to soften their punishment. Then the judge left for deliberation. When determining a measure of punishment, the judge took into consideration Articles 344, 347 and 354⁶⁶ of the Criminal Procedure Code and the fact that the accused were juveniles, and there were no aggravating circumstances. In accordance with Article 128 of the Criminal Code J.E.H. was sentenced to six months of corrective works and required to transfer 10% of his monthly

⁶⁶ Article 344 of CPC of AR: "Court's retirement to the deliberation room".

Article 347 of CPC of AR: "Rules governing the adoption of the final court decision".

Article 354 of CPC of AR: "Settlement of the civil claim in the court judgment"

income to the state budget. J.N.H. was sentenced to 100 hours of compulsory community work according to Article 132 of the Criminal Code.

The participants were also informed about the time and place for filing complaints or petitions concerning the verdict. The deadline to appeal was indicated as 20 days starting of the date of the court's decision.

Results from monitoring court sessions on juvenile cases in Khanlar District Court

A court session on a juvenile case was scheduled to take place in Khanlar District Court on 12 May 2006 at 10:00 AM. The head of the office said the session would take place between 11:00 and 12:00. The head of the office did not know the exact time stating it was based on the arrival of the public prosecutor.

Monitors observed the fact that there were dozens of complainants before of the court who were not received and faced rude treatment. The head of the office, Vidadi Zeynalov, was especially rude. As the head of the office in Khanlar District Court, his conduct could be considered an abuse of power.

The judge also stated that he was waiting for the public prosecutor in order to start the session. Soon after this the prosecutor entered the court-room and the judge said the process would start in 5-10 minutes.

It became clear from the conversation of the court employees that they were surprised the session would be conducted in the court-room. It was confirmed that the judge does not normally consider cases in the court-room. There were no tables or chairs in the courtroom for the prosecutor, lawyer or secretary, and no seats in the cage for the accused. The judge's desk and chair were covered with dust. After some time had passed a person in civilian clothes cleaned the judge's desk and chair. The accused were instructed in a very rude manner to take care of their own seats in the cage. Later on, desks and tables were brought from other rooms.

While we were observing the courtroom preparations one of wardens told us that the judge wanted to see us in his office. The judge told us that the prosecutor had an incomplete proceeding in another region and needed to depart. Accordingly, the session was postponed until 17 May 2006, 11 AM.

Results from monitoring court sessions on juvenile cases in Siyazan District Court

A court session on a juvenile case was held on 2 May 2006 in the Siyazan District Court. Seven people were accused in the case – two adults and five juveniles. All five juveniles were accused of violating Article 177.2.1 of the Criminal Code, “theft committed by a group of persons.”

The juveniles were not arrested but, were ordered not to leave the territory as a preventive measure.

The proceeding was presided over by Siyazan District Court Judge, Sudaba Mammadova. The secretary for the session was Zohrab Damirov. The State provided Mr. Arif Habibzadeh and Mr. Murad Gasimov as defence counsels. Babakhan Hasanaliyev was the Prosecutor. There was one adult victim.

Eldar Muradov, the Executive Secretary of the Siyazan ExCom Commission on Minors, as well as the parents of the accused and the victim were present.

Due to the late arrival of the prosecutor from another region, the proceeding started one hour late.

The condition of the newly renovated court-room was satisfactory. There was no cage for the accused.

The judge started the proceedings by questioning the accused and the victim. After both parties delivered their testimonies, the proceeding was postponed until 10 AM on 11 May 2006, due to the absence of witnesses.

The session appointed for 10 AM on 11 May 2006 did not start on time. The secretary said they were waiting on the arrival of the lawyer. After the lawyer arrived we asked when the session was expected to start. We were told the court was waiting for witnesses.

The proceedings finally began at 1 PM – three hours late. The proceedings finished after the accused, victim and witnesses provided their testimonies. The judge asked the legal representatives to provide their statements. The public prosecutor requested the accused be sentenced to three years of imprisonment according to Article 177.2.1 of the Criminal Code. The defence lawyers, in their turn, asked to soften their punishment, taking into consideration the accused persons were juveniles and having no prior convictions. After giving the floor to the accused, the judge left for deliberation. He returned with the following verdict:

Both adults were found guilty of violating Article 177.2.1 of the Criminal Code of the Azerbaijan Republic, and sentenced to a fine of 3000 (three thousand) conventional units. The punishment was considered to start from the day of sentencing. The order not to leave the territory remained in effect until the sentence was legally enforced.

The five juveniles were all found guilty of violating Article 177.2.1 of the Criminal Code of the Azerbaijan Republic. They were sentenced to a penalty in the amount equal to 30 (thirty) conventional units, in compliance with Article 85.2 of Criminal Code. They were then released from punishment based on provisions of Article 89.1 of the Criminal Code and transferred under parental control in compliance with Article 87.3 of Criminal Code. The order to not leave the territory became void.

Results from monitoring court sessions on juvenile cases in the Court of Grave Crimes

Court proceeding in an on-going juvenile case presided over by the Court of Grave Crimes Judge Javad Jumaliyev continued on 22 September 2006. Three juveniles were accused of murder.

This case drew the attention of the monitoring team for several reasons:

1. the juveniles were accused a committing a grave crime;
2. there were three juveniles, so the crime was allegedly committed by a group of juveniles;
3. the juveniles had been in the investigatory isolator for about 18 months at the last court hearing attended by monitors;
4. allegations of torture and inhuman treatment against the juveniles were raised during the court proceedings; and
5. the case received a lot of attention from the media and international community. It is under observance by the OSCE, Human Rights Watch, US Embassy and the Embassy of the Russian Federation.

Another prominent element of this case is the fact that the composition of the judges has changed three times at the requests of the advocates based on allegations of bias or incompetence.

The session was appointed for 10 AM but started at 11 AM.

Because the accused only spoke Russian an interpreter was provided. The level of interpretation, however, was low. The accused had difficulties fully understanding the conversations taking place in the courtroom.

When the session began the judge could hardly control the courtroom and it was difficult to hear the speeches. Relatives of both the accused and victim were interfering in the court's work.

Although it was an open session people attending the proceeding were forced out or not allowed in.

This particular proceeding was heavily monitored because it was continued for about 15 months. The court hearings were postponed several times without prior notice to the advocates, juveniles or their parents. These postponements led to the inhuman and degrading treatment of juveniles awaiting trial. The juveniles were brought to the court for hearings several times during the two months the court was being monitored. Three times the hearings were cancelled for unknown reasons. Each time this happened, the juveniles were sitting in the basement of the court with no access to hot meals or drinks and then returned to the isolator.

The advocates and parents of the juveniles reported several times the serious psychological pressure exerted on the juveniles and requested the immediate intervention of medical personnel and a psychologist. Several hearings were held in the following months and the court finally allowed medical observation of the juveniles. The parents and advocates reported the medical observation was conducted as a mere formality.

Although the monitoring of this report is finished, the case is still in court. This shows two violations of international standards and national legislation: (1) the procedures with regards to juveniles shall be done within the shortest time frames; and (2) the juveniles shall be detained for the shortest period of time. The juveniles in this case have been detained for about 15 months at the monitoring of last court hearing. Two of accused juveniles were arrested in February 2005 and the third juvenile was arrested in August 2005. The trial started in May 2005 and is still ongoing.

During their detention in the investigatory isolator, the juveniles reported being beaten several times. These issues were brought to the attention of the Court for Grave Crimes Judge. No formal investigation into the allegations, however, has been initiated.

Closing Remarks

The report on the monitoring of juvenile justice institutions produced by the NGO Alliance for Children's Rights with the support of the OSCE Office in Baku was communicated to the relevant government authorities prior to official publication. The main objective was to initiate bilateral communication with the government to take its concerns into account and promote further co-operation to address problems in the juvenile justice sector.

The report is the result of a fact-finding monitoring mission, and is based solely on the situation observed during the visits of the monitors to the selected juvenile justice institutions as well as the interviews conducted with the representatives of these institutions. Although the monitoring mission covered the entire country, it was conducted during a limited period of time. The report therefore may not provide a fully comprehensive picture to date but is rather an attempt to reveal gaps and problems in the juvenile justice system at the time of the monitoring mission. The report is meant to assist the government of Azerbaijan in its continuing efforts to improve its capacity to better tackle children's issues.

As a result of bilateral communications, the Ministry of the Interior and the Ministry of Justice kindly provided feedbacks to the report. These feedbacks were carefully studied by the NGO Alliance for Children's Rights. The government responses provide detailed information about the recent developments in the field of human rights protection and reform in the juvenile justice sector. As such it is important to mention that both Ministries have done commendable work in the field of juvenile justice development.

During the last two years the Ministry of the Interior has been taking active part in educational, training and other capacity building activities focussing on police child inspectors and staff of police detention facilities. The trainings conducted by UNICEF jointly with the Ministry of the Interior included more than 350 police child inspectors in 2006, which is a sign of strong commitment to develop a police programme on juvenile issues. The current government programmes, including the "State Programme on the Improvement of the Functioning of the Police in the Republic of Azerbaijan" covering the years 2004-2008 will further strengthen police capacities. It also improves the social protection work of police officers and provides the police with modern equipment and tools for a better protection of public safety and prevention of crimes. The Police Academy and Police School play crucial roles in educating and training of policemen on juvenile justice standards, in particular the Beijing rules and Riyadh guidelines, the UNCRC and other international treaties. These training activities that have been carried out to date by the Ministry with the support of the OSCE, the Council of Europe and UNICEF have the potential to establish more effective police practices.

Particularly noticeable is the increased attention of the Ministry of the Interior to uncover or prevent cases of violence or mistreatment of persons in police custody. We also welcome the work of the Ministry to improve the conditions of more than 66 police detention facilities, including the building of 11 new and refurbishment of 51 temporary detention facilities. However, the monitoring mission revealed that police detention facilities lack mechanisms to ensure the protection of children in custody. The recommendations given in the report are aimed at improving the knowledge and skills of police personnel in detention facilities in the field of child rights and child protection as well as at developing child-friendly services, including access to NGOs, appropriate adult mentors or peer educators, and distribution of booklets and leaflets about their rights and responsibilities. The NGO Alliance opines that these recommendations should become part of the "State Programme on the Improvement of the Functioning of the Police in the Republic of Azerbaijan" to introduce more efficient protective measures for juveniles in conflict with the law. The NGO Alliance and its partners encourage the Ministry of the Interior to continue building the

capacity of police personnel involved in the work with juveniles and to strengthen the preventive work with juveniles in conflict with the law.

The monitoring report also points out certain gaps and shortcomings of the judicial system dealing with juveniles in conflict with the law. Although the monitoring mission could not cover many court cases, it was able to monitor several cases related to less serious and serious crimes brought to the courts in the capital city and some regions. Every effort was made to ensure a thorough review of the judicial practice, including the conduct of judges, advocates and prosecutors in juvenile court cases. The findings of the report therefore shall be considered as a presentation of facts uncovered during the monitoring of randomly selected cases. The report portrays the gaps and concerns encountered during the monitoring mission which shall be considered as a call for action and further reform to ensure better protection of the rights of juveniles.

The NGO Alliance appreciates the leading role of the Ministry of Justice in the process of reform of the judiciary. The recent establishment of regional Courts of Appeal, and the promulgation of decrees of the Ministry aimed at further encouraging the application of decisions of the European Court of Human Rights in Azerbaijan's domestic legal system are valuable indicators of ongoing reforms to meet international standards. The Ministry of Justice's involvement and participation at the 1st National Conference of Juvenile Justice Development Perspectives held on 13-14th of April 2006, as well as its partnership with the UN High Commissioner for Human Rights to organise training courses for judges and judge candidates are good examples of multi-sectored co-operation aimed at improving the knowledge and skills of the legal professionals.

The Ministry of Justice provided information with regards to the findings of the monitoring report related to the existing rehabilitation programmes in the juvenile correction centre. A new law on "Social adaptation of persons released from penitentiary institutions" was adopted by the Milli Majlis (Parliament of the Republic of Azerbaijan) which must be considered a critical accomplishment for the reform process. This law will enable the authorities to implement the recognised standards on the rehabilitation of persons after release from detention places. We are hopeful that the law and further programmes derived from it will meet the special needs of juveniles and will address the gaps that this report revealed during the monitoring of the juvenile correction centre.

The Ministry of Justice also kindly provided information about recent developments and achievements by the Penitentiary Service and the Juvenile Correction Centre on its efforts to prepare juveniles for reintegration into society. This work touches upon important aspects of rehabilitation work, including continuing education of detained juveniles and organisation of their leisure time. However, this work does not cover all aspects of rehabilitation and therefore can not meet all the needs of juveniles. In order to meet those diverse needs the monitoring report recommends the organisation of individual work with every juvenile from the moment of admission until release from the correction institution and beyond. This could be done through the introduction of individually oriented development and rehabilitation plans which should include continuous psychological aid, social work, psychotherapy, legal counselling, communication with parents, relatives and peer support groups, appropriate adult or mentoring services, education and vocational training, and support to find employment.

The NGO Alliance and its partners have had unique opportunities to observe and assess the work directed to reform the judicial and law-enforcement systems throughout the country that is being undertaken by the Ministry of Justice, the Judicial-Legal Council, and the Penitentiary Service, and the Ministry of the Interior. We, therefore, truly believe that this report and its findings will be useful for the relevant government authorities to further strengthen the reform of the juvenile justice system and transform it into a system that takes note of the special needs of juveniles in conflict with the law, protects their rights and ensures that special care is provided. Altogether it should lead

to a better prevention of juvenile delinquency, and genuine rehabilitation and reintegration of juvenile offenders into the society.

The NGO Alliance is grateful to the Government of Azerbaijan, the OSCE Office in Baku and the British Embassy Baku for having had the support to monitor the juvenile justice system and prepare this report. NGO Alliance offers its assistance to the Government of Azerbaijan in all its endeavours to build a better child protection system.

The NGO Alliance for Children's Rights

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