



### Trafficking in the Republic of Azerbaijan

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#### I. Introduction

The Republic of Azerbaijan is presently besought with problems of international trafficking, most notably in the areas of human trafficking, narcotics trafficking, and arms trafficking. While such problems are not peculiar to Azerbaijan, the history of the country's development and its present approach to government help to explain the prevalence of these problems in the country today. This paper will examine the state of the trafficking problems in the Republic, as well as the legislation and programs undertaken in the country to combat the problems. Specific recommendations will be given for combating trafficking in persons, narcotics, and arms, respectively. After a discussion of these three areas, this paper will present overall recommendations concerning trafficking within the broader context of globalization and Azerbaijan's position in the international community.

#### II. Government and Society in Azerbaijan

Aspects of Azerbaijan's long history must first be acknowledged in attempting to understand the relatively recent phenomenon of human trafficking in the country.<sup>1</sup> Evidence exists of culture in the region from the Stone Age through the present,<sup>2</sup> with the advent of Zoroastrianism and the subsequent destruction of that religion by Islam being only two short episodes.<sup>3</sup> The occupation of the Soviet Union was another monumental upheaval in the region, and its collapse has left the inhabitants of Azerbaijan vulnerable to globalization's negative effects.<sup>4</sup>

In fact, its ties with Russia have been central to its history for the last two hundred years. The fall of the Czar in 1917 brought a chance for Azeri independence, and the Republic of Azerbaijan became an independent state in 1918.<sup>5</sup> This independence was short-lived, however, as Lenin sent the 11th Red Army to Azerbaijan in 1920, thus ensuring that the country was reincorporated into what had become the Soviet Union by 1922.<sup>6</sup> It remained part of the USSR in

<sup>1</sup> INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM), SHATTERED DREAMS: REPORT ON TRAFFICKING IN AZERBAIJAN (2002) at 11.

<sup>2</sup> See, e.g., Gobustan Rock Art Cultural Landscape: UNESCO World Heritage Centre Description, <http://whc.unesco.org/en/list/1076> (last visited Aug. 21, 2010).

<sup>3</sup> U.S. Department of State Diplomacy in Action: Background Note Azerbaijan, <http://www.state.gov/r/pa/ei/bgn/2909.htm> (last visited Aug. 21, 2010).

<sup>4</sup> See generally *Azerbaijan probes child-organ traffickers*, BBC NEWS, Feb. 23, 2004, <http://news.bbc.co.uk/2/hi/europe/3513439.stm>.

<sup>5</sup> GlobaLex, A Guide to the Republic of Azerbaijan Law Research (1)(a), <http://www.nyulawglobal.org/globalex/azerbaijan.htm> (last visited Aug. 21, 2010).

<sup>6</sup> *Id.*

one form or another for the next seven decades.<sup>7</sup> In 1991, the Azeri Government passed the Constitutional Act on Restoration of the State Independence of the Republic of Azerbaijan.<sup>8</sup>

Since the re-establishment of its independence, Azerbaijan has fallen prey to the effects of globalization, thus sharing the fate of other post-Soviet Eastern European countries.<sup>9</sup> This has caused drastic repercussions in both its society and its government.

Azerbaijan is a society in the midst of what Samuel Huntington called the “clash of civilizations.”<sup>10</sup> The small country is a pawn in a struggle between the secular West and the neighboring state of Iran. Though the state of Azerbaijan is itself secular, the Azeri society has retained traditional Muslim values that have been a point of contention with more pro-Western sentiments.<sup>11</sup>

Such Western sentiments, though, have translated into the structure of the independent Azeri state. Azerbaijan is a constitutional republic with a civil law system.<sup>12</sup> The government is based upon the concept of the separation of powers between a President, a judiciary, and a legislative body called the Milli Majlis.<sup>13</sup> Yet, just as the Western states after which its own Government is modeled, the Republic of Azerbaijan is afflicted with human trafficking, narcotics trafficking, and arms trafficking.

### III. Human Trafficking

#### A. Statement of the problem

##### 1. Source & Destination Country

The country has an adult literacy rate of 99% and a youth literacy rate of 100%,<sup>14</sup> yet the unemployment rates are 10% for men and 12% for women.<sup>15</sup> Women who are employed are paid an average of 57% of what their male counterparts are paid.<sup>16</sup> This economic disparity between

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<sup>7</sup> BBC News Time Line: Azerbaijan, , [http://news.bbc.co.uk/2/hi/europe/country\\_profiles/1235740.stm](http://news.bbc.co.uk/2/hi/europe/country_profiles/1235740.stm) (last visited Aug. 21, 2010).

<sup>8</sup> *Id.*

<sup>9</sup> *Child Poverty Soars in Eastern Europe*, BBC News, Oct. 11, 2010, <http://news.bbc.co.uk/2/hi/business/966616.stm>.

<sup>10</sup> SAMUEL HUNTINGTON, *THE CLASH OF CIVILIZATIONS AND THE REMAKING OF WORLD ORDER* (Simon and Schuster 1996).

<sup>11</sup> See Jessica Powley Hayden, *Azerbaijan: Baku Tackles Human Trafficking, but Ignores Domestic Violence*, EURASIANET.ORG, <http://www.eurasianet.org/departments/insightb/articles/eav061209a.shtml> (noting that Azerbaijan’s international image is prioritized over women’s rights) (last visited Aug. 21, 2010).

<sup>12</sup> GlobalLex, *A Guide to the Republic of Azerbaijan Law Research* (1)(a), <http://www.nyulawglobal.org/globalex/azerbaijan.htm> (last visited Aug. 21, 2010).

<sup>13</sup> *Id.* at (1)(b).

<sup>14</sup> UNICEF Azerbaijan Statistics, [http://www.unicef.org/infobycountry/azerbaijan\\_statistics.html](http://www.unicef.org/infobycountry/azerbaijan_statistics.html) (last visited Aug. 21, 2010).

<sup>15</sup> International Fund for Agriculture and Development, *Azerbaijan gender profile*, <http://www.ifad.org/english/gender/cen/profiles/aze.htm> (last visited Aug. 21, 2010).

<sup>16</sup> *Id.*

men and women has almost certainly contributed to the rise of human trafficking in the country.<sup>17</sup> The situation is well-summarized by Francis T. Miko:

[P]laying a role are the hardships and economic dislocations caused by the transition following the collapse of communism in the former Soviet Union and Eastern Europe, creating an environment in which human trafficking could flourish. The lack of opportunity and the eagerness for a better life abroad may have made many women and girls especially vulnerable to entrapment by traffickers. With the weakening of law enforcement in postcommunist societies, criminal organizations have grown and established themselves in the lucrative business of international trafficking.<sup>18</sup>

Though it has been addressed by legislation both domestic and international, trafficking nonetheless continues to plague the country of Azerbaijan as a result of corrupt law enforcement and harsh socio-economic realities.<sup>19</sup> Azerbaijan is one of twenty-seven countries on the Tier 2 Watch List for human trafficking, according to the US State Department's 2009 Trafficking in Persons Report.<sup>20</sup> To be placed on the Tier 2 Watch List, a country must meet one of the following criteria:

- a. The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;
- b. There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions, and convictions of trafficking crimes; increased assistance to victims; and decreasing evidence of complicity in severe forms of trafficking by government officials; or
- c. The determination that a country is making significant efforts to bring itself into compliance with the minimum standards was based on commitments by the country to take additional steps over the next year.<sup>21</sup>

In the case of Azerbaijan, both the second and third criteria apply.<sup>22</sup> The Report noted that Azerbaijan had improved victims' assistance and awareness efforts but stated that it did not progress in "investigating, prosecuting, convicting, and punishing trafficking offenders . . . ."<sup>23</sup>

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<sup>18</sup> FRANCIS T. MIKO, TRANSNATIONAL THREATS: SMUGGLING AND TRAFFICKING IN ARMS, DRUGS, AND HUMAN LIFE 38 (Kimberley Thachuk, ed., 2007).

<sup>19</sup> UNITED STATES DEPARTMENT OF STATE, TRAFFICKING IN PERSONS REPORT 13 (2009) (hereinafter 2009 TIP REPORT); *see also* INTERNATIONAL MONETARY FUND, AZERBAIJAN REPUBLIC: POVERTY REDUCTION STRATEGY PAPER PROGRESS REPORT (OCT. 2004)

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 12-13.

<sup>22</sup> *Id.* at 70.

<sup>23</sup> *Id.*

Azerbaijan is a source, transit, and destination country for human trafficking.<sup>24</sup> It is a source country for women forced into prostitution in Iran after having traveled there willingly in search of legitimate employment.<sup>25</sup> It is also a source country for women and children who are trafficked to Pakistan for forced labor<sup>26</sup> and to Turkey for both commercial sex work and forced labor.<sup>27</sup> Azerbaijan is also a source country for mail-order brides, which is oft-times a tool in human trafficking. In 2004, over 200 Azeri women were recruited by marriage agencies.<sup>28</sup> To a lesser degree, Azerbaijan is also a transit country, and it is reported that victims have been trafficked from Moldova, Uzbekistan, and Kazakhstan through Azerbaijan into Turkey and the UAE for the purposes of sexual exploitation.<sup>29</sup>

The country owes its status as a destination country in part to corruption in Azeri law enforcement.<sup>30</sup> Victims have asserted that they were kidnapped and forced into prostitution by the police themselves, who are alleged to “[control] saunas, motels, and massage parlors where forced prostitution occurred.”<sup>31</sup> Far from encouraging the trafficked women to help prosecute their traffickers, the police actually threatened them not to do so.<sup>32</sup>

## 2. *Child Organ Harvesting*

The trafficking of human beings for forced labor or sexual exploitation is benign, however, in comparison to the trafficking of children for the extraction of organs under the façade of inter-country adoption.<sup>33</sup> With the poor economic conditions in the country, adoption by foreigners may seem the best escape from poverty. However, in 2003, this system was said to be the cause of the disappearance of 100 children in transit to foreign countries.<sup>34</sup> Reports soon began to surface that sick children, ostensibly being taken abroad for medical treatment and adoption, were actually victims of organ harvesters.<sup>35</sup> The following year, Azeri law enforcement broke up “an organized criminal group that had been engaged in trafficking babies abroad for the sale of organs.”<sup>36</sup>

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<sup>24</sup> *Id.* at 70.

<sup>25</sup> 2009 TIP REPORT, *supra* note 19, at 161.

<sup>26</sup> *Id.* at 231.

<sup>27</sup> *Id.* at 286.

<sup>28</sup> *Human Trafficking: Mail Order Bride Abuses Hearing On S. 1455 Before the Subcomm. on East Asian and Pacific Affairs and the S. Comm. on Foreign Relations*, 108th Cong. 8, 29 (2004) (statement of Hon. John R. Miller, Director, Office to Monitor and Combat Trafficking in Persons, U.S. Dep't of State).

<sup>29</sup> 2009 TIP REPORT, *supra* note 19, at 70.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Azerbaijan Probes Child Organ Traffickers* BBC NEWS, Feb. 23, 2004, <http://news.bbc.co.uk/2/low/europe/3513439.stm>.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Protection Project, Human Rights Reports, [http://www.protectionproject.org/human\\_rights\\_reports/index.htm](http://www.protectionproject.org/human_rights_reports/index.htm) (last visited Aug. 21, 2010).

It is suspected that corrupt officials play a part in this industry.<sup>37</sup> Although adoption is supposed to be free, bribing officials to complete an adoption is regarded part of the process, which may indicate their willingness to “sell” children to suspected organ trafficking.<sup>38</sup>

## **B. Efforts to Combat Trafficking**

### *1. Counter-trafficking Legislation*

Despite the corruption of law enforcement, the country is host to much domestic legislation on human trafficking. Its criminal code addresses several areas that touch on human trafficking, including slavery,<sup>39</sup> sexual abuse,<sup>40</sup> violence of a sexual nature,<sup>41</sup> forced sexual intercourse,<sup>42</sup> sexual intercourse with a minor,<sup>43</sup> involvement of minors in prostitution,<sup>44</sup> trade in and use of minors as commodities,<sup>45</sup> involvement in prostitution,<sup>46</sup> and the keeping of brothels.<sup>47</sup> The Criminal Code was amended in 2005 to include specifically the offense of human trafficking.<sup>48</sup>

Furthermore, the Parliament passed the Law of the Republic of Azerbaijan on the Fight against Human Trafficking in June 2005.<sup>49</sup> This Law established a National Coordinator on fighting human trafficking, in charge of implementing the 2004 National Plan of Action.<sup>50</sup> A new National Action Plan was adopted in February 2009.<sup>51</sup> This document gives a short summary of Azerbaijan’s legislative actions against human trafficking before naming its goals and objectives. The plan is to combat and prevent human trafficking by enhancing the criminal legal process and rehabilitating victims.<sup>52</sup> This will necessitate the cooperation of “executive powers, non-governmental organizations, international partners and other organizations.”<sup>53</sup>

The Republic is also subject to various international and regional laws. For instance, Azerbaijan is a member of the Council of Europe, and one requirement of this membership is ratification of the European Convention on Human Rights.<sup>54</sup> Though the Convention does not

<sup>37</sup> *Azerbaijan Probes Child Organ Traffickers*, *supra* note 33.

<sup>38</sup> *Id.*

<sup>39</sup> CRIMINAL CODE art. 106 (Azer.).

<sup>40</sup> *Id.* at art. 108.

<sup>41</sup> *Id.* at art. 150.

<sup>42</sup> *Id.* at art. 151.

<sup>43</sup> *Id.* at art. 152.

<sup>44</sup> CRIMINAL CODE art. 171 (Azer.).

<sup>45</sup> *Id.* at art. 173.

<sup>46</sup> *Id.* at art. 243.

<sup>47</sup> *Id.* at art. 244.

<sup>48</sup> *Id.* at art. 144.

<sup>49</sup> Law of the Republic of Azerbaijan on Fighting against Human Trafficking (2005) (Azer.), *available at* <http://www.unhcr.org/refworld/type,LEGISLATION,,AZE,4417f1214,0.html>.

<sup>50</sup> *Id.* at arts. 6, 7.

<sup>51</sup> National Action Plan (2009-2013) on Struggle against Human Traffick in Azerbaijan Republic (2009).

<sup>52</sup> *Id.* at I.2.

<sup>53</sup> *Id.*

<sup>54</sup> Parliamentary Assembly of the Council of Europe, *Resolution 1031 on the Honouring of Commitments Entered into by Member States When Joining the Council of Europe* ¶ 1(1994), *available at* <http://assembly.coe.int/Documents/AdoptedText/TA94/ERES1031.htm>.

explicitly address human trafficking, the European Court of Human Rights, established pursuant to the Convention, recently addressed the issue.<sup>55</sup> In January the Court decided *Rantsev v. Cyprus*, applying numerous Articles of the Convention to the context of human trafficking.<sup>56</sup> Thus, human trafficking in Azerbaijan is a human rights offense under the jurisdiction of the European Court of Human Rights.

Azerbaijan is also party to several international instruments specifically concerning human trafficking. It has signed and ratified the UN Protocol to Prevent, Suppress and Punish<sup>57</sup>; ratified the ILO Convention 182, Elimination of Worst Forms of Child Labour<sup>58</sup>; signed and ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography<sup>59</sup>; signed and ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict<sup>60</sup>; ratified the ILO Convention 29, Forced Labor<sup>61</sup>; and ratified the ILO Convention 105, Abolition of Forced Labor.<sup>62</sup>

## 2. Programs Undertaken by Azeri Government

The Azeri Government passed the “National Action Plan on Combating Trafficking in Human Beings in the Republic of Azerbaijan” in May of 2004, and the “Law of the Republic of Azerbaijan on Trafficking in Persons” was passed the following year.<sup>63</sup> More recently, the Government created a shelter for child victims of human trafficking.<sup>64</sup> It did so in 2009, which the Government declared the Year of the Child.<sup>65</sup> Thanks to the Ministry of Education, the children in the shelter have access to education.<sup>66</sup> While the children are limited to a 60-day term

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<sup>55</sup> *Rantsev v. Cyprus and Russia*, Application no. 25965/04, Council of Europe: European Court of Human Rights, 78-86, January 2010, available at <http://www.unhcr.org/refworld/docid/4b4f0b5a2.html> (last visited August 21, 2010) (holding that governments incur certain obligations to trafficking victims under the right to life (Article 2) and the right to be free from slavery (Article 4), that differ on whether the country is only the source country or the destination country.)

<sup>56</sup> *Id.*

<sup>57</sup> Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Nov. 15, 2000, U.N. Doc. A/55/383

<sup>58</sup> Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182), June 17, 1999, 2133 U.N.T.S. 161.

<sup>59</sup> Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, May 25, 2000, U.N. Doc. A/RES/54/263.

<sup>60</sup> Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, May 25, 2000, U.N. Doc. A/RES/54/263.

<sup>61</sup> Convention Concerning Forced or Compulsory Labour (ILO No. 29), June 10, 1930, 39 U.N.T.S. 55.

<sup>62</sup> Convention Concerning the Abolition of Forced Labour (ILO No. 105), June 5, 1957, 320 U.N.T.S. 291.

<sup>63</sup> Aydin Safikhanli, Remarks at the 2009 Human Dimension Implementation Meeting of the OSCE (Oct. 1, 2009), [http://www.osce.org/documents/odihr/2009/10/40100\\_en.pdf](http://www.osce.org/documents/odihr/2009/10/40100_en.pdf); National Action Plan on Combating Trafficking in Human Beings in the Republic of Azerbaijan, May 6, 2004; Law of the Republic of Azerbaijan on Trafficking in Persons. Aug. 5, 2005, *supra* note 49.

<sup>64</sup> K. Zarbaliyeva, *Azerbaijani victims of human trafficking often exploited in Turkey, Pakistan, UAE, Iran and Russia in 2009: interior ministry department head*, TREND NEWS, Jan. 8, 2010 <http://en.trend.az/news/politics/enforcement/1614400.html>.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

in the shelter, “[t]his term can be prolonged at petition of a special police body and trusteeship body.”<sup>67</sup>

The Government of Azerbaijan is very much dedicated to preserving its good standing in the international community as concerns human trafficking.<sup>68</sup> It held events in commemoration of the twentieth anniversary of the Convention on the Rights of the Child last fall, including a briefing of the private sector, a forum hosted in partnership with a non-governmental organization, and an exhibition in secondary and high schools across the country.<sup>69</sup> The Government has also signed cooperation agreements concerning human trafficking with forty-five non-governmental organizations.<sup>70</sup>

### C. Recommendations

Recommendations in the area of human trafficking are difficult to make for a country like Azerbaijan. One could easily interpret any recommendation by a Westerner in this area to be a veil for cultural imperialism. For instance, the mere suggestion that domestic violence be criminalized has been regarded as an attack on Muslim family tradition.<sup>71</sup>

Despite these difficulties, it is readily apparent that more NGO involvement is necessary. The only NGO currently devoted to fighting trafficking in Azerbaijan is the Network against Human Trafficking in Azerbaijan (NAHTAZ).<sup>72</sup> Though this organization began two years ago, it has zero projects in operation, nor does it seem to have any planned.<sup>73</sup> Furthermore, while La Strada International is the only other NGO listed as a partner with NAHTAZ,<sup>74</sup> La Strada has no office in Azerbaijan, nor does it claim any involvement there. In fact, the main organizations with which NAHTAZ works are governmental, namely the US and Norwegian Embassies in Azerbaijan and the Baku office of the OSCE.<sup>75</sup>

Another measure that Azerbaijan could implement is the restriction of immigration. While this may not improve Azerbaijan’s position as a source country, it would certainly diminish its stance as a destination and transit country. However, even were Azerbaijan to

<sup>67</sup> *Shelters for Little Victims of Human Trafficking Created in Azerbaijan*, Nov. 23, 2009, <http://www.news.az/articles/3135>.

<sup>68</sup> See Hayden, *supra* note 6 (noting the priority given international image over that of domestic concerns in the area of women’s rights).

<sup>69</sup> UNICEF, CRC Turns 20, Central and Eastern Europe and the Commonwealth of Independent States [http://www.unicef.org/rightsite/237\\_403.htm](http://www.unicef.org/rightsite/237_403.htm) (last visited Aug. 21 2010).

<sup>70</sup> Zarbaliyeva, *supra* note 56.

<sup>71</sup> Hayden, *supra* note 6.

<sup>72</sup> Network against Human Trafficking in Azerbaijan (NAHTAZ), <http://www.nahtaz.org/index.php?id=1> (last visited Aug 21, 2010).

<sup>73</sup> Network against Human Trafficking in Azerbaijan (NAHTAZ), Projects, <http://www.nahtaz.org/index.php?id=5> (last visited Aug 21, 2010).

<sup>74</sup> Network against Human Trafficking in Azerbaijan (NAHTAZ), Partners, <http://www.nahtaz.org/index.php?id=13> (last visited Aug. 21, 2010).

<sup>75</sup> *Id.*; La Strada International, Newsletter, Dec. 15, 2009, [http://www.lastradainternational.com/documents/Newsletter\\_15\\_09.pdf](http://www.lastradainternational.com/documents/Newsletter_15_09.pdf) (last visited Aug. 21, 2010).

restrict immigration with legislation, it would be difficult to enforce such legislation with the high levels of corruption in government and the country's poor border security.<sup>76</sup> The Government of Azerbaijan must develop all of these things in tandem.

#### IV. Narcotics Trafficking

##### A. Statement of the problem

Drug cultivation, while present in Azerbaijan, is not a pressing problem. According to the CIA World Factbook, only a “limited cultivation of cannabis and opium poppy” exists, and that which is produced remains within the Commonwealth of Independent States.<sup>77</sup>

However, Azerbaijan is also a “transit point for Southwest Asian opiates bound for Russia and to a lesser extent the rest of Europe.”<sup>78</sup> As a transit country, Azerbaijan is in a much more precarious position. Its border with Iran is a long and poorly-guarded one, the mountains of which hamper border protection and facilitate drug trafficking.<sup>79</sup>

Azerbaijan is a geopolitical pivot state.<sup>80</sup> Brzezinski writes that “[g]eopolitical pivots are the states whose importance is derived not from their power and motivation but rather from their sensitive location and from the consequences of their potentially vulnerable condition for the behavior of geostrategic players.”<sup>81</sup> The miniscule and divided Republic is situated directly between Europe and Asia and borders the Caspian Sea, and, with the combined energy resources of Azerbaijan's territory and the Sea, its significance to Russia, Turkey, Iran, and the US is largely disproportionate to its size. Its friendliness with the West, especially the US, creates a symbiotic relationship in which Azerbaijan is not swallowed by its neighbors and the US has access to Central Asia.

While the geopolitical significance of Azerbaijan's location has given rise to a very close relationship between Azerbaijan and the US,<sup>82</sup> NATO,<sup>83</sup> and Israel,<sup>84</sup> its strategic location is a double-edged sword. In addition to US support and military training, Azerbaijan is perfectly situated to act as a transport route for narcotics on their way from Afghanistan to Western Europe.<sup>85</sup>

<sup>76</sup> Fariz Ismailzade, *Azerbaijan Becoming Popular Drug Trafficking Route*, THE JAMESTOWN FOUNDATION, [http://www.jamestown.org/single/?no\\_cache=1&tx\\_ttnews\[tt\\_news\]=32134](http://www.jamestown.org/single/?no_cache=1&tx_ttnews[tt_news]=32134) (last visited Aug. 212010).

<sup>77</sup> CIA, *The World Factbook*, Azerbaijan, <https://www.cia.gov/library/publications/the-world-factbook/geos/aj.html>.

<sup>78</sup> *Id.*

<sup>79</sup> Ismailzade, *supra*, note 85.

<sup>80</sup> ZBIGNIEW BRZEZINSKI, *THE GRAND CHESSBOARD* 40 (1998).

<sup>81</sup> *Id.*

<sup>82</sup> See generally Bernard F. Griffard, *Transformation of the Azerbaijani Armed Forces*, 11-08 CENTER FOR STRATEGIC LEADERSHIP (2008), available at <http://www.csl.army.mil/usacsl/publications/IP%2011-08%20-%20Azerbaijan.pdf>.

<sup>83</sup> *Id.*

<sup>84</sup> See generally Ilya Bourtnan, *Israel and Azerbaijan's Furtive Embrace*, 13 MIDDLE E.Q. 47 (2006).

<sup>85</sup> Jean-Christophe Peuch, *South Caucasus: Region Growing as Hub for International Drug Trafficking*, RADIO FREE EUROPE RADIO LIBERTY, Mar. 9, 2004 [hereinafter *Region Growing as Hub for International Drug Trafficking*], <http://www.rferl.org/content/article/1051816.html>.

As well as being the pawn of geopolitical players, Azerbaijan suffers from internal complications. Separatist conflicts, poverty, corruption, and porous borders have all contributed to rampant narcotics trafficking.<sup>86</sup> The Corruption Perceptions Index of Transparency International ranked Azerbaijan at 143, with a CPI score – supposedly indicating “the perceived level of public-sector corruption in a country/territory” – of 2.3 out of 10, just below the notoriously corrupt countries of Bangladesh and Nigeria.<sup>87</sup> The problem is at its worst amongst border guards and law enforcement officials, precisely those persons responsible for the prevention of trafficking.<sup>88</sup> The arrest of several counternarcotics trafficking officers in October of 2008 for distribution – presumably of heroin – was a marvelous illustration of this point.<sup>89</sup>

The State Commission on Combating Drug Trafficking has stated that there are 23,927 drug addicts in Azerbaijan.<sup>90</sup> The United States Government puts the number at 23,254, claiming that this number also comes from the Azeri Government, and further states that unofficial figures put the number at 300,000 – a far cry from 24,000.<sup>91</sup> Students comprise thirty to thirty-five percent of the drug addict population in Azerbaijan.<sup>92</sup> In spite of these numbers, a 2008 report by the Southern Caucasus Anti-Drug (SCAD) Program has stated that the statistics provided by Azerbaijan are “poor and outdated, and thus probably hiding the full extent of the problem . . . .”<sup>93</sup> Whatever the actual numbers, consumption continues to increase.<sup>94</sup> Various drugs are consumed in Azerbaijan, including “cannabis, Ecstasy, hashish, cocaine, and LSD,” but especially heroin.<sup>95</sup>

Perhaps more pressing than drug use in Azerbaijan is narcotics transit through the country. While cannabis and poppy are grown, Azerbaijan’s primary drug trafficking problem is the transit of narcotics.<sup>96</sup> The majority of narcotics captured last year were being smuggled across the Iranian border.<sup>97</sup> Azeri law enforcement arrested 1,956 drug traffickers, many of whom were members of multinational criminal groups.<sup>98</sup> Still, law enforcement seizes only ten to fifteen percent of drugs shipped through the Southern Caucasus.<sup>99</sup>

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<sup>86</sup> *Drug trafficking in the Caucasus*, 23 CAUCASIAN REV. INT’L AFF., Feb. 23, 2009, [http://cria-online.org/CU\\_file\\_article\\_sid\\_24.html](http://cria-online.org/CU_file_article_sid_24.html); *Region Growing as Hub for International Drug Trafficking*, *supra* note 85.

<sup>87</sup> Transparency International, Corruption Perceptions Index 2009, available at [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2009/cpi\\_2009\\_table](http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table) (last visited Aug. 21, 2010).

<sup>88</sup> Stop Violence Against Women: Azerbaijan, <http://www.stopvaw.org/Azerbaijan.html> (last visited Aug. 21, 2010).

<sup>89</sup> US DEP’T STATE, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT, VOL. I: DRUG AND CHEMICAL CONTROL 129 (2010) [hereinafter NARCOTICS REPORT, VOL. I: DRUG AND CHEMICAL CONTROL], available at <http://www.state.gov/documents/organization/137411.pdf>.

<sup>90</sup> *State Commission Chairman: “According to Official Statistics There Are 24,000 Drug Users in Azerbaijan*, Mar. 11, 2010, AZERI PRESS AGENCY, <http://en.apa.az/news.php?id=117753>.

<sup>91</sup> NARCOTICS REPORT, VOL. I: DRUG AND CHEMICAL CONTROL *supra* note 89, at 128.

<sup>92</sup> *Id.*

<sup>93</sup> *Drug trafficking in the Caucasus*, *supra* note 86.

<sup>94</sup> NARCOTICS REPORT, VOL. I: DRUG AND CHEMICAL CONTROL, *supra* note 89, at 128.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.* at 129.

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Region Growing as Hub for International Drug Trafficking*, *supra* note 85.

The wars in Yugoslavia in the 1990s caused such a disruption to the normal drug trafficking routes that the business was shifted to Central Asia and the Southern Caucasus, particularly Azerbaijan.<sup>100</sup> The country, as the Southern Caucasus generally, has proven to be the perfect location, as the drug trafficking business is greatly served by its “poverty, divisions and mountainous terrain.”<sup>101</sup>

Two recognized drug trafficking routes leading to Azerbaijan exist presently, both of which originate in Afghanistan. One of these routes goes through Iran to Azerbaijan, and one of the routes reaches Azerbaijan through Central Asia via the Caspian Sea.<sup>102</sup> The former route “accounts for 95 percent of this flow, with commercial trucks and horses serving as the mode of transportation across the border.”<sup>103</sup> The latter route serves as a dual route for exporting narcotics from Afghanistan and for importing the chemicals needed to produce heroin in Afghanistan.<sup>104</sup>

A third route was proposed by the US for recognition, one that began in Iran (presumably with Afghani narcotics) and continued to Nagorno-Karabakh, Armenia, and Russia, with Europe as the final destination.<sup>105</sup> This route has been criticized as being a purely political imagining, having been proposed one week after a meeting between Iran and Armenia concerning a defense negotiation.<sup>106</sup> This criticism presumes that the US proposal was one born of US interests in Central Asia, not one of factual circumstance.

A fourth route to Azerbaijan has recently been proposed to be listed, one beginning in Afghanistan, going through Iran, and ending in Nagorno-Karabakh, a geographic section of Azerbaijan that has been at war with the Government since 1998.<sup>107</sup> Azerbaijan has asserted that narcotics are being cultivated in Nagorno-Karabakh and in Azeri territory occupied by the Armenians.<sup>108</sup> The Government claims that these *faux* governments are profiting from the illicit drug trade.<sup>109</sup> Such claims remain unverified, because the self-proclaimed government of Nagorno-Karabakh refuses to allow anyone in to do so.<sup>110</sup>

Yet, experts agree that the traffic in narcotics undoubtedly supports separatist movements in the region, and this allegation is especially relevant as concerns the organized crime elements controlling Nagorno-Karabakh in Azerbaijan.<sup>111</sup> Seeing as the drug trade flourishes because of

<sup>100</sup> NARCOTICS REPORT, VOL. I: DRUG AND CHEMICAL CONTROL, *supra* note 89, at 128.

<sup>101</sup> *Drug Trafficking in the Caucasus*, *supra* note 85.

<sup>102</sup> Ali Hasanov, *Azerbaijan Concerned at Drug Trafficking in Karabakh*, NEWS.AZ, Mar. 11, 2010, <http://www.news.az/articles/11184> (last visited Aug. 21, 2010).

<sup>103</sup> NARCOTICS REPORT, VOL. I: DRUG AND CHEMICAL CONTROL, *supra* note 89, at 129.

<sup>104</sup> *Region Growing as Hub for International Drug Trafficking*, *supra* note 85.

<sup>105</sup> Armen Khanbalyan, *Georgia Is Only the Beginning: The American Presence in the Transcaucus Will Quickly Expand*, COUNTERPUNCH, Mar. 18, 2002, <http://www.counterpunch.org/georgia2.html>.

<sup>106</sup> *Id.*

<sup>107</sup> *Azerbaijan Concerned at Drug Trafficking in Karabakh*, *supra* note 102.

<sup>108</sup> *Id.*; *Region Growing as Hub for International Drug Trafficking*, *supra* note 85.

<sup>109</sup> *Region Growing as Hub for International Drug Trafficking*, *supra* note 85.

<sup>110</sup> *Id.*

<sup>111</sup> *Drug Trafficking in the Caucasus*, *supra* note 86.

insurrection, “[s]mugglers and criminal gangs, many with links to the *de facto* authorities, have no interest in seeing a resolution of the conflicts.”<sup>112</sup>

## **B. Efforts to Combat Trafficking**

### *1. International Conventions*

Azerbaijan is party to several United Nations Conventions concerning narcotics. These include the 1961 UN Single Convention on Narcotic Drugs and its 1972 Protocol;<sup>113</sup> the 1971 UN Convention on Psychotropic Substances;<sup>114</sup> the 1988 UN Convention against Illicit Traffic in Narcotics and Psychotropic Substances;<sup>115</sup> the 2000 UN Convention against Transnational Organized Crime and its three Protocols;<sup>116</sup> and the 2003 UN Convention against Corruption.<sup>117</sup>

Azerbaijan has also signed on to the Southern Caucasus Anti-Drug (SCAD) Program, the purpose of which is the “strengthening of [the] fight against illicit trafficking of drugs in the countries of Transcaucasia.”<sup>118</sup> SCAD is funded by the European Union and was implemented by the United Nations in 2001.<sup>119</sup> The Program includes the provision of “legislative assistance to promote the use of European standards for drug prosecutions, collection of drug-related statistics, rehabilitation services to addicts, and drug-awareness education.”<sup>120</sup>

### *2. US Assistance*

Azerbaijan has received considerable assistance from the United States in the form of the Freedom Support Act, which has funded Azerbaijan’s counternarcotics efforts since 2002.<sup>121</sup> “In 2008, Azerbaijan created 50 new border guard outposts and coast guard bases and a canine training center.”<sup>122</sup> The US has provided training courses for judges, prosecutors, and investigators concerning corruption and narcotics cases, including courses on “corruption investigation, prosecution techniques, investigating money laundering, and terrorism-financing.”<sup>123</sup> The US Government has stated that it plans to continue to assist in law enforcement assistance programs.<sup>124</sup>

<sup>112</sup> *Id.*

<sup>113</sup> UN Single Convention on Narcotics, Mar. 30, 1961, 520 U.N.T.S. 151; Protocol Amending the Single Convention on Narcotic Drugs, Mar. 25, 1972, 976 U.N.T.S. 3.

<sup>114</sup> UN Convention on Psychotropic Substances, Feb. 21, 1971, 1019 U.N.T.S. 175.

<sup>115</sup> UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Dec. 20, 1988, U.N. Doc. E/CONF.82/15.

<sup>116</sup> UN Convention against Transnational Organized Crime, Nov. 15, 2000, 2225 U.N.T.S. 209; Protocol against the Smuggling of Migrants by Land, Sea, and Air, Nov. 15, 2000, U.N. Doc. A/55/383; Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Nov. 15, 2000, U.N. Doc. A/55/383; Protocol against the Illicit Manufacturing of and Trafficking in Firearms, May 31, 2001, U.N. Doc. A/55/383/add.2.

<sup>117</sup> UN Convention against Corruption, Oct. 31, 2003, U.N. Doc. A/58/422.

<sup>118</sup> State Customs Committee of Azerbaijan Republic, Southern Caucasus Anti-Drug (SCAD) Program, <http://www.az-customs.net/en/hq09.htm> (last visited Aug 21, 2010).

<sup>119</sup> NARCOTICS REPORT, VOL. I: DRUG AND CHEMICAL CONTROL, *supra* note 89, at 116.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* at 128.

<sup>122</sup> *Id.* at 129.

<sup>123</sup> *Id.* at 129.

<sup>124</sup> *Id.* at 130.

Prior to 2002, the US refused to give assistance to Azerbaijan because of the blockades against Armenia and Nagorno-Karabakh.<sup>125</sup> The Freedom Support Act originally restricted assistance to Azerbaijan “until the [US] President determines, and so reports to the Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh.”<sup>126</sup> After September 11, 2001, Congress implemented a mechanism to allow the presidential waiver to be extended annually.<sup>127</sup>

This was an especially ironic withhold to begin with, considering the fact that Nagorno-Karabakh is controlled by organized criminal groups that support the ongoing insurrection there with profits from the drug trade.<sup>128</sup> It is also ironic that Armenia, the aggressor nation of the two at the time, received more aid from the US than was even proposed for Azerbaijan.<sup>129</sup> The US President has consistently waived this provision and allowed assistance to Azerbaijan, but this is more in furtherance of US interests in the War on Terror than in recognition of the underlying political realities with which the legislation is at odds.<sup>130</sup>

Indirect US assistance in counternarcotics operations has come in the form of training by the US Export Control and Related Border Security (EXBS) Office.<sup>131</sup> The training and assistance provided by EXBS to the Azerbaijan State Border Service in 2009 was actually focused on nonproliferation, but it has “enhanced Azerbaijan’s ability to control its borders and to interdict contraband, including narcotics.”<sup>132</sup> This training included courses on cargo inspection and port security; improvement of the country’s porous southern border; assistance in resources, such as land and sea vehicles, construction materials, and radar systems; x-ray technology and training; technical assistance in the development of national targeting centers; and training for coast guard officers.<sup>133</sup>

### 3. Domestic Actions

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<sup>125</sup> Aynura Ahmedova, *Azerbaijan: Freeing the Freedom Support Act*, EURASIANET, Feb. 7, 2002, <http://www.eurasianet.org/departments/insight/articles/pp020702.shtml>.

<sup>126</sup> Freedom Support Act, Pub. L. No. 102-511 § 907, 106 Stat. 3320 (1992).

<sup>127</sup> JIM NICHOL, AZERBAIJAN: RECENT DEVELOPMENTS AND US INTERESTS 3, Congressional Research Services (2009); Foreign Operations, Export Financing, and Related Programs Appropriations Act, Pub. L. No. 107-115, 115 Stat. 2118 (2002).

<sup>128</sup> *Drug trafficking in the Caucasus*, *supra* note 86.

<sup>129</sup> Aynura Ahmedova, *Azerbaijan: Freeing the Freedom Support Act*, EURASIANET, Feb. 7, 2002, <http://www.eurasianet.org/departments/insight/articles/pp020702.shtml>.

<sup>130</sup> See Presidential Determination No. 2003-12 on Extending Waiver of Section 907 of the Freedom Support Act with Respect to Assistance to the Government of Azerbaijan, Jan. 17, 2003, *available at* [http://edocket.access.gpo.gov/cfr\\_2004/janqtr/pdf/3CFRJan17a.pdf](http://edocket.access.gpo.gov/cfr_2004/janqtr/pdf/3CFRJan17a.pdf) (“I hereby determine and certify that extending the waiver . . . is necessary to support [US] efforts to counter international terrorism; is necessary to support the operational readiness of the [US] Armed Forces or coalition partners to counter international terrorism; is important to Azerbaijan’s border security. . .”).

<sup>131</sup> NARCOTICS REPORT, VOL. I: DRUG AND CHEMICAL CONTROL, *supra* note 89, at 130.

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

Azerbaijan has developed a new customs code, presently in the process of ratification, that will supposedly assist with counternarcotics efforts.<sup>134</sup> Azerbaijan also has an extensive counternarcotics propaganda campaign in operation. Until 2009, Azerbaijan utilized billboard advertisements in the capital as part of a public service announcement program to fight narcotics consumption.<sup>135</sup> That program has been replaced by educational programs that design curriculum for primary school children and campus advertisements for university students.<sup>136</sup>

### C. Recommendations

Azerbaijan could improve its counternarcotics efforts in four main ways: (1) enhancing border security; (2) creating a better perimeter around Nagorno-Karabakh; (3) engaging in less propaganda and more education; and (4) instituting medicinal treatment programs for addicts.

First, Azerbaijan should strengthen its border security. The mountainous terrain between Azerbaijan and Iran makes smuggling easy and interception difficult. The US has supplied assistance in this area, but it has obviously not been fully effective. By sealing its borders, especially the passages in the Lesser Caucasus, Azerbaijan could prevent narcotics from being brought into the country – at least so easily. This would diminish the country’s status as a transit country, but its main concern at present is the ever-increasing tension with its own internal problem of Nagorno-Karabakh.

The second thing Azerbaijan should do, then, is effectively blockade Nagorno-Karabakh. The criminal elements in this region have taken control, and the drug trade is the main source of funding for the insurrectionists there. Should the Government of Azerbaijan enforce a strict perimeter around the isolated region (after all, it is not directly connected to Armenia), then the flow of narcotics in and out of that region would be limited, thus suffocating the finances of the insurgent groups.

Third, Azerbaijan should supplement its student-aimed counternarcotics propaganda with actual education. Billboards and rallies and t-shirts are all well and good, but if the youth are not taught the actual effects of drugs, they will discover it for themselves. Needless to say, this can often result in terrible consequences, not the least of which is addiction.

Finally, the Government of Azerbaijan should follow suit with the European model and pursue efforts to open treatment clinics, approaching addiction from a medical perspective, rather than a criminal one. The fact that the option of treatment and rehabilitation is listed in the Criminal Code, and that it is listed as “Forced Measures of Medical Nature,” is telling.<sup>137</sup> The institution of such programs would ensure that the present rates of addiction and drug abuse do not soar due to “crackdowns” and other efforts into which Azerbaijan could be misguided by its American benefactors.

<sup>134</sup> *Id.* at 129.

<sup>135</sup> *Id.*

<sup>136</sup> NARCOTICS REPORT, VOL. I: DRUG AND CHEMICAL CONTROL, *supra* note 89, at 134-35.

<sup>137</sup> CRIMINAL CODE § 6 (Azer.).

## V. Arms Trafficking

### A. Statement of the problem

The trafficking of arms seems to be the least of Azerbaijan's trafficking problems so far as volume is concerned. However, arms trafficking poses significant dangers to stability, particularly in Nagorno-Karabakh and with respect to ongoing tensions between Iran, Russia, and the West, which have Azerbaijan caught in between.

As one scholar has noted, Azerbaijan has “underdeveloped export controls and strategic locations along trade and smuggling routes between nuclear suppliers and countries attempting to develop nuclear weapons.”<sup>138</sup> While nuclear weapons are not yet being trafficked across these routes, the dangerous potential exists; and while Russia may be responsible enough to control its nuclear armament, such predictability is lacking in the case of soon-to-be-nuclear Iran.

The more present threat is that of conventional arms trafficking. Iran has responded to the Republic's friendly relations with the State of Israel by trafficking arms to Armenia, a longstanding enemy of Azerbaijan.<sup>139</sup> Further, Chechnyan militants have received arms trafficked across Azerbaijan's border with Russia,<sup>140</sup> a situation that demonstrates both the strategic location of the country and the very real danger of its poor border security. Russia has not proved itself entirely friendly to Azerbaijan, either, as it sent missiles, Scud launchers, and “other military hardware” to Armenia toward the end of the Nagorno-Karabakh War and after.<sup>141</sup>

The arms trade is but one aspect of Iran's attempts to undermine the Azeri Government. It has also sought to radicalize the Azeri population through the “funding and building of mosques and schools in the region.”<sup>142</sup> The Government of Azerbaijan countered this with a ban on radical mosques and their clerics.<sup>143</sup> Apparently Iran's efforts at exporting Islam are coming to fruition, though, as Interpol recently declared that four Azerbaijan citizens are wanted for connections to al Qaeda.<sup>144</sup>

### B. Efforts to Combat Trafficking

As concerns WMDs, Azerbaijan is a member of the Organization for the Prohibition of Chemical Weapons and the International Atomic Energy Agency<sup>145</sup> and a signatory to the Minsk Accord, the Nuclear Non-Proliferation Treaty, and the Comprehensive Test Ban Treaty.<sup>146</sup>

<sup>138</sup> I.A. Gabulov, *Emerging Nuclear Security Issues for Transit Countries*, 41 RADIATION SAFETY PROBLEMS IN THE CASPIAN REGION 165, 165 (2004).

<sup>139</sup> Bourtnan, *supra* note 86.

<sup>140</sup> *Id.*

<sup>141</sup> Arms Control Association, *Worldwide Ballistic Missile Inventories*, n.5, <http://www.armscontrol.org/factsheets/missiles> (last visited Aug. 21, 2010).

<sup>142</sup> Bourtnan, *supra* note 86.

<sup>143</sup> *Id.*

<sup>144</sup> Hafiz Heydarov, *Interpol Declared Four Azerbaijani Citizens Wanted for Links with Al Qaeda*, APA, Mar. 11, 2010, available at <http://en.apa.az/news.php?id=117738>.

<sup>145</sup> Nuclear Threat Initiative, *Research Library, Country Profiles: Azerbaijan*, [http://www.nti.org/e\\_research/profiles/Azerbaijan/Nuclear/index.html](http://www.nti.org/e_research/profiles/Azerbaijan/Nuclear/index.html) (last visited Aug. 21, 2010).

<sup>146</sup> *Id.*

Azerbaijan has also ratified the European Conventional Armed Forces in Europe Treaty.<sup>147</sup> Thus, the Republic appears, officially at least, quite dedicated to nonproliferation efforts and the general restriction of arms traffic.

Azerbaijan has also passed domestic legislation to counter arms trafficking. Articles 206, 228, and 229 of the Criminal Code of the Azerbaijan Republic all prohibit different aspects of the trafficking of arms. Article 206, for instance, punishes the following acts with three to seven years' imprisonment:

[m]oving through [the] customs border of the Azerbaijan Republic of . . . radioactive explosives, military weapon[ry] and engineering (except for the smooth-bore hunting weapon and ammunition to it), fire-arms or ammunition, nuclear, chemical, biological and other kinds of mass destruction weapons, materials and equipment which can be used at [*sic*] creation of mass destruction weapons . . . .<sup>148</sup>

Article 228 prohibits domestic arms sales by prohibiting “[i]llegal purchase, transfer, selling, storage, transportation and carrying of fire-arms, accessories to it, supplies, [and] explosives.”<sup>149</sup> Article 229 further prohibits the illegal manufacture of such weapons.<sup>150</sup>

Despite these efforts to criminalize arms trafficking, the legislation's effectiveness is dubious. The borders of Azerbaijan, especially to the south, are simply not secure enough to stop the smuggling of arms. Furthermore, the geopolitical position in which Azerbaijan finds itself – and has found itself throughout history – puts it at the mercy of greater powers. For if Iran or Russia desired to traffic weapons to the detriment of Azerbaijan, mountain checkpoints would seem ridiculously insufficient countermeasures, whether in the Caucasus or the Lesser Caucasus. Furthermore, the international outcry against Azerbaijan's domestic military action during the Nagorno-Karabakh War has created an entire region within the country that cannot be controlled. In short, though arms trafficking may be the least voluminous illicit trade in Azerbaijan, it certainly has the greatest destructive potential.

### C. Recommendations

Several options exist for Azerbaijan, none of which is particularly prudent. For one, it could simply renounce its independence and become absorbed into Russia or Iran. A second option is to disregard the clamor of the international community and attempt to stabilize the Nagorno-Karabakh region on its own. Third, it could assert its independence forcefully, siding with the West as part of a unified front against Iran.

The first option seems the most prudent, if the least glorious. Azerbaijan has been a part of either Iran<sup>151</sup> or Russia<sup>152</sup> (with Turkey as a third contender)<sup>153</sup> for all of modern history. Its

<sup>147</sup> Conventional Armed Forces in Europe (CFE) Treaty, Nov. 19, 1990, 30 I.L.M. 1 (1990).

<sup>148</sup> CRIMINAL CODE art. 206 (Azer.).

<sup>149</sup> *Id.* at art. 228.

<sup>150</sup> *Id.* at art. 229.

statehood is based upon ethnicity, and not a very well-defined one, either, considering the fact that so many ethnic Armenians live within the country's borders, and that so many ethnic Azeris live without.<sup>154</sup> Azerbaijan's insignificance makes it a pawn in international affairs, especially to its competing neighbors. Absorption into one neighbor or another, both historic protectors, would greatly reduce the threat of arms to the people of Azerbaijan.

The second option, ignoring the international community in order to solve its internal problems, is far less prudent. The Nagorno-Karabakh affair is presently coming to a head, and officials have remarked that there will be another war sooner or later if nothing is done. Insurgent elements within the isolated region rely on the proceeds of drug trafficking to funnel illicit arms into the region.<sup>155</sup> Should Azerbaijan prioritize its own national security over the whims of the international powers, the arms trade and the threat to the Azeri Government would be diminished, at least to some degree. The main problems with this option are the threat of sanctions from the international community, the threat that Russia or Iran or both will support Armenia so as to further break up Azerbaijan, and the threat that such action will effectively sever ties with the Western allies of Azerbaijan.

The third option is the least prudent, in the short-term, but perhaps the most logical with reference to long-term strategy. This third option consists of Azerbaijan asserting its independence and siding with its Western allies against Iran. Iran has consistently attempted to destroy or destabilize Azerbaijan with a myriad of underhanded schemes, precisely because of Azerbaijan's involvement with Israel and the West.<sup>156</sup> Twenty-four percent of Iran's population is ethnic Azeri, all of whom live in northern Iran, by the border of Azerbaijan proper,<sup>157</sup> which gives Azerbaijan an almost unfair advantage over Iran, especially with the assistance of Western firepower – assuming, of course, that the ethnic Azeris in Iran would support a greater Azerbaijan. The use of Azeris in Iran seems fair game, considering the fact that Iran has attempted to incite Azeri citizens of Iranian ethnicity to rebellion so that Azerbaijan may once more become part of Iran.<sup>158</sup> Granted, assistance in placing Iran under Western control would make Azerbaijan a puppet, but it already is; and the weakening of Iran would greatly improve the security of Azerbaijan.

## VI. The Comprehensive Picture

### A. The Larger Context of Crime in Azerbaijan

The trafficking problems of Azerbaijan cannot be understood within a purely domestic setting. Trafficking, whether in arms, narcotics, or human beings, is a quintessentially

<sup>151</sup> See Emil Souleimanov, *Iran and Azerbaijan: A Contested Neighborhood*, 14 MIDDLE E. POL'Y 101, 107 (2007).

<sup>152</sup> 1 THE INTERNATIONAL POLITICS OF EURASIA: THE LEGACY OF HISTORY IN RUSSIA AND THE NEW STATES OF EURASIA 296 (S. Frederick Starr ed. 1994).

<sup>153</sup> *Id.*

<sup>154</sup> CIA, The World Factbook, Azerbaijan, *supra* note 86. See also, CIA, The World Fact Book, Iran, <https://www.cia.gov/library/publications/the-world-factbook/geos/ir.html> (last visited Aug. 21, 2010).

<sup>155</sup> *Drug Trafficking in the Caucasus*, *supra* note 86.

<sup>156</sup> See, e.g., Bourtman, *supra* note 86.

<sup>157</sup> CIA World Factbook, Iran, *supra* note 159.

<sup>158</sup> See Emil Souleimanov, *Iran and Azerbaijan: A Contested Neighborhood*, 14 MIDDLE E. POL'Y 101, 107 (2007).

international problem. Though trafficking certainly exists at a national level throughout the countries of the world, the fact remains that, whether domestic or not, it is a problem much larger than the individual countries affected. This is no less true for Azerbaijan than it is for the US or Bangladesh.

Azerbaijan's internal trafficking problem must be understood as what it is: an unfortunate symptom of globalization. With internationalization and relaxed immigration and trade restrictions, the traffic of illicit contraband is simply concomitant with the process. This is not an Azeri problem, but a global one; and with the modern perspective that the benefits of this uncontrollable globalization outweigh the detriments, it is not a problem that will diminish anytime soon, no matter how many laws the Milli Majlis passes.

Azerbaijan, then, cannot eradicate trafficking without simultaneously disconnecting itself from the modern world. For in an era in which progress is measured by capital and free trade is the only means to that capital, the denial of free trade would be detrimental to vital Azeri interests. The fact that "modern-day slavery," arms sales, and drug abuse are concomitant with free trade is not a problem that Azerbaijan can solve on its own. Furthermore, it seems the greater the stock Azerbaijan puts into the international community, the more it harms itself anyway, if the Nagorno-Karabakh debacle can serve as an illustration.

The Nagorno-Karabakh situation is also illustrative of the regional problems to which Azerbaijan is prey. Azerbaijan's position as a post-communist, Central Asian state has virtually guaranteed its failure in any isolated attempts to combat trafficking in any form. Both Iran and Russia have acted to the detriment of Azeri stability,<sup>159</sup> and trafficking thrives in such environments. The arms and narcotics trade connected with Nagorno-Karabakh is largely the result of such regional *realpolitik*.

Neither are its ties with the West as a post-communist, Eastern European country cause for optimism. Poverty, weak government, and strong criminal elements are characteristic of such states.<sup>160</sup> This combination of factors has proven greatly conducive to trafficking, especially in human beings, as destitute women are easily (if understandably) fooled by false prospects of employment.<sup>161</sup> Azerbaijan in particular has a high literacy and education rate, as well as near equality in pay between genders, yet the country is still a source country for sex trafficking.<sup>162</sup>

In short, Azerbaijan can only ameliorate its problems; it cannot hope to solve them.

## **B. Recommendations to Ameliorate Trafficking**

### *1. Stronger border control*

All of Azerbaijan's trafficking problems have one thing in common: The things trafficked cross Azerbaijan's borders at one time or another. Whether as a source country, a transit country, or a destination country, Azerbaijan's position would be far better if its borders were sealed.

<sup>159</sup> Bourtman, *supra* note 87; Worldwide Ballistic Missile Inventories, *supra* note 145.

<sup>160</sup> MIKO, *supra*, note 18.

<sup>161</sup> 2009 TIP REPORT, *supra* note 19, at 161.

<sup>162</sup> UNICEF Azerbaijan Statistics, *supra* note 14.

Because the region of Nagorno-Karabakh insists that it is independent, those borders should also be sealed, thus suffocating the region. An effective blockade around this area could limit the traffic of narcotics, which would undermine the power base of the criminal elements and insurgent groups, which would simultaneously reduce the arms trade. Azerbaijan cannot solve everything by polite diplomacy.

### 2. *Greater Centralization of Presidential Power*

Democratic government cannot combat the problems of globalization. President Heydar Aliyev reined in crime in the early days of the Republic by taking control, not by signing unnecessary international legislation and calling for endless referendums.<sup>163</sup> Admittedly, Aliyev was part of a *coup d'état* and was thus not the freely elected President<sup>164</sup>; but choosing between free and fair elections and the diminution of trafficking may be a choice that Azerbaijan will have to make.

### 3. *Combat Corruption*

Of course, greater centralization of government power will not help anything if the government itself is corrupt, and independent Azerbaijan has proven to be rife with corruption, especially in law enforcement. Azerbaijan should, then, implement mechanisms to combat corruption so that the government will, in turn, be more effective in combating trafficking.

### 4. *Prioritize Domestic Law to International Obligations*

Most importantly, Azerbaijan should prioritize the establishment and enforcement of domestic law to the undertaking of international obligations. The Republic is party to a myriad of treaties and conventions.<sup>165</sup> Yet the trafficking problems in Azerbaijan have not been ameliorated; nor can they be by the signing of international legislation alone.

One specific measure in this area that the Government can take is to amend the Constitution to alter the requirement<sup>166</sup> that international law and international human rights law (IHRL) are automatically part of the country's domestic law. These laws serve the international community, not Azerbaijan, and IHRL is often self-contradictory. For instance, a requirement that all migrants be given the right to live and travel as they wish contradicts a requirement that all migrants be free of the scourge of human trafficking. A requirement that free trade be allowed by edict of the WTO is contradictory to Azerbaijan's interests in eliminating narcotics trafficking within and across its own borders. It is the prerogative of Azerbaijan, as a would-be "independent" state, to specifically tailor its legislation to fulfill its international obligations in a manner that would simultaneously benefit the Azeri people, "the sole source of state power in the Azerbaijan Republic."<sup>167</sup>

<sup>163</sup>Obituary, *Heydar Aliyev*, THE ECONOMIST, Dec. 17, 2003.

<sup>164</sup> Renaud Francois, *Azerbaijan: Ilham Aliyev Re-elected...As Expected* (European Strategic Intelligence and Security Center) (Oct. 26, 200) at 5.

<sup>165</sup> See Sections III-V, *supra*.

<sup>166</sup> CONST. art. 148(II) (Azer.)

<sup>167</sup> *Id.* at art. 1(I).

Not only is such slavish devotion to international law entirely antithetical to the very idea of independence – so long-sought-after by the people of Azerbaijan – but it serves the interests of international corporate and political elites rather than the country itself. It is difficult to imagine that an eight-year-old, Azeri, female, trafficking victim would care more about Azerbaijan's obligations under the UN International Migration Convention<sup>168</sup> than she would about actually being helped.

International conventions concerning human trafficking *et alia* pay only lip service to those tragedies. It is impossible for an independent country like Azerbaijan to stand as a bulwark against the crashing waves of globalization in terms of crime when the very ability of the country to resist unlimited immigration, unrestricted free trade, and unrealistic international obligations is destroyed by those very conventions.

### VIII. Conclusion

Several trafficking concerns exist within the Republic of Azerbaijan, most notably in the areas of women and children, drugs, and arms. Its position in the international community as a state in transition from Soviet control to a globalized democracy is a precarious one, and its geographic location – bordering Russia, Armenia, and Iran – only serves to aggravate the situation. Still, the Azeri Government has demonstrated sincerity in attempting to combat these difficulties and to maintain its identity as a safe, secular Republic.

Sincerity, however, is a generally ineffectual tool in combating trafficking, at least when standing alone. Azerbaijan must take several steps to improve its trafficking problems, most importantly the strengthening of its borders; the greater centralization of government power; the amelioration of corruption within law enforcement and government; and the prioritization of concrete domestic action over perpetuation of the façade of international cooperation. Several other, more specific, actions can be taken as concerns the three separate areas of trafficking, yet they are all linked together, being but symptoms of Azerbaijan's position in the international community and of the ever-more-suffocating rise of globalization.

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<sup>168</sup> G.A. Res. 45/158, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, U.N. Doc. A/RES/45/158, Dec. 18, 1990.