
**AZERBAIJAN NGO ALLIANCE
FOR CHILDREN'S RIGHTS**

Alternative NGO Report on situation of children in Azerbaijan Republic and on the implementation of the UN Convention on the Rights of the Child and Concluding Observations of the UN Committee on the Rights of the Child during the period of 2006-2010

**submitted to the United Nations Committee on the Rights of the Child
In relation to the examination of the
Third periodic report by the Republic of Azerbaijan**

January 2011

BACKGROUND AND ACKNOWLEDGMENT

The current report assesses the situation of children and the implementation of the UN Convention on the Rights of the Child in the Republic of Azerbaijan covering the period 2006-2010. It also identifies the changes that occurred since 2006, when the Concluding Observations of the United Nations Committee on the Rights of the Child were adopted, following examination of the Second Periodic Report submitted by the Republic of Azerbaijan on the implementation of the UN Convention on the Rights of the Child (CRC).

The report was prepared by the Azerbaijan NGO Alliance for Children's Rights, which is an umbrella agency of 82 NGOs and children's and youth groups working throughout the country for the improvement of children's welfare, and promoting and protecting children's rights. The information in the present report is primarily based on the practical experience of the NGO Alliance members and the data collected from around the country through research, monitoring and study visits, interviews and surveys with children, parents, community members, juvenile detention facilities' staff, police officers, lawyers, teachers and representatives of the Commissions on Minors' Affairs and Protection of their Rights.

We would like to thank all members of Azerbaijan NGO Alliance for Children's Rights, Ombudsman office, legal professionals, state agencies and their staff, police officers, teachers, children and young people, representatives of the Commission on Minors' Affairs and the Protection of the Rights of the Child and many others who cooperated with and supported us in collection and subsequent analysis of information and discussing the draft report. We would also like to thank the government agencies, namely the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Education, the Ministry of Youth and Sport, Police Departments of Baku capital, commissions on minors' affairs and protection of their rights for their openness and all other governmental agencies, which also agreed to meet with us regarding the implementation of the UN Convention on the Rights of the Child in the Republic of Azerbaijan and discuss our concerns over the existing gaps and problems in the field.

We would like to express our deepest gratitude to the **UNICEF office in Azerbaijan, the office of UN High Commissioner for Human Rights in Azerbaijan, Open Society Institute - Assistance Foundation, George Marshall Foundation/Black Sea Trust, World Vision Azerbaijan and Save the Children Azerbaijan** for their invaluable support to the Azerbaijan NGO Alliance for Children's Rights to prepare this important report representing the collective voice of civil society about the children's rights and children's issues in the country.

We also extend our sincere thanks to everybody else who provided comments and committed their time to help with the editing and translation of the report.

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To: UN Committee on the Rights of the Child

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The NGO Alternative Report to the UN Committee on the Rights of the Child on the situation of children and to the second and third joint Periodic State Party Report on implementation of the UN Convention on the Rights of the Child between 2006 and 2010 and the Concluding Observations of the UN Committee on the Rights of the Child of 2006 by the Republic of Azerbaijan

15 January 2011

Dear Sirs,

Azerbaijan NGO Alliance for Children's Rights is pleased to submit the NGO Alternative Report on the situation of children in the Republic of Azerbaijan. This report was prepared based on Article 45(a) of the UN Convention on the Rights of the Child. The report also includes our review of the second and third joint Periodic State Party Report on the implementation of the UN Convention on the Rights of the Child covering the period 2006-2010, and the Concluding Observations of the UN Committee on the Rights of the Child of 2006.

It is important to note that compared to the first alternative report, provided for the Second State Party Report in 2005, this current report has been developed through the extensive and cooperative work of over 60 NGOs throughout Azerbaijan, over the period of 8 months. This shows a growing attention and interest of the Azerbaijani civil society and society in whole to the problems of children and also to the increased application of UN human rights treaties for advocacy and lobbying for children's rights.

We would like to ascertain that this NGO Alternative Report can be freely disseminated and shared with the public in electronic and printed formats. The experts of the UN Committee on the Rights of the Child may make reference to it, whilst discussing and debating with representatives of the Azerbaijani government delegation. This Alternative Report has been published in Azerbaijan in Azeri/English and distributed widely amongst interested organizations and general public.

Representatives of the Azerbaijan NGO Alliance for Children's Rights will be available to take part at the pre-session meeting with experts of the UN Committee on the Rights of the Child in designated time. The Azerbaijan NGO Alliance for Children's Rights will initiate public debates and discussions on the State Party Report and widely distribute the Concluding Observations of the UN Committee on the Rights of the Child, which is expected to be available in 2012.

The NGO Alternative Report includes special sections with Practical Recommendations to the State Party for improvement of the situation, particular areas of concern, and also the

List of Issues that would be helpful for experts of the UN Committee on the Rights of the Child in their discussions with the government delegation.

Due to the large volume of information sourced by NGOs from the 15 months of various activities and studies, it was difficult to follow the requirements regarding the size of the Alternative Report as mentioned in the special Guide for NGOs prepared by the NGO Group for the CRC. Attempts were made to reduce the content of several sections of the NGO Alternative Report in order to stress the most important issues, which had been jointly selected as emerging problems by all members of the Azerbaijan NGO Alliance for Children's Rights.

In reference to the NGO Alternative report, we would like to bring the following emerging issues to your attention, which we believe need urgent intervention by the State Party: a) children with disabilities; b) children in conflict with the law; d) children's access to the affordable health care system and quality of health care; e) violence against children and f) children in state care, including in state residential institutions. Another important point we would like to emphasise once again, is the importance to establish the office of Ombudsman for Children's Rights in Azerbaijan, in order to protect the rights of about 3.0 million children.

We sincerely hope that this report will play its substantial role in the improvement of the situation of children and assist in further implementation of UN Convention on the Rights of the Child in Azerbaijan Republic in the years to come.

Yours sincerely
on behalf of Azerbaijan NGO Alliance for Children's Rights,

Nabil Seyidov, MD, PhD
National Coordinator

Chapter I. Overview of the political, economic and civil rights situation in Azerbaijan

1.1. General social, cultural, economical and political information about Azerbaijan

Azerbaijan gained its independence from USSR in 1991. It consists of 71 regions and one autonomous republic. As one part of the country, Nagorno-Karabakh and 7 regions surrounding it were occupied by Armenian armed forces, it is not under control of the Government of Azerbaijan. Population of Azerbaijan is about 9 million. Nearly 2.6 million (31%) of population are under the age of 18. Approximately one half of the population live in cities, the other half in villages. 11% of the population are ethnic minorities. Nearly 690.000 citizens of Azerbaijan, as well more than 250.000 children were forcefully made to leave Nagorno-Karabakh and surrounding regions as the result of Nagorno-Karabakh conflict between Azerbaijan and Armenia and as the 20% of the territory of the Republic of Azerbaijan were occupied by Armenian forces.

In the years after independence political instability and severe economic slope happened which was grounded by the export of economy, oil and gas. However, sustainable growth is observed in economy since the year of 2000. Starting from 2007 national income per capita was 2.550 USD. Since 2001 up to date state budget has increased by 6 times. However, one third of the population of children are living below the poverty level. Constitution was adopted in 1995, but the Law on Children's Rights was adopted in 1998. Due to the lack of Juvenile Justice, Criminal Code and Criminal Code of Practice applied against juvenile offenders were adopted correspondingly in 1999 and 2000, and "the Law on minor's neglect and prevention of law violation" was adopted in 2005.¹

Azerbaijan joined to the Convention on the Rights of the Child in 1992. The first submitted report to the Committee on the Rights of the Child by Azerbaijan was considered in 1997 and the second one in 2006. in 2001, Azerbaijan was elected as a member of Council of Europe and in the same year joined to the European Convention on Human Rights. UNICEF established a country office in Azerbaijan in 1993.

Total number of population	9,000,000
Total number of young people (%)	32%
Number of people living in poverty (%)	15.8%
Indicator of life expectancy	67.1
Indicator of literacy	98.7%
Indicator for Human Capacity Development	0.746
Level of unemployment (%)	50.651 people
The amount of expenditures in the health sector (%)	4.1% (508 mln AZN)
The amount of funds spent on education	10.9%(1.3 milliard AZN)

¹ Report on the investigation of the state of juvenile justice system in Azerbaijan, UNICEF, 2009

1.2. The list of some laws and other legal documents adopted for children in the years of 2005-2010 in the Republic of Azerbaijan.

1. Decree of the President of the Republic of Azerbaijan on approval of the “Program for the innovation of pre-school education in the Republic of Azerbaijan (2007-2010)”, the establishment of education system according to the modern requirements, Country Programme Action Plan of pre-school age children for the years of 2005-2009 among the Government of the Republic of Azerbaijan and UNICEF
2. Decree of the President of the Republic of Azerbaijan on the celebration of “The International Decade for a Culture of Peace and Non-violence for the Children of the World (2001 to 2010)” by the initiative of UN General Assembly
3. CABINET OF MINISTRIES OF THE REPUBLIC OF AZERBAIJAN, DECISION № 166, Baku capital, 22 July 2008, “Rules of accrediting bodies of legal assistance to foreigners and stateless persons in the sphere of intergovernmental bodies”
4. CABINET OF MINISTRIES OF THE REPUBLIC OF AZERBAIJAN, DECISION № 67, Baku capital, 21 April 2009, amendments to the Law of the Republic of Azerbaijan on “Social benefits” for the approval of “The criteria for identification of the Level of Health Limitations”
5. CABINET OF MINISTRIES OF THE REPUBLIC OF AZERBAIJAN, DECISION № 180, Baku capital, 19 November 2009, on the approval of “Rules of placement and keeping of children in shelters who have fallen victims of human trafficking”.
6. CABINET OF MINISTRIES OF THE REPUBLIC OF AZERBAIJAN, DECISION № 195, Baku capital, 22 December 2009, to regard credits of the graduates of secondary schools in higher educational institutions due to the relevant professions
7. CABINET OF MINISTRIES OF THE REPUBLIC OF AZERBAIJAN, DECISION № 4, Baku capital, 8 January 2010, on the approval of “School preparation rules”, “the application of the Law of the Republic of Azerbaijan on “the Law on Education”
8. CABINET OF MINISTRIES OF THE REPUBLIC OF AZERBAIJAN, DECISION № 5, Baku capital, 13 January 2010, Decree of the President of the Republic of Azerbaijan on the establishment of specialized Department on De-Institutionalization and Child Protection under the Ministry of Education
9. CABINET OF MINISTRIES OF THE REPUBLIC OF AZERBAIJAN, DECISION № 6, Baku capital, 13 January 2010, approval of the “Program of Activities for Reforms in Secondary Special Education in 2010-2013”
10. DECISION OF THE CABINET OF MINISTRIES OF THE REPUBLIC OF AZERBAIJAN on the approval of “Development Program for the organization of education for children in need of special care (2005-2009)”
11. DECREE OF THE PRESIDENT OF THE REPUBLIC OF AZERBAIJAN on the approval of “State Program on the development of creative potential of children (youth) with special talent (2006-2010)”
12. DECREE OF THE PRESIDENT OF THE REPUBLIC OF AZERBAIJAN on the approval of “State Program on De-Institutionalization and Alternative care (2006-2015)”
13. DECISION OF THE CABINET OF MINISTRIES OF THE REPUBLIC OF AZERBAIJAN on the approval of “Action Program on Protection of Mother and Child Health” 2009
14. DECREE OF THE PRESIDENT OF THE REPUBLIC OF AZERBAIJAN on the approval of “Action Plan on the announcement of 2009 the “Child Year”

2. GENERAL IMPLEMENTATION MEASURES (Articles 4, 42 and Point 6 of the Article 44)

During the reporting period number of laws and decrees were adopted by the Azerbaijani Government in order to bring the national legislation in compliance with the international standards and the UN Child Rights Convention, and at the same time to strengthen social protection of different child groups. Among them following decrees were adopted by the Cabinet of Ministers such as “On care about orphan children and children deprived of parental care and in the care of the government”, “On immediate measures in order to improve material provision and life conditions of the children and students in the boarding school type education-upbringing institutions”.

General Evaluation:

The Government of Azerbaijan did not adopt a National Strategy on Implementing the Convention on the Rights of the Child (CRC) and the institutional mechanisms, which were added to the Poverty Reduction Strategy Paper, cannot guarantee the implementation of the Convention because there is no set of concrete measures indicated in this document. There are no direct mechanisms for implementation and observance of the principles of the Convention on the Rights of the Child. The general review of the Azerbaijan legislation on human rights, demonstrates that the implementation of the Convention on the Rights of the Child is impeded, by both institutional and legislative problems.

Azerbaijan ratified the Convention on the Rights of the Child in 1992. This resulted in Azerbaijan taking on a number of international obligations, including those set out in Article 44 of the Convention, to submit reports to the Committee on the Rights of the Child, established in accordance with this Convention, documenting the measures the State has adopted in order to uphold the rights recognized by the Convention and the progress made towards children’s access to these rights.

Moreover, according to point 6 of Article 44, although the state parties are obliged to make their reports widely available to the public in their own countries, neither the initial State Party Report nor the Committee’s Concluding Observations, nor the Second or Third Joint State Party Periodic Reports have been made available to public nor they were discussed in the parliament or extensively reviewed in the mass media. However, UNICEF and UNHCHR offices in Azerbaijan printed concluding observations in very limited numbers, which were made available mostly to NGOs and others interested in or involved in child rights work.

Quite extensive efforts have been put in place by government agencies, mainly Ministry of Education and number of NGOs and international organizations to disseminate the text of the UN CRC in the last several years since 2006. However, the study by NGO Alliance conducted in 2006-2009 has shown that children and parents in many rural areas have still none or very limited knowledge and understanding of the UN CRC Convention. We hope that the Government will make these documents widely accessible and available to the public and that the process of its consideration will create a basis for constructive discussion, concerning access to and promotion of the rights of the child in Azerbaijan; the majority of people in Azerbaijan, particularly those, including children, living in remote regions and villages, still do not know that the Convention exists or that Azerbaijan signed it.

The situation is further aggravated by the fact that many staff members of city mayors or executive committees, child inspectors within police departments, staff of departments for education, youth, sport, tourism and judges, who are responsible for the application of the convention, are not well informed about this document and do not understand the rights

protected by the Convention. During monitoring visits, the absence of copies of the convention, was evident in all of these agencies.

Although the Constitution of the Republic of Azerbaijan states that “International treaties ratified by the Republic have a priority over domestic laws and are applied directly, except in cases when in conformity with the international treaty, its implementation requires the adoption of a separate law” and also, according to this Article, the Convention on the Rights of the Child *de jure* constitutes a part of the Azerbaijan legislative framework, it is still unclear if we can apply the norms of this international treaty directly and if Azeri courts will recognize such legal referencing.

In Azerbaijan there is lack of judicial practice of direct application of provisions of ratified international treaties, including the Convention on the Rights of the Child. We do not know of any cases when the provisions of international child rights and even human rights instruments have been directly applied by courts. On the contrary, we know of cases when law-enforcement and judicial bodies have refused to directly apply the provisions of the Convention on the rights of the child, particularly in the areas of juvenile justice, rights of children with disabilities and children without parental care. The judges have always been referring to legal difficulty and absence of direct guidelines in applying or even in referring to the international treaties.

The Role of Civil Society and NGOs:

In comparison with the previous report covering 1999-2005, it is important to mention that Azerbaijan has made some progress in recognizing the pivotal role of the civil society structures and accepting them as partners even so not always as an equal ones. Government started to understand the need for development and strengthening of the NGOs and involving them in discussions about reforms of legislation, public structures and the practice of law. However, it is important to note that government does not view local NGOs as professional and as strong and influential as international agencies working in Azerbaijan. However, serious efforts have been made to promote the development and strengthening of existing NGOs. The State Council for support of NGOs under the auspices of President of Azerbaijan and State Fund to support the projects of NGOs were established during this reporting period. However, despite numerous proposals for simplification of the registration procedure and the reduction of taxes and other financial allocations to be paid to the state budget by children and youth NGOs have been put in place, none have been considered by the State yet.

No distinction is made between organisations for children and for adults. Legislation on public associations enables authorities (state agencies that register public associations) to control and monitor the activities undertaken under the charter of public organizations. In this way the State is able to control the process of formation of non-governmental or public organizations and to monitor their activities rather than work in equal partnership with them. It is important, therefore that the State provides separate procedures for the registration of youth and children’s organizations in order to promote child participation and the rights of the child to assembly, expression and participation in public life.

Most of the draft laws with few exceptions, and even including those concerning human rights, in the majority of cases, are prepared by executive authorities and are published in State newspapers, without any prior or even retrospective consultations or discussion with

civil society. The population does not know about the existence of a large part of the laws in Azerbaijan and of those who do know, majority can not understand the content and also cannot foresee the results of its application on a general scale. NGOs participation and involvement in development of base for the law or prospective changes in existing legislation, drafting of new legislation, analysis of current laws as well as participation in discussions around these documents is very limited. And thus NGOs' ability and potential to influence the concept and content of draft laws which deal with human rights, including the rights of the child is low.

The Need for a specialized Ombudsman for the Protection of the Rights of Children:

Azerbaijan does not have a specialized body, like Children's Rights Ombudsman, responsible for the protection and promotion of children's rights. Although there are specific articles for the protection of the rights of the child, within the existing legislation of Azerbaijan (including Law on the Rights of the Child), the rights of the children are still being violated and not sufficiently promoted and protected. The establishment of the Ombudsman's office for Human Rights although has had some impact on promotion and protection of the rights of the child in the country in last several years, however, this impact is limited in scale and continuity. The NGO background and personal dedication and enthusiasm of current Human Rights Commissioner (ombudsman) of Azerbaijan made possible to promote the rights of the children to some extent. However, in order to achieve long-lasting results and for the sake of better efficacy, the establishment of position of Commissioner for Children's Rights as part of current Ombudsman Institution is imperative.

The very vague and unfortunate recommendation by the UN Committee on the Rights of the Child made to Azerbaijan in 2006 on the establishment of sort of "children's rights desk officer or consultant" have been proven to be ineffective. Therefore, there is still no mechanism to promote and protect children's rights and restore their violated rights throughout the country. It is strongly believed that children, who constitute about 3 million of the country's population, deserve and are in major need of an Ombudsman who can protect and restore their violated rights. Such an Ombudsman can become a strong ally of NGOs working in the field as well.

Whatever their age, all children with a capacity to form their own views, must be given access to a court of law. However, according to the Family Code, only the views of children of 10 years old and upwards, can be heard during the court hearings. However, it would be extremely important to ask from a government of any cases of appeals by children to any courts in Azerbaijan. In this context, the establishment of a Children's Rights Ombudsman's institution, which does not exist so far in the Republic of Azerbaijan, becomes very important. It is strongly believed that through the Ombudsman for Children's Rights children would get the mechanism for appeals and complaints placement.

List of issues requested from the UN Committee on the Rights of the Child to be addressed to Azerbaijani Delegation:

- *Despite the reflection in the recommendations made in 2006 to the UN Convention on the Rights of the Child regarding the Child Rights Ombudsperson, should be re-phrased to push the government for the establishment of position of Ombudsman for Child Rights as part of current Ombudsman Institution. So far there is no Defender for 3 million children.*

- *Government has recently development Database program to contain centralized and standardized information about the children registered in different government authorities or under state care, about different violence cases and situation in other fields. However, the*

work to have this database functional has been going on slowly. The absence of such a database prevent government and society to detect problems faced by children's population and challenges in the determination of the status of different child groups, monitoring and evaluating the implemented actions, and disseminate the best practices.

A. The Best Interests of the Child (Art. 3)

Although there are various laws, which stipulate that, in certain cases, the actions concerning the child have to be performed in the best interests of the child, there is no explicit interpretation of the notion "*best interests of the child*", in the national legislation.

The national legislation needs to be fully revised to accommodate the best interests of the child. This can be achieved by: institutional reform, at an administrative level, in law (including a separate chapter on child protection in the state budget), training personnel for social assistance and child protection services and also by developing the legislative framework for social assistance services. The State currently refers to the Commissions on Minor's Affairs and Protection of the Rights, as the main agencies which protect the best interests of children. However, these Commissions are composed of non-professionals with no training in children's rights and their performance was evaluated extensively by NGO Alliance, UNICEF, OSCE and other agencies and was found to be ineffective and in most instances very damaging to the children and their families.

All children must benefit from the legal assistance of a lawyer, whose services shall be paid for by the State. It is therefore necessary to train specialists in the judiciary who are capable of examining cases involving juveniles and who can represent the position of the child in a court of law.

From the perspective of the UN Convention on the Rights of the Child, all legislative acts, that contain provisions affecting children, need to be revised and targeted more towards the best interests of the child. There is no special independent body in Azerbaijan which is in a position to, nor has the capabilities, to review all the existing, drafted and forthcoming laws and other legislative acts, for their degree of compliance with the best interests of the child and UN CRC. NGO Alliance, UNICEF and several other international organizations have been independently doing such evaluations, but they do not constitute the part of certain review mechanism which shall be in place.

B. CIVIL RIGHTS AND FREEDOMS (Art. 7, 8, 13, 14, 15, 16, 17, 19, 37 (a))

In principle, the national legislation contains provisions, referring to the respect of the rights of all persons to identity, including nationality, name and family relations.

The civil rights and freedoms of the child, such as the right to name and nationality, to preserving identity, to the freedom of expression, to freedom of thought, conscience and religion, to freedom of association and peaceful assembly, the protection of privacy, adequate access to information and the right to be protected from torture and other cruel, inhuman or degrading treatments, are all stipulated in the *Law on the Rights of the Child*, *the Family Code* and other legislative acts.

Children have the right to the protection of their privacy and other rights and freedoms, guaranteed to all nationals by the Constitution. The *Law on the Rights of the Child* however, has failed to take on all these constitutional rights and substantiate them. This attitude is the

expression of certain mentalities and traditions in a society which finds it hard to accept that children can have such rights.

Although the authorities recognize the important role played by the media, it is most unfortunate that the State does not provide wide enough access for children to information delivered in an age-appropriate way.

In Azerbaijani courts, juvenile cases are examined the same way as adults' criminal cases and the proceedings can last anywhere between a few months and 2 or 3 years. During this time juveniles are held in preliminary detention, often without being fully separated from adult detainees and with no system of ensuring the right of the child to protection from torture or other cruel treatment as well as education and development.

C. Protection of Privacy (Art. 16)

In practice, privacy is not recognized as a right of the child and is often not taken seriously by adults, including the administration of institutions, juvenile prison and parents. There is no training or required level of public awareness-raising concerning this right.

A large number of violations of the right to privacy occur in institutions. In orphanages, for example, the bedrooms of children are often locked during the day and children have no access to them, except at night. Children do not have their own closets where they can store their personal belongings and dressers are routinely searched. Correspondence is subject to unofficial censorship. In one orphanage, it is strictly prohibited for children to wear earrings and to have any haircuts which are deemed "inappropriate." The conditions in boarding schools or orphanages are typically dictated by the "rules and beliefs" of the head of the institution and do not comply with the Statute on institutions and the Azeri law on children's rights or the UN CRC.

In juvenile prisons, official censorship exists, where all incoming and outgoing letters, are read by the administration. The children in juvenile prison do not have the right to assembly, joint actions, creation of an organization of juveniles, making joint protests and so on. These actions are strongly prevented by the administration. It was revealed that even the letters of complaints and/or appeals to Ombudsmen, the European Court for Human Rights, the President, have also undergone censorship. This is despite the fact that it was explained to members of the penitentiary system that this practice violates the rights of children and human rights in general, including the country's laws regarding the complaints of citizens.

Recommendations:

- *Create mechanisms, including the establishment of Children's Rights Ombudsman position, to encourage children to express themselves, especially in institutions, medical establishments, schools and courts;*
- *Review the legislation and remove legislative obstacles to creating organizations by children themselves;*
- *Investigate the cases of torture and inhuman treatment committed by state agencies and representatives from all levels of the juvenile justice administration and ensure that guilty officials are brought to court and punished; and that children - victims of these events, receive proper rehabilitation, further protection and compensation;*

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- *Promote civil rights and liberties in all types of institutions in Azerbaijan, abolish unlawful censorship and revise the daily schedule so that it will respect the children's right to privacy;*
 - *Ensure access to information, through leaflets and posters, in police establishments and in institutions about child rights.*
 - *Change the performance criteria for police work, to ensure that they do not use torture in order to achieve higher rates of confession;*
 - *Ensure that no child is questioned, interrogated or interviewed by the police or juvenile justice agencies without an attorney or relevant child protective service's representatives present.*
 - *Ensure that every testimony received from a child during a trial, which indicates use of torture during the pre-trial stage, is properly investigated;*
 - *Ensure access to a lawyer and contact with families, at all stages of criminal investigation, especially when restrictions on liberty are applied in any form.*
 - *Ensure the proper investigation of the ethical behaviours of lawyers and of their actions, or absence of necessary actions to protect the children's rights and interests and their quality participation in the trial, pre-trial and court hearings and while the child is in police custody.*
 - *Improve the sanitary conditions in Temporary Detention Facilities and other places of incarceration and ensure the possibility of monitoring by civil society agencies specialized in the child rights via ad-hoc missions and regular visits. The further strengthening of role of Board of Trustees of the Juvenile Prison shall be promoted.*
 - *Urgently address the inappropriate use of restraints in psychiatric hospitals and establish guidelines for their use in psychiatric hospitals;*

THE RIGHTS OF CHILDREN DEPRIVED OF OR WITHOUT PARENTAL CARE AND CHILDREN IN STATE RESIDENTIAL CARE FACILITIES

Chapter I. Rights of the child to live in a family environment and reunite with their families

1. Current state of Child Protection System in Azerbaijan

It should be noted that, current child protection and care system of the state cannot fully provide children's protection. The reasons of it are the inactivity of agencies remaining from the USSR and their in-adaptability to the requirements of the new world, lack of services and specialists complying with the modern requirements and finally, lack of coordinated work around general purpose – children's protection – among several state agencies at central and local levels.

The factors that lead to the collapse of families, result in children being placed in boarding institutions had changed, thus demanding the change of approaches to tackle these factors and also reform of the whole system to provide better protection of children. Among current factors are economic migration of population, poverty, human trafficking, global economic crisis, increased number of divorces, poor organization of early intervention system and pre-school institutions. On the other hand, current system doesn't completely ensure complex solution of children's problems; on the contrary, every institution diverts its activity to the elimination of separate factors influencing children individually or trying ineffectively eliminate particular problem or difficulty that is faced by a child. For example, various so-called child protection institutions functioning in regions separately and without proper coordination try to solve children's problems and often repeat one another's activity (Commission on minor's affairs and protection of their rights, psychological-medical-pedagogical commission, guardianship and tutorial organization). There is no holistic approach to the children's rights and solution of children's problems. Each agency involved in so-called child protection employs the unilateral approach to the solution of problem and overwhelmed with unnecessary bureaucratic hindrances². As there is a lack of perfect protection system, the implementation of programs, national action plans established by the government is hindered, it is conducted either formally, or the effectiveness of their implementation and subsequent impact is significantly decreased.

At the moment, the protection of children's rights is conducted in Azerbaijan by commissions on minor's affairs and protection of their rights. State Committee for Family, Women and Children Affairs of the Republic of Azerbaijan established in 2006 is engaged in formulation of state policy on children. At the same time, separate government bodies provide the protection of children's rights in the fields they were entrusted. Ministry of Education, Ministry of Youth and Sport, Ministry of Health and Ministry of Labour and Social protection of Population are among these bodies. However, here it should be especially noted that, cooperation among both government bodies and other bodies involved in the protection of children's rights, as well among local and international NGOs is still in a low level. In most cases, poor coordination and cooperation among these agencies hinder the implementation of child protection or causes dispersion of efforts.

During the years of 2005-2010 the Government of Azerbaijan and Milli Majlis (National Assembly) have adopted several significant law and other normative documents. In its turn, it is the reflection of government's interest in solution of children's problems and their comprehension of importance to strengthen legislative basis and adjust them to the international standards. However, weak coordination among various state agencies and lack

2 "Monitoring of juvenile justice institutions in Azerbaijan", NGO Alliance, OSCE Baku office, 2007

of financial means for implementation of adopted programs, laws and policies hinder the protection of children's rights. At the same time, it is important to note that, the process of adjusting current legislative basis to the international standards and requirements of modern world has not completed and a lot of work should be done in this field. Several legislative documents fail to keep up with international standards. For instance, in the Law on Education the issues concerning involvement of children with disabilities to the education process is mentioned superficially. In fact, the new Law on Education continues the tradition of the old law in involvement children to the education in isolated way. This new law doesn't take into consideration the needs and wishes of children with disabilities, and doesn't vouch for their education and social integration to the society in a required level. As well, the notion of "children in need of special education" hasn't been mentioned in the new Law on Education yet. This makes hindrance in the consideration of special needs of children with disabilities and other children group under risk in their involvement to education. There is no any article on small group houses, patronage families and community based alternative care services and only general provisions on the preparation of graduates of boarding schools to the independent life have been included in the Family Code and "the Law on social protection of children orphaned and deprived of parental care".

The activities for the protection of children with special needs are not conducted properly as a result of lack of conception on protection of children with special needs. Most part of the activities conducted in sparse doesn't meet international requirements. The problem is that, the importance of implementation of activities ensuring the principle of "to ensure the best interests of children" at the level of government and the protection of rights considered in the Convention is not fully comprehended.

There is a great need for substantial reforms in the field of establishment and enhancement of child protection mechanisms in Azerbaijan. Current child protection mechanisms don't allow the protection of children's rights and elimination of their problems. As a part of these reforms, it is necessary to unite these three institutions (Commission on Minor's Affairs and protection of their rights, Guardianship and Tutorial organization and Psychological-Medical-Pedagogical Commission) into single strong child protection agency at local level.

De-Institutionalization and Child Protection Unit under the Ministry of Education was established in January of 2010 by the decision of the Cabinet of Ministries. That unit makes its activity in Baku in centralized form and implements appropriate activities for the solution of children's various problems. In 2010 the unit became Department by the decree of Cabinet of Ministers. By the establishment of this institution, number of organizations working in the field of children's rights in at local level had reached four. And this had already added to the dispersion of efforts and activities targeting the children and protection of their rights. However, it is hoped that, if the department (which is currently located in Baku capital within the Ministry of Education) would be able to effectively perform its functions and to ensure the protection of children's rights, it will be possible to establish similar institutions in other regions of the country. In this case, it would require unite 4 various institutions mentioned above into Child Protection Department that would become strong local child protection service agency.

Commissions on minors' affairs and protection of their rights

Commissions on minor's affairs and protection of their rights are mostly engaged in sending children to the institutions and from the institutions back to the families, as well the issues concerning the protection of children's rights. The activity of commissions is managed according to the Regulations approved by the Law of the Republic of Azerbaijan dated May 31, 2002.

According to the Law, the main purpose of the commissions consists in influencing minors morally, protecting their rights and legal interests, controlling their behaviour, preventing

illegal actions, coordinating activities of state and local self-government bodies, institutions regardless of their form of ownership, offices and organizations in the mentioned issues.

However, the current situation, structure and real activity of commissions don't allow to protect the rights of minors. There is a non-proportionality between purposes set by the commission and its staff. As, according to the staff table of commission it has only 2 employees - secretary and psychologist. This doesn't allow practically to implement successful and effective activities. Therefore, the objectives of the commissions seem to be rather abstract and unreal to be achieved.

At the same time, in most regions secretaries and psychologists of the commissions are involved in the work not related to their field (the collection of debts for electricity and water and other work of local Executive Committees). In addition, in many regions there is either secretary or psychologist in commissions. In most instances there is difficulty to fill in the position of psychologist due to low profile of the job, low pay and lots of unrelated activities. Most troubling issue is that secretary and psychologist are not professionals of the child rights or child protection field and have not received sufficient training or education in these areas, except some ad-hoc training courses organized by NGO Alliance, UNICEF and State Committee on Family, Women and Children's Problems.

Other members of commissions function on voluntary basis. In this case, their effective participation in the activity of Commission is practically very limited or absent. Meetings of the commission members do not happen regularly throughout the year. In most regions the commissions had not even met once and when they gather together it is very formal. In most cases, children's cases are decided by secretaries, and they make decisions together with the head of commission and afterwards send their decision to the members for signatures. So, the participation of commission members in investigation the children's cases, evaluation of the situation, preparation of care plan that will ensure the implementation of activities necessary for the protection of children's rights is of formal character³ and is ineffective.

2. Data on children in need of special care and protection and level of coordinated work by various state agencies

Conducted studies and analysis by NGO Alliance, UNICEF and other international and local organizations clearly shows that each state agency has separate and individualized to the agency needs database or child information registration system. This sort of database only covers the children and families particular agency work with. However, there is no centralized database about children in need of care or protection that can ensure the holistic approach and coordinated efforts of all state agencies and even NGOs in solution of the problems of these children.

It is indisputable that comprehensive database and data management system should be inseparable part of child protection system and should ensure effective activity of that system. At the same time, computerization of such data has not been conducted in most state agencies, as a result, unilateral approach is applied in the solution of problems faced by the child and his/her family. On the other hand, as data about certain child or family present in the database of one state agency does not mean that other agencies know about that and/or have access to this information.

Thus, there is no centralized database of children in need of care and protection in Azerbaijan. In its turn, this also prevents the government to formulate better state policies, to improve the data collection and analysis based on the problems, violated rights, difficulties that children face throughout the whole country. The database would

³ Monitoring of juvenile justice system in Azerbaijan, NGO Alliance, OSCE Baku office, 2007, 2009

undoubtedly assist in analysis and then formulation of policies and programs at local levels, including even cities and regions depending on the magnitude and severity of certain problems.

And as it was already mentioned above, the lack of systematized database hinders the coordinated work of all related governmental and non-governmental organizations in the implementation of required activities to promote and protect the children.

The main purpose of the database that should be established shall include the followings:

- To contain data about children at risk, children with special needs, children who have faced violence or those who are in need of short and long term care and protection.
- To enable holistic approach and coordinated work of all relevant government agencies to provide protection and care to any child in need by providing the 24/7 round-the-clock access to the database.
- To carry out monitoring and evaluation of protection and care activities implemented by various state agencies and their officers in relation to every child who is in the database.
- To ensure communication and coordinated activity among all the related agencies, including governmental and non-governmental organizations.
- To ensure the collection and analysis of data for the formulation or improvement of state policy, as well, to prepare strategic plans and proper state programs for the protection and promotion of children's rights at national and local levels.

Starting in November 2009, State Committee on Family, Women and Children's Problems in partnership with Reliable Future Youth Organization launched the process on establishment of "Children's Data Bank (base) and Case management system" within the plan of action to celebrate the "2009 - Child's year" in Azerbaijan enacted by President of Azerbaijan. The data bank and case management system was successfully developed and provided to the State Committee for further application and nation-wide application.

However, in order to ensure the successful application of such a database and case management system, several legislative documents need to be amended. Especially, with the purpose of safeguarding the data on children in the database, new legal provisions to current laws shall be put in place.

3. The protection of children deprived of and children without parental care

Children's residential care institutions have long history in Azerbaijan starting from the beginning of XX century. The first regularly functioning private child institutions were established during oil century to provide shelter and care to children living and working in the streets of Baku city. After World War II, during USSR the state care system was established and developed for the children with disabilities and socially vulnerable ones. This system was in whole under the state control and funded only from the state budget.

In the beginning of 1990s state's efforts and overall attention started to drop significantly in the are of child care and child protection. Lasting economical crisis, military conflict with Armenia and occupation of 20% of Azerbaijan's lands by Armenian military forces, the flow of refugees and IDPs made difficult funding the state children's institutions at the satisfactory level. These factors also weakened control over those institutions and caused decrease in the quality of care for children with many negative consequences that is not hard to imagine.

According to the law and common sense, the institutionalization (children's placement in residential care facilities) is needed in order to ensure care and patronage to children in need of care and protection, those from families with significant social and financial problems, and those in crisis.

However, as a result of economic development, enhancement of state budget and governance, and also the continuing efforts to solve the social problems after 1996, made possible to also bring the attention of society and government to the problems of children in need of care and protection. During the late 90s, UNICEF, Save the Children, World Vision, United Aid for Azerbaijan and other local and international organizations started to investigate and analyse the general conditions of state children's institutions and the situation of children being educated there.

As a result of many years of studies and number of pilot projects by UNICEF, local and international NGOs, and with strong advocacy from UNICEF and push from the UN Committee on the Rights of the Child in 2006, Government of Azerbaijan adopted the "State program on De-Institutionalization and Alternative Care (2006-2015)" signed by the president of the Republic of Azerbaijan on March 26, 2006.

Every year hundreds of children complete their education in boarding institutions. They are thrown to the life rapidly changing during their stay in boarding school without being properly trained and without acquisition of required knowledge and life skills. Some of them become unemployed, some don't have a place to live, some join criminal groups and commit crime, some of them become drug addicts and face other negative influences. Children's weakness leads to crime, prostitution and sometimes suicide. The educational level of graduates of boarding institutions and skills required for searching a successful job are very little. They have limited opportunities in acquisition of professional skills.

In 2007-2008 special study was conducted with the initiative of Ombudsman apparatus and UNICEF to investigate the situation of children returned back to their families from residential care facilities, as well children who completed their education in boarding institutions and returned to their families. It became obvious that, the whereabouts of most of the 97 children returned to their families in that time was unknown; although 27 of them were school-able they did not attend school; only families of 9 children started to receive addressed social financial aid; 2 children returned back to boarding institutions, and three children were recruited to military service according to the age. The report prepared by the Ombudsman shows that, difficult financial and social condition of families, lack of community based services, and support from the local state agencies and NGOs results in placing children into boarding schools or impossibility to return them successfully to families after they spent some time in residential care institutions⁴.

Foster care and other alternatives

There are several alternative models to the existing institutions and some of them are successfully applied in various countries of the world. For instance, though 10 years have passed since the concept of foster family was included in Family Code of the Republic of Azerbaijan adopted in the year of 2000, practically it hasn't been realised yet and neither regulations nor normative acts and implementation mechanisms for the establishment of foster families have been prepared by the Cabinet of Ministries.

Violence in residential care institutions

It should be especially noted that, the cases of violence, neglect and humiliating treatment are more widely spread in state children's institutions. The existence of violence in residential care institutions was pointed out in Alternative Report prepared by NGO Alliance on the basis of data gained from the monitoring visits conducted in 2005. Numerous other facts proving the existence and magnitude of violence against children was obtained from the results of special study aimed at investigation of violence against children in institutions

4 "The results of monitoring for examination of conditions of children placed with families within De-Institutionalization program", Ombudsman Apparatus, 2007-2008

implemented by UNICEF jointly with Ombudsman apparatus in 2007-2008⁵.

3.1. Adoption (article 21)

National and international adoption is legal in the Republic of Azerbaijan. The information on adoption is limited to the information given in the reports of State Statistical Committee. As the information given on international adoption by several state agencies was in contradiction, this topic caused broad public discussion and criticism for a long time⁶. The international adoption issues were transferred under the authority of the newly established State Committee on Family, Women and Children Problems in 2007. This Committee has been working on development of the procedures to improve the international adoption procedures and UNICEF has been supporting this initiative.

The application of national adoption is limited because of various bureaucratic hindrances, difficult and complex procedures and the lack of transparency, as well as existing serious level of corruption. On account of such artificial problems, most of the families willing to adopt a child from residential care facilities and children's homes either have to wait in a long waiting list or give up their idea on adoption or alternatively just bribe the responsible civil servants to pave their way to adoption.

Table. Data on children adopted and given into the guardianship⁷.

	2006	2007	2008
The number of adopted children	929	972	844
The number of children with abolished adoption	50	73	100
The number of children in the guardianship	1260	1192	1130

The report prepared by the Ministry of Health in 2009, on the implementation of plan of actions within the "2009 - Child Year" showed that in January 2009, 36 children aged from 1 month to 3 years were registered in Children's House #1 functioning in Baku. Four children of them with various congenital defects had undergone surgical procedures, seven children were adopted (as part of de-institutionalization program) during 6 months of 2009. Along with care in the children's house, children were provided with education according to their age group. In Psycho-neurological Children's House there have been 52 children with disabilities aged from 1 month to 3 years. They receive general care, medical treatment and rehabilitation there.

28 children (8 of them with disabilities) were registered in the House for Infants in Baku city in January 2009. 6 children were admitted during 6 months period, 13 children left the house (7 children returned to their parents and 6 of them were adopted). 21 children were in Gandja House For Infants in August 2009.

Most of the families of Azerbaijan prefer to adopt small aged and healthy child. Such kind of approach, along with the lack of stimulating factors for adopting children with disabilities, makes hardly possible the adoption of children with disabilities.

⁵ The investigation of acts of violence against children in Azerbaijan, NGO Alliance, 2006-2009

⁶ Alternative Report on "The situation of children in Azerbaijan and execution of UN Convention on the Rights of the Child" NGO Alliance, 2005

⁷ State Statistical Committee of the republic of Azerbaijan, Children's books in Azerbaijan, 2009

Children's opinions are rarely regarded during returning them to their biological family or placing them in alternative family and the principle of provision of children's best interests are not always followed in making decisions. There are no family or juvenile courts in Azerbaijan, and the level of judges' knowledge and skills in the field of children's rights is low. These along with absence of social workers in judicial processes make it impossible to ensure the children's best interests.

At the same time, people willing to adopt a child should prepare a lot of documents and go through a very long process. The existence of corruption during collection of those documents also creates the artificial obstacles for many people to initiate and complete the adoption process.

It is noted in the Statue of State Children's Institutions (boarding schools) that if parents don't visit their child placed in the children's institution during 6 months, or have not shown interest in child's situation, in this case those parents may be deprived of parental rights or they may be limited through judicial process. But in reality, this practice is very rarely applied. As a result, the process of adoption, placement under guardianship or foster care of many thousands of children is still not in place. On the contrary children are made to stay in state children's institutions for years.

In general, adoption rate within country is still very low. Adoption mostly concerns the children aged 0-4 years. The cases of adoption of children older than 5 years happen rarely. Mechanisms for controlling general state and placement of children adopted as part of intercountry adoption are very poor.

It is important to mentioned that in comparison with the citizens of Azerbaijan, foreign citizens are more inclined towards adoption of children with disabilities. Taking into consideration the fact that, adoption possibilities of children with disabilities is limited within country, their adoption by foreign citizens should be stimulated. However, this shall be done alongside with the enhancement of monitoring mechanisms, and elimination of unnecessary bureaucritical hindrances. However, the stimulating measures shall be first applied to Azerbaijani citizens, which can promote the adoption of children with disabilities by them.

3.2. Separation from the family (article 9)

According to Commission on minors' affairs and protection of their rights the main real reason given by parents to place children into the residential care institutions (based on parent's appeal, or when children lose their parents and/or when their parents deprived of parental care) is their poor financial state.

Surprisingly, commissions on minors' affairs are not involved in implementing measures to prevent the children's placement into the institutions. They merely make a decisions on placement. According to the Statue the main purpose of the Commission is to make a positive influence on children, to protect their rights and legal interests, to conduct control over behaviour, to prevent actions violating the law, to coordinate the activities of state agencies, NGOs and other local organizations. In practice, the major portion of activities of commissions on minors is to make decisions related to sending children to open educational institutions. However, efforts for preventing children being placed into the children's institutions are very few or absent. Commission lacks specialists for conducting evaluation of living conditions of children and parents who want to place their children in the state institutions, therefore family's and child's case is being decided only on a paper. Commissions do not engage families and other relevant government agencies to find the alternative ways of helping the families to overcome the problems or difficulties and prevent the separation of child from the family.

Placement of a child into institution is very easy thing to do and enables the commission to “solve the problem of appealing family or child once for all and radically”. Such an approach helps the commission to avoid the planning, coordination, implementation and monitoring of short- or long-term care plans and other measures targeting the family and child. By placing the child into institution, commission does not need to be engaged in organization of any sort of social work with family and child.

There is an interesting contradiction in this field: hundreds of people stand in a queue for adoption and on the other hand, there are thousands of children in residential care institutions.

Another paradox is that, most of the parents of the children in state children’s facilities are not deprived of parental rights, however they don’t visit their children during many years of their stay in these facilities.

From the experience of NGOs:

It is obvious that Commissions on minors’ affairs (or child protection agency that should substitute this commission) should not be given a decision-making capacity on placement of children in the institutions. Instead, the commissions shall direct their efforts to increase social work with families and children at risk of separation from families.

SOS Children’s Villages – Azerbaijan Association has been successfully implementing the program aimed at providing the families of children at risk of placement in the state institutions with relevant social, economical, psychological and legal aid and employment guidance in Baku, Gandja and Sumgayit cities. This project has involved 378 children in Baku and Gandja cities, and will involve 150 children in Sumgayit city.

Number of divorces in Azerbaijan has increased during the last 5 years. The number of divorces among newly married in Azerbaijan is also high – 0.9-1 divorce per 1000 marriages. It is important to mention with the aim of comparison the fact that, this correlation is low in Turkey – 0.37 divorces per 1000 marriages, but 0.27 divorces per 1000 marriages is observed in Italy⁸.

Divorce of parents is of the main factors leading to children’s placement in the state institutions and it has huge negative impact on child’s welfare in a long run. Although the separation of child from family is considered the last resort in the national policy, however, the opposite is observed in practice. Only 20-25% of children living in residential institutions are orphans, the others are considered - social orphans. In other words, majority of children in institutions have either both parents or at least one parent and if proper measures would be in place, they can easily be reintegrated with their families.

UNICEF and local NGOs – “Dan” Public Union of Internationalist Youth, UAFA, Center “Place of Hope” and Reliable Future Youth Organization have piloted several models aimed at reintegration of children with their families. But the number of children within these pilots were few and not in every case family reunification ended successfully. The reasons behind that is the lack of alternative child and family care services in the communities and almost absent support of local state child protection agencies to these families.

⁸ www.Divorcereform.org, 2004-2006

The Law on Addressed Social Aid is directed to the improvement of social condition of families, but there is a contradiction in the section of the law on defining the types of income of the family. Thus, consideration of social benefits and pension for the disability as an income to the family budget is unjust for the families facing disability problems. It is unacceptable to regard social benefit as an income of the family, particularly when the amount of such a benefit is just tiny. The funds provided to the families with children with disabilities or parents with disabilities allocated by the state is so tiny that can not even meet the minimum needs of these families and their children.

Children kept in residential care institutions have limited opportunities to communicate with their parents and relatives. Parents often can not visit their children due to economic and financial situations. And children placed in the state care as “temporary measure until the family’s problems solved” end up in the institutions for many years. Government doesn’t have concrete strategies and programs for the establishment and maintenance of such relations and visits. Most of the children kept in institutions during interviews admitted that, their parents can’t visit them frequently because of financial problems.

The research conducted in 2007-2009 has shown that among the children educated in state care institutions and children’s homes are also present those whose parents were arrested⁹. On the other hand, women in penitentiary institutions can care for their children only until they reach 3 years. Every child who reached age of 3 is immediately separated from his/her mother and placed in the children’s homes and then in to state care institutions.

4. Alternative care opportunities: foster care, family-type small children homes, temporary shelters, patronage families

Though there are provisions in national legislation on foster care system or temporary short or long term placement of children into alternative family, there have been no mechanisms developed and put in place for the establishment and regulation of above mentioned services.

At present, there is no other organization except “SOS Children’s Villages - Azerbaijan” Association providing long term family type care. “Place of Hope” organization with the support of mainly Azercell Telecom LLC and also Azerbaijan Children’s Union with the support from OSI-AF established shelters for street children.

According to the State Program on Deinstitutionalisation and Alternative Care (2006-2015), it is planned to establish several alternative care services, select foster families, establish family type small children’s homes and shelters for temporary placement of children. However, there is a great need for the improvement of legislation before the establishment of such services can become a possibility. In general, no service has been established since 2006 yet.

In 2009 “Dan” Public Union studied the availability of public resources for the placement of children without parental care from state children’s institution in foster families¹⁰. As a result of conducted study, recommendations for government were prepared. According to these recommendations the following issues were considered of paramount significance: to make amendments to the various normative acts; to conduct reforms for the enhancement of Child Protection System; to intensify the process of education/training of social workers; to create the Database of persons or families willing to be foster parents; to work out the selection criterion and care standards; to define responsible state agency for the

⁹ Monitoring of the condition of children in state child institutions, NGO Alliance for Children’s Rights, Children’s Rights Legal Clinic, Azerbaijan National Parent-Teacher Association, 2007, 2008, 2009

¹⁰ Studying the resources within the communities for the placement of children deprived of parental care and living in residential care facilities in foster families, “Dan” Internationalist Youth Public Union, 2009

accreditation of foster families; to implement pilot projects to refine the foster family model, and to acquire international expertise.

4.1. Foster care and foster families

According to the information given by the Ministry of Education, at present about 10.054 children are being placed in state children's institutions in Azerbaijan. Although, nowadays the notion of foster families are mentioned in the Family Code (Articles 142, 143, 144 and 145) of Azerbaijan, in practice it hasn't been realized yet. Still regulations and normative acts don't exist for the establishment of foster families and regulation of their activities.

In 2007 only 1260 children among the children deprived of parental care were placed under guardianship. The family that the child is given under guardianship is provided with financial support in the amount of 25 AZN (28 USD) by the government. It is obvious that, this amount of money is not able to cover even the bare minimum needs of the family in regards to the child's care. It is worth to note for comparison that the price of one 0.5-0.6 kg of bread is 0.3-0.4 AZN, 1 kg of meat is 6-7 AZN and 1 kg of apples is 1-2 AZN.

The striking fact is to understand based on which criteria the sum of 25 AZN was determined and what kind of economic data and statistics were used for that. It should be especially noted that, both local NGOs and international organizations, and the government comprehend the insufficiency of this amount and as a result, recently several studies have been carried out to define the real financial needs of families required to take care of typical child and child with special needs.

Several organizations, including United Aid for Azerbaijan, UNICEF and also recently the Center for Economic Research ("İqtisadi Təhqiqatlar Mərkəzi" İctiami Birliyi) with the support from OSI-AF have tried to determine the minimum sum in AZN required for the realization of various alternative community based services for children with disabilities. Suggestions prepared as a result of those calculations, were discussed with NGOs and submitted to the government for review. During 2010 Department on De-Institutionalization and Child Protection under the Ministry of Education, Reliable Future Youth Organization, Hilfswerk Austria with the support from the European Commission and Austrian International Development Agency initiated the project within which the department with the support from international and local experts will try to determine the minimum amount required for foster families, for families with children with disabilities and to cover the costs of services for children from residential care facilities who are to be reintegrated with the families.

4.2. The condition of alternative social services within community

Alternatives as community based services are almost non-existing in Azerbaijan, except several pilot centers created by NGOs. Current community based diversion center, rehabilitation centers for children with disabilities have been established mostly with the support of international donors, such as OSI-AF, Save the Children, World Vision, UNICEF and SOS Kinderdorf International.

The establishment of social rehabilitation centers is planned within the framework of State program on De-institutionalization and Alternative Care. Up until now, only few day-care centers were established within the framework of this state program within the children's institution #2 in Surakhani district of Baku and in Barda region by the Ministry of Education.

Other category of children that are being placed in the state children's institutions are children in conflict with the law. Small part of these children are being still referred to

specialized boarding school for boys under the Ministry of Education located in Mardakan settlement or to specialized boarding school in Guba region.

From the experience of NGOs:

In 2007 Ministry of Internal Affairs, UNICEF, OSCE Baku office and NGO Alliance with the technical support from Children's Legal Center of UK came to an agreement and signed Memorandum of Cooperation on joining efforts for the improvement of juvenile justice system in Azerbaijan. "Psycho-Social Rehabilitation Center for Juvenile Offenders" was established within the framework of this memorandum in Narimanov district of Baku city. Although, this Center functions as a pilot, it succeeded in rehabilitation of nearly 130 children from November of 2007 till March of 2011. Those children are referred or diverted to the Center by police departments, commissions on minor's affairs and protection of their rights and also few by courts of various districts of Baku city.

During the 2007-2011 the number of children placed in the above-mentioned specialized closed- or semi-open residential institutions decreased to a great extent as a result of activity of the Diversion Center.

Several children who were "charged" according to the article "intentionally giving false information on terrorism" (Article 216 of Criminal Code) were also referred by police to the center for rehabilitation. In most circumstances these children would have ended up in one of the above mentioned institutions.

5. State residential children's institutions: children houses and boarding schools

5.1. Protection of children deprived of and without parental care (Article 20)

Azerbaijan NGO Alliance for Children's Rights, United Aid for Azerbaijan, Ombudsman apparatus and UNICEF have conducted several studies in order to investigate and learn the situation of children without parental care and those living in difficult social conditions. The researches conducted in different years gave an opportunity for conducting analysis and evaluation of situation in 30 institutions under three various ministries which take care and educate more than 10.000 children without parental care.

Ministry of Education had had about 40 institutions (number is changing as part of State Program on De-I), 6 of them are children's homes, 34 are schools providing general education, boarding schools for the children without or who are deprived of parental care and institutions for the children with limited health, i.e. with disabilities.

Ministry of Social Protection of Labour and Population has had 2 special schools for children with disabilities and Ministry of Health has 2 houses of infants and children's psycho-neurological institution.

There are no special care standards in state child institutions that will ensure quality care of service for children. Quality standards for children should include process of decision making about children, their placement into the institutions and the process of leaving the care. The sample standards were created by FICE, IFCO and SOS Kinderdorf and have already been supported by UN Committee on the Rights of the Child. These standards should be adopted and applied by government of Azerbaijan or similar ones shall be developed.

RECOMMENDATIONS FOR THE DEVELOPMENT OF CHILD PROTECTION SYSTEM

1. Recommendations on development of child protection system in Azerbaijan

Several state agencies, including Commission on Minor's Affairs and protection of their rights, Psychological-Medical-Pedagogical Commissions and Guardianship and Adoption Commission should be substituted by single strong organization in order to eliminate such dispersion of efforts, as well to ensure the participation of all appropriate state agencies in the solution of every child's problem using the combined efforts and holistic approach. The proposed new agency should at least have several social workers, psychologists, specialists on child protection, lawyers and responsible officers, which will increase the scope and effectiveness of their work in child protection and care.

The establishment of Ombudsman for Children's Rights would help to better promote and protect the children, investigate the complaints on violations of child rights, improve the cooperation with and further involvement of NGOs in child protection issues and improve the legislative framework in the country.

In order to prevent collapse of families in crisis or facing serious difficult life situations local state agencies and NGOs should be involved in designing, planning and implementation of individual family and child care plans, provision of necessary social and other support services to these families.

Investigations into and decisions on limitation or deprivation of parental rights of parents who do not visit their children in residential care institutions or are not interested in or do not participate in development and overall life of their children, should be conducted by juvenile or specialized family courts upon presentation of such cases by child protection agencies.

The establishment of family and community based alternative care models (family group house, foster family, foster care etc.) should be ensured instead of enormous state child institutions that cost high to keep and violate child's right to live in a family.

2. Suggestions on the activity of Commission on Minor's affairs:

1. Taking into consideration the fact that duties of various commissions and agencies within ExComs coincide with one another, combining them into one Child Protection Agency in every city or region of country would be more effective. This agency would identify children in need of special protection and care in time, evaluate the situation of children and their families, prepare necessary individual care plans and refer the children and their families to the related community based social care services.
2. Commissions on minor's affairs and protection of their rights or if above recommendation is adopted by government, then the Child Protection Agency shall be composed of specialists on payroll, including social worker, specialist on child protection, lawyer, psychologist and etc..
3. To adopt new procedures and regulations that will require commissions on minors' affairs to conduct thorough assessment of situation of a child and the family as whole and develop plan of actions to assist the family and protect the child and aim at preventing the disruption of family care.

3. Social work and development of social workers and case-managers

Taking into consideration the fact that there are only few social workers in Azerbaijan, the process of training/educating required number of social workers both in bachelor and master degrees, and via special short-term (6 months) specialization courses shall be intensified.

Social workers would ensure both the realization of social work and management of children's cases. Based on experience of various countries in this field it is possible to

define the maximum number of children that a social worker and responsible officer may work on the same time for the effectiveness of their activity.

4. Social services for the children and families in need of care and protection

At present, NGOs have a great role in the organization and delivery of social services. NGOs have conducted numerous activities in gaining international experience and implementation of pilot models of social service delivery. In most cases, NGOs face the following difficulties in the realization of social services and alternative care programs:

- The lack of “social partnership” (government - NGO) concept that is required for improvement of social services and their quality;
- The lack of understanding of the need to decentralize the social services and enable NGOs to develop, compete for and deliver quality social services to families and children. Instead, government wants to become sole or main service provider;
- No allocation of funds from the state budget to social services established and managed by NGOs;
- Gaps in legislation that regulate the establishment and development of NGO-driven social services;
- The lack of strategy on corporate social responsibility of business agencies;

The adoption of the Law on Social Offer (in April 2011) is of great importance for the elimination of these difficulties. It is necessary to develop the sense of Corporate Social Responsibility among business institutions and to support them in preparation of strategies on CSR. At the same time, in order to increase the amount of funds allocated to the social projects by business institutions, government should put in place special stimulating measures, like:

1. Simple money transfer - Companies may transfer 1% of pre-tax profit to the account of NGOs of choice.
2. General transfers - Companies may transfer 1% of pre-tax profit to the account of NGOs based on projects submitted.
3. Social offer – State agencies, as well state and private companies may give NGOs social offers related with the delivery of social services in the selected areas.

5. Family Support Services

As mentioned above, at present state resources in the field of child care and protection are centralized around state children’s institutions. These resources should be diverted to various family support services that will ensure children’s education and development without having them separated from their families.

Rehabilitation centers for children with special needs, such as ones established by United Aid for Azerbaijan, “SOS Children’s Villages - Azerbaijan” Association, Save the Children, Reliable Future Youth Organization, “Mushfig”, “Goy Gurshagi” (Rainbow), “Origami” and others have already got a long term experience in this field in the country.

The system of accreditation, licensing and certification of these centers should be created to ensure the quality of care, government funding for these services.

6. Service standards

Government should develop and adopt minimum quality care standards for the social services and child protection services. UAFA and many rehabilitation centers within the network of community based rehabilitation centers recently developed standards on community based services targeting children with disabilities and submitted them for government’s review.

It is also planned that Hilfswerk Austria, Ministry of Education and Reliable Future Youth Organization would develop standards for foster care and small group homes to be submitted to the government for review.

At the same time, special "Care standards for children" was prepared by SOS Children's Villages Azerbaijan Association and submitted for government's review.

1.6. Monitoring and evaluation of children in residential care institutions

The capacity of NGOs in the field of monitoring and evaluation has significantly improved in last several years. As a result of it, monitoring and evaluation processes are regularly conducted in the country.

However, taking into consideration the fact that boarding-schools and children's homes are de-facto closed institutions, NGOs face difficulties in entering those institutions and conducting monitoring and evaluation process. In addition to this, state agencies don't recognize facts obtained from the results of monitoring activities carried out by NGOs and regard them as exaggerated or incorrect information.

It then becomes difficult for NGOs to continue the monitoring activities in the same or other residential children's institutions where they already registered shortcomings.

In order to overcome the above mentioned difficulties, the organization of public control over children's institutions under various ministries, as well the establishment of Public Council under those ministries for ensuring independent participation of NGOs in this process would be useful.

Surely, there is a need for the establishment of position of Ombudsman for Children's Rights in Azerbaijan that will resolve the above mentioned issues.

PART II. SITUATION OF THE CHILDREN AND YOUTH WHO ARE LEAVING THE STATE RESIDENTIAL CARE INSTITUTIONS

1. General overview of the situation

The children who reach 18 years old in the state care institutions, and 16 at the boarding schools have to leave the care and start their independent lives. As the state care institutions lack quality standards, preparation of the youth to the adulthood as well as leaving the care process are not carried out in the planned and organized way.

There are 4 categories of the problems that children face when they leave the care: unemployment, education and vocational education, accommodation and mental and physical health.

In comparison with the main schools, the level of education in the boarding schools is poor. The surveys conducted in different times reveal that the children who live and acquire education at the boarding schools or orphanages have limited opportunities to continue their education. As a consequence, the institutionalized children's opportunity in getting higher education is almost equal to zero. Boarding schools do not also pay much attention to the vocational education. In addition these institutions lack relevant technical equipments, the curriculum based on the demands of the contemporary market economy and other educational supplies needed for organizing and providing vocational education at the required level. It is obvious that focusing on vocational education is of vital importance for the institutionalized children and their future. Vocational-oriented education must be established based on the findings of the studies carried out in the labor market in order to provide the children with necessary professional vocational skills to help them get employment after leaving the care.

Individual development plans for the children who are about to leave the residential care are not prepared and carried out.

One of other serious matter of concern is serious problems in protecting the institutionalized children's rights to the property. Once a child is institutionalized his/her property are sold to the other people by their parents or relatives according to the so-called "agreement" with the local authorities. However the 5th article of the Statue on the Commission on minors' affaires clearly states that the Commission has to give permission to the sale of every privatized apartment where the children were living before their institutionalization. The fact is that in most cases the Commission does not have information about such issues or the participation of the Commission bears formal character that leads to the regular violation of children's right to property.

Unfortunately, many children have to leave the residential care facilities directly to the streets as they do not have any place to go and a place to live. Children's Rights Legal Clinic established in 2007 by Reliable Future Youth NGO with the support from UNICEF and Ombudsman Institute, the British Embassy and OSCE have several times appealed to relevant local authorities, Cabinet of Ministers and Ministry of Finance to demand the provision of accommodation or living space for children leaving the state care, which is by the way, enshrined in the Law on Social protection of children deprived of or without parental care. However, so far no child has been provided with any sort of accommodation other than being enlisted in the military after leaving the institution. As the result the youth leaving the care find temporary accommodation with relatives or stay overnight in the workplaces or work as night-watchman in the country or beach houses.

However the activity of the Haydar Aliyev Foundation in solution of the institutionalized girls' accommodation problem is noteworthy. With the Haydar Aliyev Foundation's initiative the special building to house the girls who are about to leave the residential care was built in the area of the Children's Home #1 in Nizami district of Baku capital.

2. Livelihood-oriented services for the youth who are leaving the care ¹¹

According to the law on social protection of children deprived or without parental care, the government including the principals of the state care residential institutions and local authorities has to render support and required services to the youth leaving the care starting at least 3 months before the date of their expected leave.

Such support and services include providing the youth with general education and vocational training while they are under state care as well as granting them special allowance after they leave the care to help with establishing their independent life, assist with employment.

After the collapse of the Soviet Union and due to financial crisis the Azerbaijan Government paid very little, if any, attention towards the vocational training schools. Due to the budget insufficiency some of those schools were closed, however others still continue operating even without modern equipments, supplies and materials that do not obviously meet the modern labor market job categories.

State Program for the development of vocational education in the Republic of Azerbaijan for 2007-2012” was approved by the decree of the President of Azerbaijan Republic on July 3, 2007. This program may have positive influence on future of children leaving the care. However the government has to prepare definite guidelines and criteria for the admission of youth from residential care institutions as well as children with disabilities to benefit from this state program.

In 2008 “Dan” Union of International Youth within the “Modeling of Child Welfare Reform components in Guba internat and Khatai orphanage” project established “Independent Live” Clubs in order to prepare the youth of the mentioned institutions to the independent live with the support of UNICEF. Then “Independent Live” clubs were established in 6 other institutions with the support of the Ministry of Youth and Sport.

Ministry of Education and the Open Society Mental Health Initiative jointly have launched pilot program targeting the youth with disabilities from Boarding school #7 in Surakhani district. This program aims at reunification of the institutionalized children with their families, integration of those into society and teaching them vocational skills. Starting in December 2009, Save the Children and Reliable Future Youth Organization with the support from European Union and Statoil launched 2 year program supporting advancing the vocational and livelihood skills of the disadvantaged youth in residential care institutions in 5 regions of the country.

Head Employment Department or local employment branches of the Ministry of Labor and Social Protection of Population aim at increasing awareness of population and employers about available jobs in the labor market. Every year this department holds a many employment fairs in different regions of the country. However, this department does not have special conditions, procedures and regulations to facilitate the work opportunities for children and young people leaving the state care institutions. Nor these agencies have special program for vocational training of these young people before the possible employment. However, these agencies do offer paid training courses for population.

On the other hand, national legislation does not apply any tax or other credits for the employers to employ the youth who have been deprived of parental care or have been brought up in the state care institutions or have disability. It is believed that if certain tax credits are applied it would give a great push in the employment of the marginalized youth leaving the care.

¹¹ Analyses of the conditions of children and youth leaving state child institutions based on the rights of children, SOS Children’s Villages Association, 2008

3. The situation of the services rendered to the children and youth leaving the state care institutions¹²

Every year hundreds of youth leave state care institutions and start their independent lives without passing on any preparation for it. In this regard they are at high –risk of entering to the criminal life or becoming victims of various crimes, as they have no living or work place. Social maintenance/insurance system aimed at the protection of the youth who have left the care leads to some children committed crimes, child prostitution, street life and suicides. According to the Law on “Social protection of the orphans and children deprived of parental care” local authorities have to provide the youth who have left the state care institutions with allowances, help their employment and housing. But conducted researches show that in reality the local authorities do not give any help to those who return to their native town or regions when they leave the care¹³.

Unfortunately, so far very few young people who left the care got employed in the result of the cooperation of the state companies and private businesses with local NGOs. In 2006-2009, "Dan" Union of International Youth provided only 29 young people who have finished military duty with job and housing with the support of State Oil Company of the Azerbaijan Republic and Heydar Aliyev Foundation. In 2009, some NGOs in close collaboration with GRBS Company helped with employment of nearly 70 youth through involving them in various vocational training courses. If such practices and number of businesses engaged in corporate social responsibility increased and if government is involved and will support such initiatives, the youth leaving the state care institutions will have confidence in their future.

Local authorities do not help the youth leaving the state care with housing. Opposite is true, when the problems of children in relation to the apartments or properties where they were living before placement in the institution begin after their placement in the institutions. The apartment or house where they lived in or that they have right to claim are misappropriated by their parents or relatives, and even sold by auction without the knowledge of the children, or are illegally privatized and sold by their parents or relatives¹⁴.

4. Categories of the children who have left the state care institutions

The detailed and precise statistical data on 18-24 years old youth leaving the state care annually is difficult to obtain. The survey conducted with the support of UNICEF in June-September, 2008 by the Working Group on implementation of the State Program on de-institutionalization under the Ministry of Education enabled to derive the below presented data.

The tables below describe approximate information of youth who live at the state care institutions.¹⁵

Number of the youth who are estimated to live the care during the years of 2009-2010 (for 2008)

Per class	boys	girls	total
10 th class (15 years old)	210	90	300

¹² Analyses of the conditions of children and youth leaving state child institutions based on the rights of children, SOS Children's Villages Association, 2008

¹³ Report of Children's Rights Legal Clinic on protection of the rights of children leaving boarding institutions, 2008
Alternative Report of NGOs on the situation of children in Azerbaijan, NGO Alliance for Children's Rights 2005

¹⁴ Report of Children's Rights Legal Clinic, 2008

¹⁵ Dövlət uşaq müəssisələrini tərk etməkdə olan uşaq və gənclərin uşaq hüquqlarına əsaslanmış vəziyyətinin təhlili, SOS Uşaq kəndləri assosiasiyası, 2008

11 th class (16 years old)	81	33	114
Categories of children who have never been visited by their parents (guardians) or rarely visited, as well as those who did not visit their families			
Children	Total	boys	girls
children who have both parents	2833	2061	772
single parent children	1142	779	363
children who have lost both their parents	80	60	20
Number of children who have never been visited by their parents (guardians) or rarely visited, as well as those who did not visit their families			
	Total	Boys	Girls
Children educated in the state children's institutions	4055	2900	1155

5. Suggestions and recommendations

- a. The Azerbaijan government should have national concept or strategy related to the youth leaving the state care institutions, as well as plan of actions to solve their social, vocational and higher education problems along with protection of their health and violation of their rights. This concept or strategy shall cover the children and young people from 16-24 years old.
- b. The state should directly or together with NGOs organize relevant services for the youth leaving the care in their respective communities. Such services include counseling, mentoring and also employment advising.
- c. Young people leaving care and aged 16-24 who have no means to sustain themselves or do not have any accommodation and employment shall be supported by the state agencies and should be provided with access to temporary accommodation, shelters, e.g. apartments with special mortgages, youth hostels and etc.
- d. Special database about the children and youth leaving care shall be in place in order to initiate and maintain necessary level of care and social services to these young people until they reach age of 24 or their problems with accommodation and employment are solved.

SECTION III. VIOLENCE AGAINST AND INHUMAN TREATMENT OF CHILDREN

1. Sexual exploitation, sexual abuse against children and child prostitution

At present, the studies and statistical information reflecting the real situation related to child sexual abuse in Azerbaijan is very limited. It is however obvious that legislative provisions protecting the children from sexual abuse and violence shall be improved and punishment for such an acts of violence towards the children shall be even more serious.

It is indeed unfortunate that Azerbaijani government has not adopted any state program or plan of actions directed to the prevent the child sexual abuse, sexual exploitation and child pornography. The Republic of Azerbaijan signed the Convention of the Council of Europe on the “Protection of children from sexual exploitation and sexual abuse” in 2008, but has not ratified it yet. It is worth to mention that, the level of awareness of specialists of state agencies in this field of preventive and practical work to protect the children from sexual abuse and exploitation as well as their level of understanding of current national legislation in the field is very low. This in turn does not create favorable grounds for effective and coordinated work among the government agencies to tackle these issues.

NGO Alliance has been calling the government to pay serious attention to the issues of sexual abuse and exploitation of children since 2004. The special Sample National Plan of Actions to tackle these issues were developed by NGO Alliance with the support from NGO Group on CRC and submitted to the Cabinet of Ministers and State Committee on Family, Women and Children’s Problems in 2006, but with no further actions from the government since then. Since 2006, NGO Alliance and its several members have been alarming the government about the spread of the new phenomenon – “internet grooming and sexual abuse and exploitation of children via internet-based as well as spread of pornographic materials via mobile phones”. The increased number of children and youth using internet, the broadened internet social networks, the decrease in the age of children using internet and increased number of internet clubs in last years make this problem more severe in Baku capital and other big cities of Azerbaijan.

According to the conducted research the number of schoolchildren and youth using internet services is 86%. 68% of them have used internet for getting acquainted with opposite sex¹⁶.

2. Violence against and inhuman treatment of children in state residential facilities (UN CRC, article 19)

Generally, it should be noted that, boarding schools are located in different regions of the country and the number of children in each boarding school is different and often varies during a year.

Some of the state children’s institutions do not have children staying overnight. They mostly function as secondary school, but there are many institutions where children stay overnight¹⁷. The division of these children facilities into these two groups is of great importance for analysis of monitoring results. The issue is that, many cases of violence were observed and revealed in institutions where children stay overnight.

Research on violence against children in state child institutions was conducted by several member organizations of NGO Alliance during the years of 2006-2009.

¹⁶ Survey on sexual abuse against children in Azerbaijan, NGO Alliance, 2009

¹⁷ Boarding schools located in Barda, Lankaran and Lerik regions mostly function based on the principle of “daytime boarding schools” and the situation here is not too much different from the situation in secondary schools providing general education.

In 2008 based on the complaints to Children's Rights Legal Clinic established by Reliable Future the special monitoring commission was established to investigate independently the cases of violence against children in special semi-open boarding school for boys located in Mardakan settlement of Baku city. The group of lawyers from Legal Clinic and Ministry of Education's Working Group on De-I and Child Protection visited the institutions and the special report was prepared and submitted to the ministry after investigating the situation in that institution.

2.1. Analysis of general situation in the institutions:

Interviews conducted with children and general observations shows that there is no proper conditions for the organization of quality care for children in these institutions. During monitorings in most of the boarding schools such problems as the out of use of heating system and the coldness of classrooms where children study and bedrooms where they sleep were noted¹⁸. It should be noted that some of the institutions where shortcomings were revealed are those intended for children with limited health or disabilities, including those for children with latent tubersulosis.

Though, the situation of libraries in boarding schools is considered satisfactory, the provision of most of the libraries with new books and textbooks is very poor. In its turn, this badly influences education, development of children and limits their access to information.

As a result of conducted monitoring it was defined that, children's right to privacy is not ensured. In most of the boarding schools children don't even have their own corner or shelves.

2.2. The existence of acts of violence against children in the institutions

It should be once more noted that violence against children is mostly observed in state children's institutions where children stay overnight. This is easily explained by the lack of oversight from public and from parents or relatives who either do not visit or visit children in these institutions very rarely. Another shortcoming is the absence of effective and simple mechanisms for children to complain about deficiencies of the institution and violence they face. Although the situation in boarding schools where children do not stay overnight is better, however the violence is observed there too¹⁹.

Monitoring has defined that in comparison with countries of Western Europe²⁰, most of the cases of violence in Azerbaijani institutions are done by teachers and staff of these institutions. Survey and conversations held with the children determined that, e.g the "authors" of inhuman and degrading treatment and humiliation are teaching staff and educators of the institution. Besides, it was defined that cases of violence between the children themselves are also widespread.

Usually society regards children of boarding schools as "homeless" and supposes them to be defenceless. As a result of it, sometimes children attending school (daytime boarding schools) or playing in the yard of boarding school face violence from the other children and youth living in the community surrounding the boarding school²¹.

¹⁸ Report on the investigation of the situation of violence against children, NGO Alliance, 2007-2008

¹⁹ Specially, children participated in focus groups in Barda and Lankaran have said that, they were humiliated, beaten in those institutions and even were subjected to collective abuse.

²⁰ During General Consultation Conference held on European and Central Asian Region on the topic of UN Investigation of Violence against Childre, in Ljubljana, Slovenia, 2005, it was noted that, violence against children in state child institutions by teachers happen rarely or is never observed in Litva, Estonia and Denmark It was pointed out that, firstly this was a result of effective public control and professionalism of staff. However, violence observed happens by children themselves against one another.

²¹ Report on the investigation of the situation of violence against children, NGO Alliance, 2007-2008

The most spread type of violence in boarding schools is psychological-emotional violence, which is defined as threatening and humiliating the children²². The second one is the physical violence - corporal punishment - against children, i.e they are beaten, their labour is exploited, etc. It is unfortunate to point out that violence against smaller and older children were found to be the same.

Even so, it is difficult to provide exact information on magnitude of sexual abuse and violence against children in institutions, it was however possible to reveal number of cases through individual interviews with children. The issues of sexual abuse and sexual harassment still remain as taboo (forbidden theme) and the society as a whole prefer not to talk about these issues. The sexual abuse and violence is not only committed by adults against children, but also by children towards each other too.

3. The cases of suicide among children

The cases of suicide has been steadily increasing among people in the last years. Nearly every day more than several persons commit suicide which is shown through daily monitoring of very reliable mass media sources. And it is important to note that the suicides attempted or successfully accomplished in the country are often in the regions than in Baku capital. There are many children among those who attempt or accomplish suicide. The official statistics on the number of children committed suicide in Azerbaijan is either not available to public or does not exist due to problems in collection and determination of suicides. 221 persons in 2008, and 303 persons in 2009 committed suicide. 20 of 221 persons committed suicide in 2008 were children. This number reached 30 persons in the year of 2009. The number of children committed suicide in 5 months of 2010 has already reached 14 persons. This statistical data were only gained during monitoring of Mass Media.

Article 125 of the Criminal Code of Azerbaijan defines the "Pushing someone to commit suicide" as "pushing the person...to attempt a suicide via threats, cruel treatment or regular humiliation of his/her dignity – shall be punished by imprisonment for up to three years". Though, several criminal cases were started on several suicide cases, very few people have information about the outcomes.

The increase of suicide cases among children have already started to trouble government and society²³. There is a need for a greater attention and active participation of pedagogical staff, school psychologists and parents to prevent the suicides among children.

4. Child sexual and physical abuse

Children are mostly subject to abuse in their families, at school and by police. In addition, children undergo sexual and physical abuse by their peers. Street children and children who undergo exploitation constitute a definite part of children who are exposed to abuse daily. The amendments and supplements are to be made to the legislation relating to sexual and physical abuse of children. In addition, the laws that prohibit corporal punishment of children is needed also to be adopted. The draft law on prevention and prohibition of corporal punishment was developed by Human Rights Commissioner (Ombudsman) of Azerbaijan with the support from UNICEF.

One of the main problems in the field is the lack of Rehabilitation Centers for children who faced sexual and physical abuse in Azerbaijan. In the majority of cases, children are abused by their own parents. In such cases, it is required to take children away from their families on a temporary basis. But the lack of Rehabilitation Centers and temporary shelters makes it

²² Report on the investigation of the situation of violence against children, NGO Alliance, 2007-2008

²³ Musa Guliyev, vice-chairman of Social policy permanent committee of Milli Majlis, neuropathologist, newspaper "Musavat", 2010

impossible to be realized. As a result, children who are exposed to abuse by their parents or guardians have to live with the person who abuses him. The majority of girls, who are subject to sexual and physical abuse, become the victims of human trafficking in future.

The main difficulties are caused by negligent approach of public agencies to the information related to sexual and physical abuse of children. Thus, in the majority of cases, the issues with respect to sexual abuse of children are not thoroughly investigated. Sometimes criminal proceedings are instituted against physical abuse, not the sexual abuse cases.

The study by NGO Alliance revealed that no any psychological or social work is carried out with children that faced physical, emotional and even sexual abuse. During monitoring it was revealed that in most cases children who faced sexual abuse inform their parents very late. This causes difficulties in substantiation of the fact of abuse and bringing the perpetrator to account.

During monitoring it was also revealed that in most cases sexually abused girls became pregnant and gave birth to their babies at home. One of the main reasons is that their parents are afraid that this information will become widespread. And delivering a baby at home constitutes a great danger to the health of both an abused girl and her baby, as well. If a baby is delivered at home, relevant public authorities have low chances to get information on the fact of sexual abuse and pregnancy as a result.

The followings can be noted with respect to the above-mentioned two sample cases:

- Sexually and physically abused children and often their parents or guardians are not well aware and are afraid to demand the investigation of the violence against them;
- Cases with respect to sexually and physically abused children are not treated with due sensitivity and professionally by police agencies;
- Information on sexually and physically abused children are disclosed and as a result more people become aware of their cases;
- Adult-perpetrators who commit sexual and physical abuse against children get lesser punishment.
- There is not rehabilitation programs and centers to provide necessary work with children - victims of violence and their families.

5. PROPOSALS AND RECOMMENDATIONS

4.1. General recommendations on prevention of child abuse and violence against children.

(a) Regular uninformed monitoring, as well as interviews and meetings with children on an individual basis and in group should be held to prevent child abuse cases in the state institutions.

(b) Public Councils should be established under the Ministry of Education, Ministry of Labour and Social Protection of Population, Ministry of Health and other state agencies with NGOs operating in relevant fields represented in them.

(c) Special training courses about the rights of children and issues of violence against children should be continued for all the staff of state children's institutions, police and justice agencies, including police child inspectors, police investigators and interrogators, the staff of child protection and de-institutionalization agencies to properly investigate child abuse cases and protect the children.

(d) Establishment of special Rehabilitation Center for rehabilitation of children that faced violence and abuse and children victims of crimes, is of great importance.

(e) Training courses with respect to “child abuse” should be organized for the doctors and paramedical personnel of children’s polyclinics and hospitals to timely establish children’s and infant abuse cases and improve their protection.

(f) Adoption of the Law on Prohibition of corporal punishment can be a significant step in the field of protection of children from the violence.

(g) Azerbaijan Government should look into adoption of Model National Plan of Actions on prevention of **child abuse, sexual exploitation, and involvement of children in child pornography** developed by NGO Alliance in 2006-2009 with the support from NGO Group on CRC.

(h) There is a need in expansion of coverage and capacity of Azerbaijan Child Helpline Service that was established by Reliable Future Youth NGO with the support from Azercell Telecom, UNICEF, Save the Children, World Vision and Ministry of Education in order to enable more and more children in need of urgent and continuous counseling,

Case of 15 years old Z.S. who appealed to Children’s Rights Legal Clinic.

Thus, 15-year-old Z.S. became pregnant as a result of sexual violence. Her aunt found it out only when she was in her fourth month of pregnancy. Now Z.S. has already given birth to her baby. But the person, who did it, is not identified by police agencies yet. Thus, police agencies stated that it was necessary to make a special examination. The examination of this kind is made only in Moscow and very expensive. That is why till then the right of a sexually abused girl is being violated.

The fact remains that her perpetrator is still freely walking in the streets and may be endangering other girls around. In addition to this, this girl has not received any social and psychological support, compensation or other help from government which failed to protect her.

advise, psychological and emotional support to get help.

(i) TV companies, including mainly Public TV shall provide time for free or for very low prices to NGOs and other humanitarian organizations for demonstration of social advertisements targeting various social issues, including issues of child rights, violence against children and others.

(j) The marriages not registered officially by the state should be registered as “civil

Case of 5-year-old K.B., whose parents appealed to Children’s Rights Legal Clinic.

Thus, 5-year-old K.B. who was literally raped and physical abused by her 24-year-old relative A.S.

A.S. was imprisoned by the court for the period of 4 years only. the mother of A.S. is a teacher in a secondary school and she keeps insulting the sister of K.B. who is studying at this school by publicly telling everybody about the case and trying to clear the name of her son. This in turn, brings up the issue of confidentiality of criminal cases with the involvement of children as well as protection of victims of sexual abuse and violence.

marriage” in the Family Code and Civil Code to ensure protection of the rights of children born out of wedlock and their mothers. This will ensure more effective protection of the rights of a child born within this “civil marriage”, and his parents.

(k) There is a great need in establishment of position of Children Rights Commissioner (Ombudsman) as part of Institute of Human Rights Commissioner in Azerbaijan to ensure the protection of rights of children more effectively.

(l) Psychological work with children at schools should be strengthened and school psychologists and teachers shall be trained on how to work with children from difficult families, children who were victims of physical and sexual abuse, children having emotional problems.

4.2. Recommendations for prevention of cases of child pornography, sexual exploitation, and involvement of children in prostitution

(a) **Legislation shall be improved by introduction of provisions that will consider Internet grooming or seduction of children via internet to be a crime;**

(b) Establishment of a specialized authority as part of law-enforcement authorities to deal with internet crimes. This authority should not only be equipped with technical facilities accordingly, but also a staff qualified in the field of children's rights. Law-enforcement authorities should cooperate with helplines and internet service providers in order to ensure the children's protection and foresee any future problems to arise from illegal exploitation of new technologies;

(c) It is of great importance to establish special rehabilitation centers to ensure psychological and social rehabilitation, follow-up care and integration into society of all the children-victims of sexual exploitation, sexual abuse, child pornography and child prostitution, and the members of their families.

(d) The Law on prevention and prohibition of child abuse and violence against children shall be adopted by Parliament;

(e) Awareness raising should be enhanced to prevent early marriages and the punishment for pushing children for early marriages shall become stricter;

CHAPTER IV. SITUATION OF CHILDREN WITH DISABILITIES

The UN Convention on the rights of people with disabilities²⁴

Before the Convention on the rights of people with disabilities was adopted in May 3, 2008, there was no special international treaty related to people with disabilities. In 2008, Azerbaijan ratified the UN Convention on the rights of people with disabilities and Optional Protocol to it, which aims at ensuring protection of and advocacy for the rights of people with disabilities, elimination of discrimination, provision of rights to employment, health care, education and participation in the life of society, rights to freedom from exploitation and freedom of movement. It had become apparent that without such a legal treaty to reinforce the rights of people with disabilities they were simply remained “invisible” to the law, the society they live in and at an international level. As a result, most people with disabilities have been encountering numerous problems in their daily lives, including widespread discrimination.

1. Overview

According to the statistical data, there are 443,000 persons with disabilities, including children with restricted health capabilities (as defined in the law). About 306,000 of them are disabled workers; 81,000 persons are people with disabilities who receive social allowance for disability; 56,000 are children with disabilities.

It is important to note that attitude towards children with disabilities and their families have changed significantly, while comparing social policy of the Azerbaijan Republic carried out during its independency with that of Soviet Union. During the Soviet period the government’s mainly was trying to ensure the education of children with disabilities and thus was placing them in special state care facilities by isolating them from the rest of children.

The Law of the Azerbaijan “On prevention of disability, rehabilitation and social protection of disabled persons” was adopted in 1992 and made the special emphasis on the importance of integration of children with disabilities into society, set forth guarantees for equal rights, ensured the broad range of social protection measures, established the rules for their education in secondary schools of a general type, enrollment for at-home education or placement in specialized educational institutions. In accordance with the Decree of the President of the Azerbaijan Republic on additional measures for enhancement of social protection of population dated January 22, 2007, the amount of social allowances provided to people with disabilities was increased.

But improvement of legislation did not lead to significant improvements of situation of children and people with disabilities in real life. Until recently the collapse of Soviet Union, military conflict with Armenia and economic crisis were considered as main causes of lack of attention of government to the needs of people and children with disabilities and their families. However, in nowadays when Azerbaijan is continuing to grow economically and has significant budget with additional funds accumulated in State Oil Fund counting more than 20 bln. US\$ and no military actions since 1996 cease-fire, it is hard to define the reasonable causes of government’s lack of progress in promoting and protecting the children and people with disabilities. One of the key reason cited by many experts is that national laws adopted by Parliament and signed by President are not implemented in reality despite the great intentions enshrined in them. These laws and good intentions stay on a paper.

2. The state of discrimination against children with disabilities

²⁴ www.unic.un.org Additional information about UN Convention on the Rights of People with Disabilities

It is unfortunate that the increase in the state budget and accumulation of ample monetary funds in the State Oil Fund of the Azerbaijan and despite the improvement of legislation, the real state policy in relation to the children with disabilities have hardly changed in comparison with late 1990s. Over the last 5 years, necessary measures have not been implemented to involve children with disabilities in secondary schools and kindergartens via inclusive or integrated education models. Despite the successful implementation of pilot programs to ensure inclusive education within the Ministry of Education's program on inclusive education during 2006-2009, this program was able to involve only few dozens of disabled children in several districts of Azerbaijan up until the 4th grade of secondary schools. After the completion of this pilot program, the children were literally thrown out of the schools and kindergartens and could not advance further in their education and were sent back to at-home education or special institutions.

Only in April 2011, after several years of strong advocacy by UNICEF, World Vision, Save the Children, NGO Alliance, CIE, UAFA, OSI-AF, "Mushfig" Society of disabled children and other organizations, the Ministry of Education decided to continue the inclusive education program.

Children with disabilities face discrimination in most spheres of the life. Their social, cultural and economic rights, rights to the achievement of relevant standards of living, rights to leisure, sport, education, and equal access to affordable healthcare services are being violated in daily life. Children with disabilities, especially those who live in the state children's institutions have limited capabilities to protect themselves against sexual and physical abuse, discrimination and exploitation.

The capabilities of children with disabilities, especially those who are blind or have eyesight problems, deaf or have hearing deficiencies, to access information, to protect themselves, to learn, to obtain information on various events and issues of social importance, including laws and policies, local and national programs targeting them are rather restricted as compared with other children.

As a result, the meaningful participation of these children in social, cultural, sport activities in the society is rather absent. The majority of children with disabilities lives with their families and still being isolated from the community and society. Many more parents isolate these children in order to protect from humiliation by others, from emotional distress that children may suffer due to their condition. But above all many parents are just felt ashamed of being parents of children with disabilities. The process of integration of these children into society is not carried out, they do not participate in any social events, have limited access to the libraries, are not involved in education, etc.

3. Social security (article 26) and standard of living (article 27).

A lot of work has been done by the government of the Azerbaijan Republic to improve social protection of people living in poverty. Among them, *the Law of the Republic of Azerbaijan on Addressed State Social Allowances* adopted in October 21, 2005 (amended in June 13, 2008²⁵) with subsequent financial aid to about 1.5 mln. people should especially be indicated. According to the Decree of the President, an assistance in the amount of 50 AZN (62 USD) is allocated to the families with children with disabilities. However, it should also be indicated that this amount does not allow parents to meet the needs of children with disabilities.

²⁵ The Decree of the President of the Azerbaijan Republic on increase in hardship allowances, August 27, 2008

Table1: Social allowances allocated to children and especially to children with disabilities (with limited health capabilities)²⁶ (according to the data of the Ministry of Labour and Social Protection of Population, to the beginning of a year)

	2006		2008	
	Number of persons who are awarded social allowance, person	Average monthly amount per capita, AZN	Number of persons who are awarded social allowance, person	Average monthly amount per person, AZN
Social allowances - total	259712	17.44	275402	23.35
including:				
Children with disabilities up to age of 16	48479	25.0	x	
Children with limited health capabilities up to age of 18	x	x	56433	50

Type	2007	2008	2009
The number of families who awarded addressed state social assistance	48705	78092	163409
The number of women among the members of these families	83529	168007	387609
The number of children among the members of these families	92291	165064	357620
The amount of average monthly addressed state social assistance per capita	8.36	17.38	22.0

The amount provided to the families that bring up and care for children with disabilities at home is obviously not enough to even meet the minimum standards. While granting a pension to the children with disabilities or allocating social allowances to the families of these children, child's disability degree, needs for care, rehabilitation, education, supervision and attendance and the energy, time spent by parents and the amount of monetary funds required are not taken into consideration. It is indeed a mystery how government came up with the amount of social allowance indicated above. However, the pension or the amount of allowance to be granted to families should directly depend upon the above-mentioned indicators. This is the only way to achieve normal life, education and general development of children with disabilities.

Report developed as a result of the study by UAFA in 2008 showed that state children's institutions spend about 750 AZN per year to provide care for each child with disability. This is at least thrice lower than the amount of allowance granted to families to take care of a child with disability.

The study by "Mushvig" Public Association for support to children with disabilities and "Independent Life" Public Association done within the NGO Alliance's project on development of NGO Alternative Report, the time that the members of the family spend for

²⁶ A Yearly book of State Statistical Committee of the Azerbaijan Republic, 2008. (demographics section)

the provision of care and supervision of children with disabilities has been determined. In most cases care and attendance service to children are provided by their parents. The mothers' work and participation is greater than others. 49% of the families that took part in the interview stated that mothers spent about 4-10 hours per day taking care of their children. In addition, in 93% of families fathers spent up to four hours a day for care of child with disability. In many families close relatives, especially grandparents take an active part in providing attendance and care for children. 28.5% of the interviewed families assessed the grandmothers' help as irreplaceable. More than 40% of families noted that grandmothers spent at least up to four hours of their time for children. 26% of families emphasized the aid of sisters and brothers who spent 1-2 hours with their children. The main burden of care of children with disabilities falls on the shoulders of parents. That's why the state and the society should pay a great attention and provide necessary support to families who did not want or could not place their children in state children's institutions. Such support should be given taking into account the family's demographic composition (one-parent families or families with both parents), their social and economic state and resources, age, disability degree of a child and rehabilitation potential of the child with disability. Presently, the family taking care of child with disability gets social allowance which is three times less than minimum amount of salary and living wage which are 85 and 87 AZN respectively. It is also less than subsistence wage for people with employment capabilities (96 AZN). Minimum amount of subsistence wage for children is established at 72 AZN²⁷ by Parliament of Azerbaijan as of 2010.

It was determined during the study that the average income of two-parent families is equal to 79% of minimum living wage; in families where the parents are divorced it is 61.6%, and in one-parent (mother) families - 46%. The study showed that 44% of families pay the costs of expensive treatment for their disabled children, and this empties the family's budget. In general, majority of families with children with disabilities experiences significant difficulties in meeting their overall needs for nutrition, rehabilitation, clothing and etc during their life. Only 1.2% of families were able to provide their children with required treatment and at the same time meet their daily needs²⁸ mentioned earlier.

The number of children with disabilities keeps increasing. If their total number was 43,000 in 2004, the number of children with disabilities under 18 exceeds 56,000 persons as of 2010. Considering that majority of these children (about 80-85%) stay with their families, this means an increase in number families who are in need of social protection. Studies as to the age bracket of children with disabilities show that age of majority of children varies from 10 to 14 (47%); about 29% of children are aged 5-9; 14% of children are between 0-4; and children with disabilities aged 15-18 makes up the remaining 10%.

4. Children with disabilities living in the state child institution

Only small percentage of children with disabilities are in residential care institutions, including mainly blind, deaf and mute children, children with severe disabilities. On the other hand, more children with mental disabilities are placed in state child institutions. According to the official statistical data, there are 2 boarding schools functioning in Azerbaijan at present to house children with mental disability and 330 children were staying there as of 2009.

²⁷ the Law of the Azerbaijan Republic on living wage in Azerbaijan Republic for 2010; 2009

²⁸ Monitoring of the state of children with disabilities and their families, "Mushvig" Public Association for Support to children with disabilities, "Independent Life" PA, 2009-2010 (Monitoring held in Baku city)

Table 3: State boarding schools for children with mental disabilities²⁹

Institutions	2007	2008	2009
Number of institutions	2	2	2
Total number of places available in institutions	605	605	605
Number of children in institutions	300	306	330

Proposals and recommendations:

- 1. Improvement of legislative-normative base on social protection of disabled children and their families, as well as local and national legislation on medico-social rehabilitation of disabled children, organization and implementation of social services;*
- 2. There is a need in formation of the state policy on social integration and development of these children;*
- 3. There is a need in elaboration and adoption of “National Action Plan or State program on development of children with disabilities” according to UN Convention on protection of rights of people with disabilities, as well as on the basis of the rights set forth in UN Convention on the Rights of Children;*
- 4. The amount of the social allowances given to families of CWD (child with disability) should be determined depending upon the care provided to children by the families, the degree of disability, age and sex of the children. To this purpose, relevant amendments are to be made to the Law of the Republic of Azerbaijan on Addressed State Social Allowances and new calculations shall be done to meet the real needs of these families;*
- 5. It is important that the information about children with disabilities is included into the special “Database and Case Management System dealing with children in need of special care and protection” that will enable holistic approach to their problems and provide government support and ensure the accountability;*

5. The role and place of social institutions in the process of adaptation of families with disabled children

The state has been playing very limited role in psycho-social rehabilitation and integration of children with disabilities due to lack of specialized services and centers. In contrary, NGOs and CBOs have been very active in this field. The number of Community-Based Rehabilitation Centers operating in Azerbaijan is very low. The majority of the existing centers are operating in Baku and few are in other major cities and region. It should be observed that most of the centers are established by NGOs funded from various international and local donor organizations or business institutions.

Community-Based Rehabilitation Centers targeting the CWD and their families include:

- *“Mushfiq” Public Association of Aid to disabled children - Baki city, Garadaq region*
- *“Independent Life” development and Support Center - Baki city, Garadaq region*
- *“Rainbow” Rehabilitation Center - Baki city, Narimanov region*
- *“Origami” Center for children and youth with disabilities - Baku city, Surakhani region*
- *“Family Support Center” UAFA organization - Baki city, Yasamal region*
- *“Children and Family Support Center” - Baki city, Shuvelan settlement*
- *“Children’s Healthy Future” Rehabilitation Center - Baki city, Yasamal region*
- *“Chiraq” Development Center - Sumqayit city*
- *“Family Support Center” UAFA organization - Ganja city*

²⁹ State Statistical Committee of the Azerbaijan Republic, www.azstat.org, 2010.

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- “Family Support Center” UAFA organization - Khachmaz region
 - “Rehabilitation Center for disabled children” - Ganja city
 - “Mushfiq” Public Association of Aid to disabled children, Masally branch – Masally region
 - “Children and Family Support Center” - Mingechevir town
 - “Children and Family Support Center” - Goranboy region
 - “Healthy Children World” Public Association - Ismayilly region
 - “Care for the Disabled” Public Association - Shaki town
 - “Care for the Disabled” Public Association - Gabala region

In spite of the fact that there are about 16 social rehabilitation centers founded by NGOs in Azerbaijan, they can only cover less than 10% of the CWD. At the same time, 2 medical rehabilitation centers established and funded by government can only serve about 700 CWD per year. As a result it should be stated that there are not enough rehabilitation centers to meet social and medical rehabilitation needs of CWD and their families, and thus the rights of children to development, education, health and etc. are severely violated.

“Community-based rehabilitation is a strategy that is aimed at ensuring the equalization of opportunities, providing the rehabilitation and social integration programs for people with disabilities and based within the communities they live in. Community-based rehabilitation is implemented with participation of persons with disabilities, their families, as well as community members and relevant local NGOs and state agencies.”³⁰

Community-based Centers currently in operation in Azerbaijan have been providing services to disabled children for about 10 years. Most of them are established and operating within the “Mental Health Initiative” program implemented by OSİ-Assistance Foundation and the Save the Children. The beneficiaries of these services get a quality psycho-social services and make progress in social adaptation and integration. As an example, it should be indicated that majority of children involved in inclusive education pilot programs were children who were attending the services delivered by these community-based centers.

The duration and list of rehabilitation services to be delivered to the CWD depend on the disability, rehabilitation potential of a child and level of family involvement and motivation. In some centers (48%) children spend 5 hours per day participating in various developmental and rehabilitation activities. Preschool children irrespective of their rehabilitation potential require more time.

In addition to full scale rehabilitation centers, there is a huge need for establishment of Respite Care Centers³¹ that would be to provide various services to CWD in order to achieve the following objectives:

- Parents can continue to work while children are at Respite Care Center;
- This will help prevent children from being referred to specialized state care facilities;
- This can create a striking difference for mothers and prevent the burn out.

6. Proposals and Recommendations:

In order to promote the development of community based rehabilitation centers and services delivered to CWD at local levels, the following should be solved first:

³⁰ According to information given by Elnur Kalantary, head of press department of the Ministry of Labour and Social Protection of Population (MLSPP). daily.- February 25, 2009- S. 6.

³¹ Paper jointly adopted by WHO, UNESCO and International Labour Organization, 1994.

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- The law on Social Offer should enable the government to fund the NGOs providing services to children and families in need.
 - State should develop the national standards of care and service delivery to CWD and their families.
 - Special evaluation and monitoring guidelines shall be approved by state to ensure the quality of services delivered;
 - Government shall stimulate and support NGOs to open new community-based rehabilitation services or centers in regions of Azerbaijan;
 - The role of the municipalities *in organization, funding and delivery of social services should be strengthened*;
 - *Special education institution shall be established or special curriculum shall be development to prepare the education specialists to work with CWD*;

7. Right of health of children with disabilities (CWD)

State legislation provides the firm framework for protection of right to health of persons with disabilities. Law of Azerbaijan “On prevention of disability and limitation of health, rehabilitation and social protection of persons with disabilities and children with limited health capabilities” adopted in August 25, 1992, provides the grounds to ensure the elimination of the reasons causing disability, provide the rehabilitation of persons with disabilities, ensure the equal opportunities for these persons to participate in all the spheres of life, and establish necessary conditions for persons with disabilities (PWD) to live normal life and find their place in the society based on individual skills and interests.

According to the law the relevant executive authorities prepare and implement the system of measures with the participation of representatives of public organizations of PWD. State programs on prevention of disability and rehabilitation of PWD, as well as individual programs targeting PWD shall be funded from state or local budgets and State Social Protection Fund.

The law might be very good, but lack of implementation and oversight over realization of the provisions of the law creates the serious gaps and leads to the discrimination of PWD and CWD in particular.

8. Proposals and Recommendations:

- 10. Develop a new model for Maternity Welfare Clinic that will provide care to families and especially women. Transition from Women Consultation to Family Consultation. Provision of iodine, vitamin A and other micro-elements to all pregnant women.*
- 11. Perinatal diagnostics and prenatal regular examination of a fetus and a mother based on WHO guidelines to determine congenital defects at early stage and provide genetic and psychological counseling as well as plan medical interventions if required in advance.*
- 12. Development of new technologies for treatment of perinatal pathology, organization of preventive measures for elimination of congenital malformations and hereditary diseases, development of postnatal therapy.*
- 13. Improvement of medical assistance provided to pregnant women and newborn infants;*
- 14. Elaboration and adoption of complex education program for pupils and students to raise their awareness about in-family relationships and promote the family values;*
- 15. Improving the system of diagnosing the disability and allocating the degree of disability based on WHO and other approved international standards.*

9. Rights of CWD to education, leisure activities and participation in cultural activities

At present there are 20,000 disabled children in Azerbaijan that needs to be enrolled in general primary and secondary education. But only 5.000 of them are currently enrolled in schools³². In Azerbaijan involvement of CWD in education is arranged by the Law “on the education (special education) of persons with limited health capabilities” adopted in June 5, 2001.

The first article of the “general definitions” chapter of the law consisting of 3 chapters and 29 articles, defines “a person with limited health capacity”³³. The term person ensures that young people are also covered by this law. Only the article 12 of the law deals with integrated (to some degree can be understood as Inclusive) education.

Despite the fact that integrated education (generally understood as an education of CWD together with the typical children in the same educational institutions) is provided for in the law, it is in reality impossible to realize due to the fact that education institutions logistically, technically and from the human resources and curriculum standpoint are not accessible for CWD.

The only state program “On Inclusive education” was elaborated and implemented during 2006-2009 as an important step aiming at education of CWD and their involvement in general education institutions. The program was governed by the Ministry of Education and within this program World Vision, UNESCO, Center for Innovations in Education, and other international and local NGOs implemented pilot projects in some regions. Despite the positive results during the implementation of these projects, the issue of an inclusive education was not reflected in the new “Law on Education” adopted by Parliament. In addition, the results of the state program “On Inclusive education” mentioned above have not yet been officially evaluated by the government. Evaluations by NGOs confirmed that approach and models for inclusive education and directions are correct. Thus, government shall proceed with adoption of new larger scale Inclusive Education program.

Some CWD are involved in general schools, some in education at home, some in specialized institutions, but majority of CWD are not involved in education at all.

Table: State full-time schools³⁴ (to the beginning of the academic year)

It is undoubted that disability is not only considered when person has certain physical or mental disability. Failing to provide the people with equal opportunities creates a ground for disability, too.

Institution	2005-2006	2006-2007	2007-2008
Number of schools – in total	4538	4516	4538
Specialized boarding schools and schools for children with limited health capabilities	21	21	19

³² Center for Innovations in Education, 2006-2007
“Radio Azadlig”, “15 ths disabled children cannot go to school”, 2006

³³ Law of the Republic of Azerbaijan “On the education (special education) of persons with restricted health capabilities”. Article 1.0.1.: a person with restricted health capabilities is a person with physical, mental and/or psychological disability whose education is a matter of difficulty unless a special condition is created.

³⁴ Yearly book of the State Statistics Committee of the Republic of Azerbaijan, 2008. (see the demographic indices section).

Number of pupils - in total, in thousands	1579	1529	1481
including in:			
Primary schools	9	8	8
Secondary schools	106	96	88
Secondary schools	1457	1418	1378
Including in:			
lyceums	25	27	27
gymnasiums	6	6	7

Table 5. Special boarding schools and schools for children with limited health capabilities (to the beginning of the academic year)

<p>Law on prevention of disablement and limited health capacity, rehabilitation and social security of disabled persons and children with limited health (August 25, 1992 with last amendment in June 2008)</p> <p>Article 17. Education of school age disabled children at home</p> <p><i>Education of disabled children who are not able to study in public schools is provided at home upon their own desire and parents will. Relevant authorities shall establish all conditions for education of disabled children at home.</i></p> <p><i>One of the parents of disabled pupil, getting education at home or person substituting such parent, is provided with material aids and privileges on terms stipulated by the legislation of the Azerbaijan Republic. The period of care for such disabled children will be accounted as labour experience (seniority).</i></p> <p><i>Relevant educational-pedagogical institutions shall render assistance in education of disabled children at home.</i></p> <p>Article 18. Out of school education of disabled children</p> <p><i>With the purpose of ensuring full-fledged and harmonized development of disabled children, their involvement in public activities, labour, science, technologies, arts and sports, relevant authorities, other state structures shall establish necessary conditions for out of school education of disabled children.</i></p>

	Numbers of schools			Pupils who study at these schools, persons		
	2005 - 2006	2006 - 2007	2007 - 2008	2005-2006	2006-2007	2007-2008
Special boarding schools and schools for children with limited health capabilities – in total	21	21	19	6402	6372	5850
Including:						
Mentally disabled	9	9	9	2695	2742	2918
blinds	2	2	2		315	303
Deaf (deaf and mute)	2	2	2	781	780	756
children with hearing difficulties and those who lost their hearing afterwards	1	1	1	182	183	155

Children with chronic poliomyelitis and cerebral palsy	1	1	1	211	175	165
Children with speech disability	2	2	2	550	543	537
others:	3	4	2	702	1634	1016
Number of students from classes for children with limited health opportunities organized in comprehensive secondary school	-	-	-	908	617	600

10. Proposals and Recommendations:

- *Inclusive education should be included in the Law of the Republic of Azerbaijan “On education”*
- *Such issues as accessibility of educational institutions and transportation should find its solution in the law or relevant regulations;*
- *To improve the skills and knowledge of school teachers and psychologists, prepare them to work with CWD.*
- *To adopt new larger scale state program on Inclusive education.*
- *While development education standards, curriculums, textbooks and evaluation and assessment criteria for CWD enrolled in general educational institutions their level of mental and physical development shall be taken into account.*

11. Employment opportunities for CWD

As it was stated above, it is almost impossible for a disabled child who has had his/her right to education only formally or partially provided, get employed as his/her level of skills and education, including simple life skills will be very limited and lower than those of his/her typical fellows. The right to labour is reflected in a separate clause in the Constitution of Azerbaijan. By this clause the Constitution underlines capabilities of people to freely choose the place of work. At the same time the issue of employment of PWD is described in Chapter IV of the Law of the Azerbaijan “On prevention of disability (disablement) and limited health capabilities, rehabilitation and social protection of PWD and children with limited health capabilities”.

In this chapter, an appropriate quota for hiring the PWD and CWD is established. In the society where prejudices and stigma against PWD are still playing a leading role, the difficulties in employment of children and youth with disabilities is obvious.

Government also provides some incentives to the enterprises that employ PWD. The list of persons exempted from taxes, is given in the article 106 of the Tax Code³⁵. By this article some institutions dealing with disabled persons are exempted from tax or tax rates are reduced. However, despite these nice provisions in Tax Code and the above mentioned law, in practice none of them have found real application. Companies, state or private, either do not pay attention to the above law or merely ignore the requirements of the law. And as the monitoring of implementation of laws are main problem in Azerbaijan, having thousands of CWD and PWD out of work is not surprising.

11. Proposals and Recommendations:

- *It is important that special credits (for example, reduction of or exemption from taxes) that can be applied to employers should be specified in the relevant legislative acts.*

³⁵ Ministry of Taxes of the Republic of Azerbaijan, article 106.

- Increase in quota in enterprises and toughen control over the implementation of above mentioned articles of the law to ensure employment for PWD;
- It is important that special support and tax credits should be provided by the state to children and people with disabilities who wish to start their enterprises or become entrepreneurs;
- Increase in number of vocational training centers and improvement of technical capacity level of the existing ones.

12. Accessibility of environment for PWD and CWD

The Law of Azerbaijan “on prevention of disablement and limited health capacity, rehabilitation and social security of disabled persons and children with limited health capabilities” was adopted in 1992 and amended further with latest one done in 2008.

The state acknowledges the rights and needs of PWD and is obliged to protect them, but it fails to create appropriate conditions to ensure the rights of PWD, attract resources and provide their access to various services. Due to inaccessibility of physical environment, in Baku and other cities and regions, for example, in the street one can hardly see PWD even in wheelchairs or blind persons and especially children. Because the streets, roads, parks, public buildings and even apartment buildings are not easily accessible for PWD. Disabled persons (children) cannot freely move in the streets because of the lack of traffic lights with a special sound or vibration, as well as specially trained dogs for blind people.

Because the buildings of the schools, libraries, hospitals and other public agencies are not accessible or suited for movement of blind people and wheelchairs, it is impossible for majority of PWD and CWD to enter these institutions. No special paved ways for wheelchairs and special lifting equipment is available in residential buildings or public buildings, parks for the easy movement of PWD and CWD even in wheelchairs.

Here architectural agencies and chief architects of the cities should be more attentive to the rights and needs of PWD and shall

Article 23. Special measures on employment of disabled persons and persons under 18 with limited health

Special measures on employment of disabled persons and persons under 18 with limited health include the variety of activities directed at provision of employment of disabled persons and persons under 18 and legal confirmation of commitments on provision of financial assistance and privileges to enterprises, entities and organisations (regardless of form of ownership) who provide vacancies for disabled persons and those who use their labour.

Article 25. Provision of employment to disabled persons and persons under 18 with limited health

Relevant authorities and enterprises (unions), entities and organisations together with public unions of disabled persons and persons under 18 with limited health will guarantee the employment of disabled persons and persons under 18 with limited health via establishment of enterprises and organisations for employment of those persons, provision of special education program and application of other measures.

At enterprises, entities and organisations regardless of the form of ownership, with exception of those listed by the relevant authority, quota for the persons under 18 with limited health shall be established in an order stipulated by the legislation.

Enterprises, entities and organisations who do not provide the target employment quotas for disabled persons and persons under 18 with limited health or avoiding their employment, regardless of the form of ownership shall make payments to the *State Social Protection Fund* of the Azerbaijan Republic at the rate of three times of *average monthly salaries in the country* for each vacancies and each month of unemployment of disabled individuals and persons under 18 with limited health.

Reference of disabled individuals and persons under 18 with limited health to established vacant positions shall be implemented by local state employment offices. Reference on employment of disabled persons and persons under 18 with limited health is mandatory for all enterprises and entities regardless of the form of ownership.

ensure the accessibility of current and new buildings or facilities for PWD before giving permissions for their construction or remodeling or refurbishment.

It is important to listen to PWD before giving permissions to the construction of parks, public facilities, buildings and others. The Law “On prevention of disability, rehabilitation and social protection of disabled persons” adopted in 1992 states that “construction, projection of residential communities, forming of residential areas, construction and reconstruction of buildings, other structures, as well as airports, railway stations, complexes and communications are not permitted unless they are suited to the use of PWD and it is not allowed to fail to take these issues into account. Participation of organizations for disabled persons is important during resolution of this kind of issues.”

The monitoring of many buildings and parks being under construction and/or completed buildings and other facilities in Baku showed that they are not accessible for PWD and the opinion of PWD has never been sought. No lifts or other automatic elevators for PWD were even installed during the construction of numerous underground passages in main streets of Baku. This indicates that Executive Power of Baku city and other relevant state agencies do not have Strategy or Concept to ensure accessibility of physical environment for PWD or they just merely ignore the rights of the PWD and provisions of the law.

Table: Libraries for children by the system of the Ministry of Culture and Tourism³⁶ (to the beginning of the year)

	2005	2006	2007	2008
Number of libraries for children	106	103	103	103
Number of books and magazines, million copies	2.6	2.7	2.2	2.2
Number of readers, thousands	302	293	286	264

As seen from Table above, there were 103 libraries for children, but majority of them are not accessible for the CWD. As seen from Table below CWD cannot even participate together with other children in activities of the interest clubs within the system of the Ministry of Culture and Tourism.

Table: Extra-curricula interest clubs and courses for children within the system of the Ministry of Culture and Tourism³⁷ (to the beginning of the year)

Institutions/Participants	2005	2006	2007	2008
Number of interest clubs and extra-curricula courses for children	3410	3375	3365	3482
participants, ths	44.9	44.2	45.3	42.7

13. Proposals and Recommendations:

It was determined that 200 PWD out of 1.500 registered in Baku are in need of a wheelchairs and usually stand in queue to get one for many months and years. The cost of a wheelchair is minimum 150 USD.

³⁶ Yearly book of the State Statistics Committee of the Republic of Azerbaijan, 2008. (see the demographic indices section).

³⁷ Yearly book of the State Statistics Committee of the Republic of Azerbaijan, 2008. (see the demographic indices section).

The shortage of crutches and problems of preparation of prosthetic devices should also be resolved.

One of the important factors for social integration of children with limited health capabilities is the establishment of Services of Social Transportation;

Make sure the opinions of organizations of PWD and CWD are taken into account during construction or remodeling of buildings, parks, public facilities, roads and etc.

CHAPTER V. THE STATE OF PROVISION OF THE RIGHT OF THE CHILDREN TO HEALTH

1. General overview

Studies conducted by a number of organizations show that the state budgetary funds are not used efficiently and transparently enough in the health care sector like in other social spheres and corruption has been widely spread in the healthcare system. Every year 4.3% of the state budget expenses are allocated for health care³⁸. For the last three years though the mandatory amount of funds allocated from the state budget for the health has increased threefold (due to increase in total amount of state budget), one can hardly see considerable improvement in this field.

The necessity of reforms to be conducted as to the efficient use of funds in the Healthcare sphere is considered as one of the priorities for the reduction of poverty in the country. The health care reforms, the issues of treatment and eradication of some diseases provided for in the First State Program on the poverty reduction and economic development in Azerbaijan for the period of 2003-2005, as well as in the Second State Program covering the period until 2015 have been considered as key factors of improving the welfare of population in the country.

However, to achieve the wellbeing of population there is a need not only to increase the budgetary allocations to healthcare system, but rather to enhance the transparent and effective spending of these funds.

Over the last years government has adopted and implemented number of health care programs targeting the treatment of various diseases, as well as preventive measures against the spread of certain diseases. Government also showed significant positive indication to improve the healthcare system and harmonize the healthcare and medical education with international standards by establishing the Center for the Reforms and Public Health under the Ministry of Health. That is why, a positive progress is indicated in the field of health care in Azerbaijan in comparison with the situation described in the alternative report by NGO Alliance for the period of 1998-2005.

Table. Programs in the field of health care funded from the state budget during 2007-2008

	Description of programs	Budgetary funds (mln. Manat)	
		2007	2008
1.	Chronic renal insufficiency Measures Program	13,0	14,4
2.	State Program on Pancreatic Diabetes	2,8	6,8
3.	State Program on hereditary blood diseases- haemophilia and thalassemia	8,7	9,2

³⁸ "Research on 2011 State Budget", by Gubad Ibadoglu, National Budget Group, 2011

4.	Program of Measures on provision of basic medications for oncologic patients		5,0
5.	Program of Measures on immuno-prophylaxis of infectious transmissible diseases	1,9	1,1
6.	State Program on protection of health of children and mothers	4,8	5,2
7.	State Program on blood donors and blood products and development of blood banks services	0,7	0,8
8.	Azerbaijan State E-Program		2,1
9.	Charges with respect to compulsory medical insurance		4,0
10.	Program of Measures on training of social health care staff		1,4
11	Charges with respect to application of “Electronic health card” and “Medical examination card” system	1,6 0,4	

Absence of strategy. Government and Ministry of Health in particular does not have explicit strategy on “health care reform”. The government does not have a national strategy on development of health care sphere. Although it is widely accepted fact that the medicine is differing in many aspects in Baku capital and regions, and also there are different priorities from region to region, however, government also lacks the strategy for regional based development of health care. During the last 10 years government has been several times introducing the fee-based medical services or widening the range of the fee-based services by state owned medical institutions. Several times during the recent years there have been major changes in government policies in this regard. The fee-based services have been recently suspended and reversed by successive government. However, the current analyses show that despite the affirmations by the Minister of Health that health care services are free and the medications are free for patients, the number of fee-based services is on increase³⁹.

Recently, in 2010 Ministry of Health made serious efforts to abolish the corruption or illegal fee-based services from state healthcare facilities and even several prosecutions on corruption charges were made to show the seriousness of the government. However, this artificial measures with no substantial increase in salaries of physicians, nurses and other healthcare specialists would remain on a paper and in contrary lead to even worse consequences for population.

In 2006 the World Bank and Azerbaijan Government signed a credit agreement to finance the Health Sector Reform Project for the period of 2006-2012 which was worth about 87 mln US\$. This pilot scheme was going to be introduced in several districts of country and the main aims would be to improve the good governance and financial management of health system as well as at gradually introducing universal risk protection against out-of-pocket health expenditures and moving towards insurance principles through improved revenue mobilisation, pooling and allocation of health sector resources and purchasing of health care services⁴⁰.

In 2008, UNICEF published the report that shed a light on health care expenditures in Azerbaijan. The report pointed out that further actions shall be taken by government to

³⁹ Centre for Economic Research, research paper 2007 (can be viewed at Ayna.az as of 17 March 2007)

⁴⁰ World Bank, Project ID: P094220, www.worldbank.org

achieve the realisation of issues brought up in the 'Concept Note on Reforming the System of Healthcare Financing System and Compulsory Medical Insurance'⁴¹.

When analyzing the healthcare expenditures, it is obvious that government does not place strong emphasize on prevention of disease, but rather continues to spend more for treatment of diseases and most often ones that have already far advanced. According to the UNICEF funded report⁴² mentioned above, in 2007, 55 per cent of the state budget on health was spent on hospitals and only 16 per cent on primary healthcare services. As could be seen from the same report this distribution changes to 49 per cent (188 million AZN) and 14 per cent (52 million AZN) respectively in 2008, a drop due to a significant rise in "other services related to health".

Availability. Functioning public health and health-care facilities, goods and services, as well as programmes, have to be available in sufficient quantity within the State party⁴³.

Although government takes steps to increase the budgetary allocations to the health system, however, the improvement of the health care can not be achieved only through increase of State expenditures. And also we should keep in mind that increase in State budget expenditures does not necessarily mean the improvement of quality of medical care, because the major portion of the funding is going to cover the increase in salaries which is by the opinion of many experts is always done as the result of increase in inflation rate or always precedes the increase in prices for food. There should be the increase in the portion of private health care system which now constitutes only 3-5% of all health care services. The government started to build modern clinics and hospitals in many parts of the country as well as to equip them with modern equipment in 2003-2004, however, in the light of lack of professionals and lack of modern treatment skills of current medical graduates lead to the mere fact that the quality of health care is lacking and the expensive equipment is merely not used. And despite of new clinics built in regions, the majority of people living outside of the capital are still leading toward the capital in search for "relatively better" medical care. However, the country's current medical care is not in a position to provide required diagnosis and necessary treatment for many disease conditions. The specialised areas of medical science, like cardio-vascular surgery, haematology, transplantation of organs and tissues and neurosurgery, are still underdeveloped, which force many patients to leave the country for better medical care to Iran, Russia, Turkey, Germany, UK and Israel.

UNICEF's report⁴⁴ says that "*The number of hospitals per 100,000 population in Azerbaijan is about 8.6, the highest among 39 countries of Europe and 70 per cent more than the average for the CIS; this might be the reason why Azerbaijan's total in-patient expenditure as a percentage of total health expenditures has been quite high (72 per cent in 2005 and 61 per cent in 2006), lower than that of Ukraine only in 2005. But Ukraine's in-patient care admissions per 100 were about 22 during the same year; four times more than that of Azerbaijan. Either people are healthy and do not need in-patient care very often or hospitals are not easily accessible. In either case the question then arises as for the efficiency of resources allocated to hospitals. Azerbaijan has the lowest in-patient care admissions per 100 among European countries, but the longest average duration of stay in hospitals (2006): 14.5 days.*"

⁴¹ Azərbaycan Respublikasında Səhiyyənin Maliyyələşdirilməsi Sisteminin İslahatı Və İcbari Tibbi Sığortanın Tətbiqi Konsepsiyası, Azərbaycan Respublikası Prezidentinin 2008-ci il 10 yanvar tarixli Sərəncamı ilə təsdiq edilmişdir.

⁴² Budget investments in health and education of Azerbaijani children, UNICEF, 2008

⁴³ UN CESCR, General comment 14, 2001

⁴⁴ Budget investments in health and education of Azerbaijani children, UNICEF, 2008

Despite the world wide acceptance and international experience and leadership available in the field of health insurance, Azerbaijani government is reluctant to move forward in this direction. Since 1995 Azerbaijan has adopted number of laws, including the Constitution of Azerbaijan, “law on health insurance” (28 October 1999) and “law on insurance” (5 January 1993) there has been no tangible moves towards the application of health insurance in country. Currently the health insurance is applied in private clinics, which is made possible from the insurance of employees of many foreign oil and service companies. The main obstacle here is the absence of national strategy and program for the development of health insurance system in the country.

From the monitoring visit:

It took about 3 hours to put 2 year old child’s broken arm in cast. The shift doctor told the parent to leave his child with the nurse after she was sent to buy the supplies required for cast placement, including bandage, cotton and gauze.

The parent did as requested and went out looking for a pharmacy at 11:00 pm in the streets of Sumgayit city. After about an hour she bought all the required supplies from the pharmacy located several kilometers away and returned to hospital, where she was told to go and buy another bandage as the bandage was not enough to put an arm in cast. The mother seeing her baby crying of the pain that she couldn’t endure any longer waiting in a dressing ward for a medical supplies asked a shift doctor to be quick in rendering medical assistance to the child and promised to pay double price of the bandages and the services of the doctor. And when told that it is impossible that the hospital do not keep bandages, the doctor replied that there are no medical supplies and they have never got any.

When the parent stated that it was an insult to a citizen to look for bandages and cotton in pharmacy in this situation and at night, the doctor complained: “You think we are happy? I have been working as a doctor for 25 years and my salary is just 160 AZN. I have no apartment of my own and I’m forced to rent it. And you are talking about the lack of bandages. You please go and ask the Ministry and the health and health care department of Sumgayit for response.”

Then our monitoring officer became the witness of another incident. There were no medicine and syringes in the hospital to make an analgesic injection to a patient who had a trauma. One of the in-patients said that he had an analgesic but there was no syringe that costs just 0.05 AZN in the public hospital. As to the patient, he had to stay in the dressing ward in severe pain.

Monitoring revealed that public hospitals of Sumgayit city were in a bad state.

Quality of health care. The quality of health care has been decreasing since the collapse of the Soviet Union for many reasons described before. The main cause of decline in quality relates to the decline in the quality of medical education, lack of training of medical graduates, absence of modern scientific research laboratories, lack of medical literature in Azerbaijani language meeting the current demands of the medical science, absence of modern equipment in majority of clinics and hospitals, particularly those in remote rural areas and also low level of salaries of doctors and nurses⁴⁵.

Table. Diseases among population

	2005	2006	2007	2008	2009
General number of sick people, in mln.	1.50	1.4	1.55	1.59	1.62
Diseases during pregnancy, during delivery and after birth, in thousands	19.19	24.48	29.34	33.76	43.42

Table. Diseases among children of 0-17 years old

	2005	2006	2007	2008	2009

⁴⁵ Centre for Economic Research, report of the meeting on “Per capital financing in the health care system”, 2007

General number of sick children, in thousands	701	686	715	726	742
Diseases during pregnancy, during delivery and after birth	12	13	56	108	133

Corruption. It is widely accepted fact that corruption is widespread in Azerbaijan and health care system is not spared. Government has been putting in place various laws and mechanisms to fight the corruption with little effect. The corruption is the prevailing cause preventing the access of population to health care. The meaning of limited access can be explained by fact that in very serious diseases the people “justify” any medical care expenses, however, in less severe cases or in the beginning of many preventable or curable diseases the people do not normally seek medical care. This approach is widespread among males, although females are prone to that as well. As it was described above, the low salary level of doctors and nurses is another major cause of the wide spread corruption within the health system. The doctors earn less than 500-600 USD per month and nurses earn even less. Considering that the food basket in Azerbaijan is approaching 120 USD and bearing in mind the recent almost double increase in prices then one can easily assess the level of corruption among the health professionals.

The recent report by WB confirms that only 1,8-2% of health care services are provided through international monetary aid. The 5% of services are provided through medical insurance and private clinics. The 70-80% of financing of medical care is due to unofficial payments of patients⁴⁶.

2. The health of a mother and a child

NGO Alliance’s working group conducted the monitoring visits to 5 regions of country in order to evaluate the implementation of the State Program on health of a mother and a child at local levels and determine, if possible, the effect of the program on health of mothers and children. It was revealed that certain issues were tackled within this state program, however, many more problems are still remaining unsolved. The followings were identified as shortcomings of this program:

- Unawareness of majority of recently married young people or those planning to get married about family planning and counseling services;
- Rapidly increasing number of early marriages among youths, especially girls;
- Pregnant women do not visit obstetrics and gynecologic centers and do not undergo routine health examinations on a regular basis;
- Even so the delivery of a baby as well as other healthcare services are free, the corruption is widespread and women face significant financial restraints during pregnancy and delivery. Thus, many more children are born every year at home.
- There is huge difference in the prices of feeding formula for infants and babies and the incomes of population. Thus mothers who can not breastfeed their infants or have to use feeding formulas in addition to breast milk has difficulties to do so.

Even so, government refuses to accept the infant mortality and under 5 mortality rates provided by UN agencies, even the official numbers provided by state statistical committee are still high for such small and rich country like Azerbaijan with “new hospitals built almost every year and many hospitals being refurbished”.

⁴⁶ Centre for Economic Research, research paper, 2007 (can be viewed at Ayna.az as of 17 March 2007)

Mother and child died during the delivery.

Two cases of death were registered at Shaki Regional Hospital within short period of time. The information about these deaths was submitted to the APA Shaki-Zagatala Department by Shaki residents. As the residents said, the first case of death was registered in the delivery ward of the hospital on July 23. M.D. from Inja village died along with her baby during the delivery. The second case occurred on July 24. A person whose name and surname are still unknown died during the surgical operation.

Madjid Aliyev, chief physician of SRH confirmed two death facts in his statement to APA. The chief physician stated that he already informed the Ministry of Health on death cases. He said that he couldn't give detailed information on the death facts by the reasons that death facts were not fully investigated.

Infant and child mortality

According to the UNICEF's report "Azerbaijan has been able to decrease its under-five mortality (U5MR) from 9829 per 1,000 live births in 1990 and 88 in 1996-200130, to 50 in 200431 and about 39 in 200732 based on data from surveys. The infant mortality rate (IMR) has also been reduced from 74 per 1,000 live births in 1996-200133 to 43 in 2004 (48 for males and 38 for females)³⁴ and to 34 in 200735. Using official figures, U5MR was reduced from 40.5 in 1990 to 14.3 in 200636.⁴⁷"

According to surveys held by Public Association for Support for Economic Initiatives in April-May, 2009, reasons of child mortality in Azerbaijan are as follows.

Both state and non-governmental observations with respect to children's health in Azerbaijan revealed that main percent of mortality among children falls into neonatal period. Should the reasons causing the child mortality in Azerbaijan be arranged in the order of occurrence frequency, the followings would be revealed:

- respiratory diseases are at the first place. It refers both to infants and older children;
- in the second place there are diseases occurred at the neonatal period, i.e. the disease of a newborn till 40 days.
- infectious and non-infectious diseases of gastrointestinal system are in the third place;
- then come other diseases, birth defects, acquired diseases, etc.
- Majority of cases of infant and child deaths from health problems are identified among families living in poverty or low income families. The main reason for this is that pregnant women from these families cannot afford to go for a regular check-up visits, regularly take vitamins, do not attend family planning or genetic counseling centers.
- But there are regions in Azerbaijan where child mortality rate is almost the same as in European countries.⁴⁸

Along with the other problems, early marriages in Azerbaijan are revealed to cause diseases and tragedies. During surveys, interviews conducted and round-tables, participants especially medical workers themselves stated that early marriages cause a variety of problems not only for young girls but their parents as well.

⁴⁷ Budget investments in health and education of Azerbaijani children, UNICEF, 2008

⁴⁸ Findings of the monitoring of the state of implementation of the "Program of Measures on protection of health of mothers and children", NGO Alliance, 2009-2010.

3. Proposals and Recommendations:

- *Government shall increase real expenditures for health care system, including salaries of healthcare workers.*
- *Special strategy or national program on healthcare reform should be developed and adopted.*
- *Emphasize and more funds should be allocated to primary care sector rather than to hospitals. More family physicians are needed rather than new hospital buildings.*
- *Evidence based medicine shall be emphasized and this concept shall be effectively applied in practice.*

4. Problems of patients with pancreatic diabetes

State Program on Pancreatic Diabetes for the period of 2005-2009 is completed now. In fact, the government started to allocate budgetary funds for the implementation of this program only from 2006 and the funds were mainly allocated to cover medications.

There are 108.317 patients with pancreatic diabetes registered in Azerbaijan as of 2009. About 0.5% of these patients are children under age of 13 and 0.4% are children aged 13-17. Although 21% of all patients with diabetes are patients with type I diabetes (insulin-dependent diabetes) and 79 percent - with type II (insulin-independent), but 99% of all children aged 0-18 with diabetes are type I diabetics. This means that insulin is vitally important medicine for them.

However, as it was determined during the monitoring only children living in Baku are timely provided with high-quality insulin to a certain extent (this accounts for medicines to be provided on a centralized basis). The distribution of medicines to the regions of Azerbaijan is unsatisfactory. The funds allocated to the state program is not submitted to the financial department of executive power by a separate clause; in most cases they purchase insulin that is of low quality and does not conform to the requirements in order to save funds.

In the heaviest cases children have been provided with high-quality insulin by Heydar Aliyev Foundation. In 2008 Azerbaijan Diabetes League (ADL) also provided 150 children with high-quality insulin Lantus during the year. However, humanitarian assistance is not a substitute for full continuous provision in accordance with obligations of the State.

The provision of means for insulin injections is also not satisfactory. All the persons with diabetes were provided with glucometer and 50 test-sticks within the state program. Although according to the resolution of the Cabinet of Ministers on the approval of the "Procedure for provision of persons with pancreatic diabetes with insulin and other medicines decreasing hyperglycemia and means of self-control", #87 and dated May 13, 2005, persons with type I diabetes to be provided with 1 box (50 pieces) of test-sticks per month, children in reality get only 1-2 boxes a year.

According to the state program, the Resolution of the Ministry of Health "On the establishment and development of "schools for diabetes" No.88 dated June 25, 2007, was adopted. But as no mechanism nor funds for its implementation does exist, "schools for diabetes" established in some regions bear a formal character. But there are schools actually operating (with the support of Azerbaijan Diabetes League) in the cardiological dispensary of the hospital No.6 of Baku.

No well-grounded activities have been carried out to organize the special summer camps, summer schools and other type of educational establishments specified in the state programs for rehabilitation purposes of children with diabetes and their families. Special summer camps for the children with diabetes were organized during 2000-2009 by the initiative of ADL public association and with the financial support from the Ministry of Youth

and Sport and Ms.Mehriban Aliyeva, the First Lady. But these summer camps can only accommodate 50 children with diabetes per year, which is obviously not enough.

5. Proposals and Recommendations:

- *Special monitoring service of the Ministry of Health shall conduct regular monitoring visits to ensure appropriate expenditures of budgetary funds allocated for the purchase of insulin;*
- *State shall guarantee the provision of children with high-quality insulin Lantus or Levemir during the year;*
- *According to the Resolution of the Cabinet of Ministers on the approval of the "Procedure for provision of persons with pancreatic diabetes with insulin and other medicines decreasing glycemia and means of self-control", numbered 87 and dated May 13, 2005, persons with type I diabetes should be provided with 1 box (50 pieces) of test-sticks per month.*

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