

**NATIONAL DEMOCRATIC INSTITUTE  
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**PRE-ELECTION REPORT**

**THE NOVEMBER 1995 PARLIAMENTARY ELECTIONS**

**REPUBLIC OF AZERBAIJAN**

**October 31, 1995**



# National Democratic Institute For International Affairs

conducting nonpartisan international programs to help promote, maintain and strengthen democratic institutions



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October 31, 1995

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This report has been prepared by the National Democratic Institute for International Affairs to provide a summary of the issues involved in Azerbaijan's constitutional referendum and parliamentary elections on November 12, 1995. For further information on this report or NDI's programs, please contact the Institute in Washington, D.C. or at the following address in Baku:

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## SECTION I

### EXECUTIVE SUMMARY

The National Democratic Institute for International Affairs (NDI) opened an office in Baku, Republic of Azerbaijan in August to provide support to political parties in advance of parliamentary elections scheduled for November 12, 1995. NDI's activities have built upon relationships that NDI developed and maintained from abroad with Azerbaijani political leaders over the past two years.

During its work in Azerbaijan, NDI has observed first-hand the preparations for the elections, and spoken to all those involved in the process. On the basis of this work, we have produced this report to document what we have seen and learned. The report identifies certain issues associated with preparations for the elections and encourages authorities to address them in a manner that ensures that the elections are in keeping with international norms. The report also provides information about the elections to international monitors to help them interpret what they will observe at the polls on election day.

NDI considers the issues outlined in this report serious, reflecting growing concern in Azerbaijan that aspects of the electoral process discourage popular participation rather than promote it. Whether such concerns are perceived or real they attest to flaws in a process that will produce an important institutional foundation of a newly independent Azerbaijani state: the parliament. For a nation long at war and subject to a variety of domestic and international pressures, the new parliament could and should serve as a vehicle to unify and mobilize the strength of the people. Its success in fulfilling this function will depend upon the extent to which it commands public trust.

It is the government's responsibility, among others, to promote such acceptance by creating an environment that ensures representative and fair elections. The ballot must be open to diverse and competing political forces. The campaign period must encourage peaceful expression and allow for open debate of policy alternatives. The press must report without fear of censorship or reprisal. An independent process for the resolution of complaints and appeals must exist. Citizens must understand the choices they confront, and have confidence in their vote.

Uncertainty and disappointment have led many political leaders in Azerbaijan to consider boycotting the elections. At this juncture we offer our judgement that it is in the interest of the nation that the elections and resulting parliament be considered legitimate by the Azerbaijani people and, for the sake of legitimacy, that conditions be provided to enable the widest participation possible. It is in this spirit, and in the spirit of international cooperation, that NDI urges the government to resolve all outstanding concerns that threaten to weaken public trust and participation in the events of November 12. Specifically, we recommend that the following steps be taken to address problems and promote a more open process:

The electoral commissions should:

- be staffed and operating during their stipulated hours of work;
- ensure that complaints and appeals by political parties and individual candidates relating to the certification process be treated in an open and timely manner, and that those who win the appeals process be granted an easy means to get back on the ballot and compete in the election campaign;
- publish in all media, including press, radio and television, guidelines concerning the rights and regulations pertaining to candidates, political parties, election commission workers, and the media so that each may understand his or her role and responsibilities in the electoral process;
- inform voters of the kinds of documentation that are acceptable for the purpose of voting, and instruct them that each has a right to vote and that no one may cast a ballot for someone else;
- publish and post in a timely manner before election day copies of registered voter lists, including lists of refugee voters;
- publish a list of the total number of registered voters by district in advance of election day to be checked against the final vote count;
- publish and post at all polling places a statement of the rights and functions of party and candidate monitors;
- process requests for accreditation of party and candidate monitors in an expeditious and open fashion, and accord them all rights and conditions to which monitors are entitled on election day in compliance with the election law;
- ensure that voting and tabulations are conducted in the presence of political party and candidate monitors;
- provide voters, candidates and political party representatives with easy access to complaint forms, and publish an explanation of the complaint process for display and distribution at polling sites; and
- resolve the contradiction that currently allows for run-off elections to be conducted before the official announcement of first-round election results.

In addition to these steps, government officials should:

- eliminate remaining impediments to free expression and take steps to eradicate fears of harassment or reprisal that allow habits of self-censorship to persist;
- issue clear guidelines concerning the role of the media in the electoral process, and encourage media representatives to provide nonpartisan information concerning the elections and sponsor candidate forums and debates; and
- instruct the police against undertaking activities that might interfere with peaceful election activity and the work of the electoral commissions, and ensure that any instances of harassment and campaign-related violence are completely investigated.

In this report we are able to provide only a cursory treatment of the issues surrounding the adoption of a new constitution, for which a public referendum is also scheduled to take place on November 12. Adoption of a new constitution is no less significant an event than elections for a new parliament. However, the views of the public

were not elicited during the drafting process and little information about the content of the constitution has been disseminated. NDI urges the government to make every effort in the remaining weeks to acquaint the electorate with the draft, thereby ensuring that the referendum is a meaningful process and that its outcome is popularly accepted.

NDI recognizes that these elections are but one aspect of Azerbaijan's political development. We greatly appreciate the hospitality extended to NDI's representatives in Baku over the past several months, and the encouragement and commitment to ongoing cooperation we have received from President Aliev with respect to our work. We look forward to continued close cooperation with all those in Azerbaijan who have pledged their efforts to building democracy.

## SECTION II

### BRIEFING PAPER

#### Political Background

On November 12, 1995, Azerbaijan will hold its first parliamentary elections as an independent state. A new republican constitution will also be subject to public referendum on election day. The manner in which the electoral and referendum processes are conducted will provide some indication about the priorities and commitment of Azerbaijan's political leadership to building democracy.

Azerbaijan first declared its sovereignty from the Soviet Union on September 23, 1989 soon after the call for independence was first trumpeted in the Baltic states. The coup attempt in Moscow in 1991 that toppled the communist regime created conditions for the formal declaration of the republic's independence that same month, on August 31. In June 1992, Abulfaz Elchibey became Azerbaijan's first popularly elected president. Heydar Aliiev unseated him in a coup in June 1993, officially assuming the presidency in an election the following October in which he captured 98.5 percent of the vote. The republic is presently governed as a highly centralized state in which power and authority flow from the office and person of the president down to the executive authorities at the local level.

Serving a tenure that began before the advent of independence and which will terminate on November 12, the National Assembly or *milli mejlis* functioned as Azerbaijan's parliament. The *milli mejlis* was a 50-person body formed under the government of former President Ayaz Mutalibov in 1991 to share power between representatives of the old regime and the burgeoning pro-independence movement, the Azerbaijan Popular Front. In its later days it was widely regarded as a rump parliament that functioned as an adjunct and agent of executive authority.

The institutionalization of presidential authority is reinforced by a network of regional and family ties. Relatives of the President are prominent in the republic's ministries and commercial life. Nakhichevan, an autonomous region of Azerbaijan situated between Iran and Armenia, is the *terra nostra* of the regime.

Politics in Azerbaijan is highly polarized and personal; political orientations are largely the function of attitudes toward the President. The absence of neutrality in public life is reflected in the civic sphere where, as a rule, women's associations, human rights committees, lawyers' societies and youth groups manifest political tendencies; nonpartisan political actors or advocacy groups organized around agendas of systemic reform have yet to emerge.

The media in Baku includes several independent and party-sponsored newspapers, but the great majority of the print press and all television and radio broadcasting, with the exception of one part-time channel, are controlled by the state. No independent media operate beyond the one part-time channel. No independent media operate beyond the outer



limits of Baku.

The polarized nature of politics is reflected in a state law, which declares it a capital crime to insult the honor or dignity of the President. The law was recently invoked in October this year, when four independent journalists were tried and condemned to prison sentences of two to five years for this crime. Critics of the government assert that authorities have threatened to invoke the clause in order to persuade political leaders to moderate their words or actions, or to maintain pressure on the media in an environment of reduced formal censorship.

War-weary and beset by domestic problems that include material privation, pervasive criminality and an influx of refugees, many Azerbaijanis are disillusioned with public life and lack confidence in the political system. They are also afraid to act. They describe an atmosphere of fear that pervades society, and claim that it has discouraged citizens from exercising their formal rights during the electoral process to sign petitions, participate in campaign activity or document violations of the election law.

While many political parties express these concerns, they have also made the decision to engage in the political process and, in particular, contest the November elections. The recent failure of many to get on the ballot, however, has renewed attitudes of defeatism and mistrust and engendered threats by several groups to boycott the elections.

The conduct of politics is inseparable from the consequences of the seven-year-old war in Nagorno-Karabagh and surrounding areas. Despite a negotiated cease-fire which has held for over a year, sporadic shelling continues in a war that is an ongoing crisis for Azerbaijan. The war has resulted in the loss of 20 percent of the country's territory, including seven districts (*oblasts*) outside the disputed area, and produced a population of refugees and displaced persons that is believed to exceed one million, perhaps 750,000 thousand of whom are now in Baku. Nagorno-Karabagh is an extremely powerful national symbol that has mobilized public opinion and consolidated support for the current government. It is also a reminder of the interdependence of domestic and external politics, and the role that Russia continues to play in the region.

Elections for a new parliament, now scheduled for November, have been anticipated and then postponed at various times during the last three years. The decision to hold them in the days ahead was made this spring by President Aliev, who supervised the legal and administrative preparations for the process. The elections reflect a broad public consensus that the *milli mejlis* is a moribund body whose replacement by a professional, representative and independent-minded parliament is long overdue.

## **The Election Framework**

### ***Offices to be Elected***

The elections will produce a unicameral, 125-member parliament to replace the *milli mejlis*. One hundred seats will be elected from single-mandate districts, and 25 will be elected on a national basis from political party lists. In order for the single-mandate races to be considered valid, 50 percent of all registered voters in the district in question must cast ballots. If the election itself is sustained, the victorious candidate in a given district must receive over 50 percent of the vote; otherwise, the two candidates with the most votes will compete in a runoff election. Validation of the proportional races requires a nationwide registered voter turnout of 50 percent. Parties must satisfy an eight percent threshold of all votes cast in order to qualify to claim parliamentary seats. While the new parliament is ultimately envisioned as a professional body composed of full-time lawmakers, a concluding clause in the election law empowers the Central Election Commission to make an exception for 15 percent of the deputies elected in 1995. These 18 members may occupy posts in government agencies at the same time that they hold legislative office. The parliament shall serve a term of five years.

### ***The Constitution***

On November 12, the Azerbaijani public will also participate in a referendum on a new constitution to replace the current constitution of 1978. The draft constitution was first published in Azeri in the official newspaper on October 14, one month before the referendum. Five days have been reserved for public discussion of the draft, after which time the working group of the Constitutional Commission, headed by the President, will resume deliberations to produce a final text. The Constitutional Commission is scheduled to receive the final draft by October 30 and, following its review, publish it in the official press 10 days before referendum day.

In order for the constitution to be adopted by referendum, 75 percent of voters casting ballots must approve it at the polls on November 12.

### ***Election Administration***

President Aliiev reappointed Jafar Veliev as Chairman of the Central Election Commission (CEC) in August 1995. The Chairman, in turn, named the 14 members who constitute the CEC. On October 3, the parliament approved a request from the Chairman to enlarge the Commission by five members. The law prohibits political parties from having representation in the CEC.

District commission chairpersons are selected by the CEC and approved by parliament. The commissions are composed of 12 members who are chosen according to a lottery system. The law prohibits political parties from having representation at the district commission level.

Precinct commission chairpersons are selected by their district level counterparts. These local commissions vary in size from seven to 18 members depending upon the number of citizens registered to vote at that polling station. The commissions are selected according to a formula stipulating that 50 percent of members shall represent state enterprises and entities; 30 percent, chosen by lottery, shall represent political parties; and 20 percent, also selected through lottery, shall represent independent candidates.

Because the process certifying parties and candidates participating in the elections was not complete until October 19, the CEC judged it impossible to staff the precinct commissions fully by September 15, as required by the election law. A decision by the CEC Chairman resolved the issue by ruling that party and candidate representatives to the commissions would be named only after the 19th. In the interim, precinct commissions would operate with only 50 percent (representatives of state enterprises and entities) of their members.

## **Gaining Access to the Ballot**

### ***Registration Process***

In June 1995, the National Assembly instructed the Ministry of Justice to conduct a "clarification" of the juridical status of all political parties in Azerbaijan on grounds that the State Law on Political Parties, promulgated in 1992, had been incorrectly applied in the past. It accordingly ordered a review of previously registered and newly formed parties to determine their compliance with the law.

After the initial submission of documents the Justice Ministry issued a list in mid-August of 13 parties that failed to pass the review. These included the Azerbaijan Popular Front, the Social Democratic Party, the Communist Party and the Islamic Party. Parties were informed that the review process would terminate on September 2, and that they could revise and resubmit their documents until that time.

As grounds for nullifying registration, the Justice Ministry cited parties for a range of violations of the law, including failure to name a chairperson; disclose property holdings; provide evidence of regional structures; and properly register members. While some parties accepted the Ministry's findings, others protested that they were arbitrary, baseless or contrived.

The denial of registration prompted the American, German, British and Israeli Embassies in Baku to respond with coordinated demarches. President Aliiev appeared on television several days later with stern instructions to the Justice Ministry to make every effort in the forthcoming days to assist all parties in fulfilling the registration requirements.

On September 1, the Ministry registered the Popular Front as a political party, and reregistered the Social Democratic Party. The Ministry denied registration to the Independent Democratic Party, the Green Party, the Islamic Party and other parties formed since 1992, and on September 2, revoked the registration of the Democratic Party of

Azerbaijan. At the conclusion of the review process, the Ministry reported that 31 parties, including six new parties, had attained official status, and 18 had been denied. Because the Justice Ministry judged certain provisions of the Communist Party's charter to be in potential violation of the constitution of Azerbaijan, the question of the party's registration was passed on to the Supreme Court. In August, the high Court's collegium voted to liquidate the party. On September 18, the Presidium of the Supreme Court announced that it had reversed the ruling and reinstated the Party with full rights to participate in the parliamentary elections.

Critics of the registration and reregistration process claim that it relied heavily on official intimidation and harassment and the frequent and arbitrary use of executive power. They cite, for example, reports of night-time visits by local executive authorities and the police to question citizens on their choice of political affiliation or their right to hold political party membership. In a speech to parliament broadcast on state television in August, the Acting Minister of Justice disparaged the leadership of two opposition parties. Following the conclusion of the registration process, a Justice Ministry official published an article in the official newspaper *Azerbaijan* harshly criticizing several parties and defending the decisions of the Ministry.

To date, confusion persists about the implications of the registration process. The Justice Ministry continues to characterize the process as a "clarification" of party status and not a "reregistration," as many parties maintain. While it contends that the annulment of registration deprives a party of juridical status and, accordingly, the right to participate in the elections, it officially denies that the revocation of juridical status is tantamount to liquidation. Representatives of several parties claim differently, contending that without juridical status they lack rights to maintain a bank account, operate an office, produce party literature, assemble members and conduct party activity.

Before the Justice Ministry conducted its review, there were 48 political parties registered in Azerbaijan. Thirty-one parties succeeded in satisfying the registration process, of which 12 submitted lists indicating their intention to contest the party list seats.

### ***Petition Process***

Those parties that satisfied the Justice Ministry's review qualified to propose candidacies for single-mandate districts and party list seats. Parties were required to gather 50,000 signatures from registered voters; candidates running in single-mandate districts, whether party-affiliated or independent, were required to gather 2,000 signatures from voters in the district from which they sought election. In accordance with the election law, the petition process began 55 days before the elections and concluded 30 days before polling day.

At the conclusion of the petition process, 359 of approximately 1,200 candidates who submitted signature sheets received certification to contest the elections. Out of 12 parties that submitted candidate lists to contest the party list seats, eight gained access to the ballot.

Parties and candidates reported experiencing numerous difficulties in the signature

process. These included: the failure of parties to receive a sufficient number of extra signature sheets to create an adequate cushion in the event that electoral commissions ruled signatures invalid; refusal by district election commissions to provide aspiring candidates with signature sheets; and confiscation of signature sheets by electoral officials and unidentified persons. Some also expressed concern that voters were misinformed about their right to sign petitions for more than one campaign, and alleged that the police and local executive and electoral authorities interfered in the signature-gathering process by harassing voters and party activists.

In addition, five days before the deadline for submitting petitions the CEC declared that drivers' licenses and student registration cards could not be used as forms of identification for authorizing signatures on signature sheets. The Social Democratic Party claims that this prohibition invalidated many signatures that it gathered early in the process, and ultimately prevented it from collecting the 50,000 required. On this basis the party declined to submit its signature sheets and declared its intention to boycott the elections.

As of October 19, the first day of the campaign period, eight parties had been certified to contest the proportional seats. They include the ruling party, *Yeni Azerbaijan*, Alliance for Azerbaijan, Azerbaijan National Independence Party, *Ana Vatan*, the Azerbaijan Democratic Party of Proprietors, the Democratic Independence Party, the Statehood Party and the Azerbaijan Popular Front Party. Most prominent among those left off the ballot after the petition process are *Musavat*, the Social Democratic Party, and the Communist Party. *Musavat*, which was denied access to the ballot after the Central Election Commission ruled that 5,233 out of the 53,000 signatures it collected were invalid, is protesting the ruling and planning to boycott the elections.

Aggrieved parties and candidates were entitled by law to appeal certification decisions to the Central Election Commission and the Supreme Court for review and redress on October 25 and 26. Reports on this process, however, have stated that district election commissions refused to provide decertified candidates with the protocols of the official decision required to initiate an appeal. Some judges have allegedly said that they received no instructions from the CEC to process complaints. Finally, candidates claimed that they were denied information about which signatures were deemed invalid, making it impossible to collect affidavits from signatures to prove the validity of their petitions.

## **Campaign Activity**

### ***The Political Parties***

The parties represent a broad spectrum of political orientation and organizational strength. Several parties claim to support the President. Of these, *Yeni* (New) Azerbaijan is dominant both in terms of size and public recognition. Several smaller pro-government parties will also contest party list and single mandate seats, including the Alliance for Azerbaijan, the Statehood Party and *Ana Vatan*.

The opposition is a diverse and fluid set of parties. One element comprises the Communists who, by advocating the restoration of the Soviet Union and the reunification of the party, oppose the very concept of national government itself. The rest of the spectrum belongs to the nationalist opposition, a loose characterization that refers to the numerous and fractious parties that emerged from the once wide embrace of the Popular Front. Many of these parties are tiny organizations with limited resources and organizational strength. Other parties are surprisingly well-financed and well-disciplined, and nurture aspirations to national leadership with the support of local organizations beyond Baku. Most of the opposition parties have offices and produce newspapers in the capital, but share grave doubts about their ability to extend their campaigns to the regions.

The opposition has long demonstrated an impressive ability to coordinate its activity and cooperate. The Popular Front, *Musavat*, the Azerbaijan Democratic Party and others organized in early 1994 to form the Democratic Congress as a potential electoral bloc. The majority of the parties of the Congress joined over 20 other parties to form a larger, loosely structured political party round table organized in January 1995. The round table was conceived as a broad political coalition, rather than an electoral bloc, and has cooperated on issues ranging from the defense of rights of political leaders under arrest, to coordination of candidates contesting single mandate seats in the November elections. The issue of whether or not to boycott the elections will test the parties' discipline and unity.

A brief description of the major political parties is included in section III of this report.

### ***Media***

A multi-tier system of censorship was imposed in Azerbaijan in the wake of a coup attempt in October 1994. The system was relaxed in June 1995, and again in October. Newspapers are printing criticism of government officials and policy, and journalists avow that the controls have been reduced.

At the same time, there are credible reports that self-censorship persists. Candidates express concern that their televised campaign segments will be censored, or that the broadcasts will be interrupted by electric shortages. Claiming that the election law fails to provide adequate legal protection for unofficial media and fearing reprisals, representatives of independent information outlets and agencies have declined to sponsor candidate debates or forums directly associated with the elections.

Despite censorship, Baku boasts an array of independent, state-owned, party-sponsored and business print media. While the state-owned press is produced daily, the remainder are typically published once or twice a week and are available only in Baku, usually to be found at kiosks at a price roughly equivalent to a loaf of bread. There are also several independent information agencies that publish daily news bulletins and periodic analysis. They include Turan, Habar Service and ANS. The latter also owns a popular music radio station and broadcasts an evening news program on tv, providing an alternative to state-sponsored electronic media. While programs are publicly broadcast, they do not

reach beyond the environs of Baku. Television and radio in the regions is exclusively state-owned and operated.

### ***Campaign Publicity and Activity***

The law states that the campaign period shall begin on October 19 and conclude on November 10. It declares that the government will finance the printing of posters and provide parties and candidates with free and equal access to state television and press. Candidates for single-mandate seats are each given seven minutes on television between 6:00 - 8:00 pm, and one page in the press. Parties are entitled to receive two 30-minute slots broadcast from 10:00 pm - 12:00 am, and three pages of printed space during the course of the campaign. The law specifies that all other campaign activity shall be privately financed, but fails to elaborate regulations, limitations or scope. It also requires disclosure of all campaign financing within 15 days of the elections, but fails to outline guidelines for contributions, or procedures for documenting financial resources, donations or expenses.

Campaign activity may be conducted by candidates, parties and the "authorized representatives" of each. Under the law candidates are entitled to name 15 such persons and parties may designate up to 45, all of whom must be registered at the appropriate electoral commission, for the purpose of supervising and implementing the election campaign and monitoring the voting and counting process and the resolution of complaints..

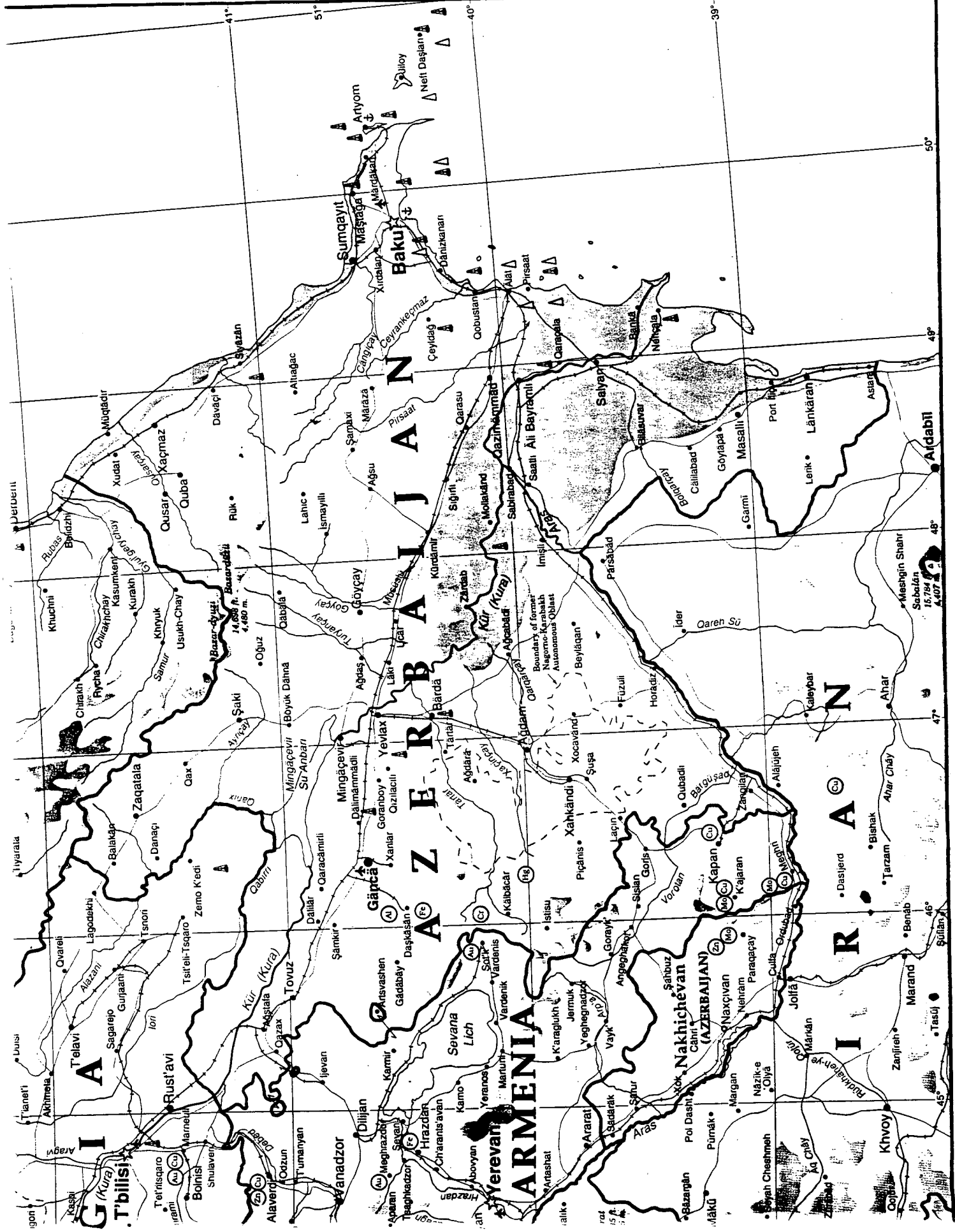
Under threat of fine or imprisonment candidates are prohibited from criticizing each other during the course of the campaign; moreover, in accordance with the existing constitution, they commit a capital crime if they offend the honor or dignity of the President.

### **Balloting and Counting**

The law establishes some procedures for casting and counting votes. For the parliamentary elections, voters are issued two ballots, one for the single mandate seat and the other for the party list. In both cases, the voter crosses out the names of those candidates or parties he or she rejects, and leaves the name of the candidate or party selected. Voters will be provided a third ballot for the constitutional referendum. Although the law makes passing reference to the use of an official stamp to ensure ballot security, it fails to describe the requirement fully and is generally silent regarding other devices (such as indelible ink) that prevent multiple voting.

On October 3, the Parliament approved a request of the Chairman of the CEC to extend the period for announcing official results from seven to 15 days after the elections.

If no candidate in an electoral district receives more than 50 percent of the vote, runoff elections must be conducted within two weeks, making November 26 the last day repeat elections can be held. Since this date falls one day before the CEC is scheduled to announce the official results of the first round, it is unclear how run-off elections will be determined and administered.



Yerevan  
Armenia

Baku  
Azerbaijan

Nakhichevan  
(AZERBAIJANI)

Ganja

Bardaa

Sumqavit

Ararat

Yerakht

Yerevan  
15,794  
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