

**UPR SUBMISSION ON HUMAN RIGHTS**

**IN AZERBAIJAN**

**16<sup>th</sup> SESSION of the Universal Periodic Review – 2013**

**Joint submission by:**

*Center “Women and Modern World”*

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and

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## Introduction

This report is submitted by **The Center "Women and Modern World"** (Baku, Azerbaijan) and the **Sexual Rights Initiative**. It focuses on **gender norms; marriage; sexual violence and harassment; reproductive health and rights; rights of lesbian, gay, bisexual and transgender people; and HIV/AIDS**. It includes recommendations to the Azeri State after each section.

1. Azerbaijan has ratified the International Covenant on Civil and Political Rights (1992) and its Optional Protocol (2001), International Covenant on Economic, Social and Cultural Rights (1992), the Convention on the Elimination of All Forms of Discrimination against Women (1995) and its Optional Protocol (2001) and the Convention on the Rights of the Child (1992). It is a member of Council of Europe since 2001.

## Gender norms<sup>1</sup>

2. Azerbaijan has strict gender and social norms focused on an heterosexual-centered and extended family. The family decision-making is focused on the elders of the family who make decisions for all other family members and keep the traditions. In Azerbaijan man is the head of family, he is responsible for physical load and financial support of a family. While woman is responsible for household and childcare. This is a classic model of a family. According to the statistics, in Azerbaijan on average family disruptions occur in 1 of 10 families. In 2011 78072 marriages and 7784 divorces were recorded. According to The State Statistical Committee of the Republic of Azerbaijan, between January and March 2012 marriage rate was 6.8 times higher than divorce rate. 15.7 thousand of marriages and 2.3 thousand of divorces were recorded by official state agencies at the beginning of the year. In comparison to the first quarter of 2010 the marriage rate increased from 6.7 to 7.1, and divorce rate increased from 0.9 to 1 per 1000 people. **In general , between January and March 2011 the number of marriages increased by 10.6 %, and the number of divorces increased by 21.1% compared to the same time last year.**

3. Women are expected to function primarily within a family and single women are perceived by a society as a failure once they have passed the marriageable age (21-23 years).

4. The 'family honor' concept prevails in Azeri families, limiting women's mobility, placing them in a vulnerable situation if they have sex before marriage or decide to live independently.

5. Families limit their daughters' access to education to protect 'family honor' through not allowing them to enter universities in other cities. Women who travel abroad alone or study abroad may lose the opportunity to get married because they are believed to have had sex outside of marriage when they were away from the family control.<sup>2</sup>

## 6. Recommendations:

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<sup>1</sup> Written by Labrys and Sexual Rights Initiative

<sup>2</sup> Gender Assessment Report p. 7

- *Take proper and relevant care of families, especially young families by addressing their needs and deficits. Care provided should be in exact accordance with the Constitution of the Republic of Azerbaijan.*
- *The religious institutions should advocate the sacredness of family, assist to actions against divorce, participate in spreading values, providing family durability.*
- *Implement of a State Program on Promoting Economic Security among families, in order to prevent divorces in Azerbaijan.*
- *Conduct nation-wide educational campaigns about gender roles and the value of women and girls, as a way to reduce sex-selective abortions (see below) and to protect women's rights to education, health and freedom of movement.*

### **Sexual violence: harassment and rape including rape in marriage<sup>3</sup>**

7. International organizations working in Azerbaijan have conducted large-scale surveys on the issue of violence. The surveys found that about 30% of women experienced sexual harassment at work<sup>4</sup>. Another survey revealed that the social belief is that women should quit their job if they experience sexual harassment from their employer or a co-worker<sup>5</sup>. Articles 2 and 3 of the existing law on 'Ensuring gender equality' (2006) define sexual harassment in details. Article 4 states that sexual harassment is prohibited. Articles 11 and 12 regulate employment situations when sexual harassment takes place and ban persecution of the person who reported sexual harassment by the employer. Article 12 states that the 'labor contract of the victim of sexual harassment is discontinued as of the day when the victim exposes it'<sup>6</sup>. The body responsible for dealing with sexual harassment is of a monitoring nature and reports to the government annually. However, the existence of this legislation does not ensure protection from sexual harassment because its implementation is not adequate and unclear and the public opinion is largely unaware of its existence.

8. Sexual harassment also exists within families. Survey results indicate that 55% of the interviewed women had experienced sexual harassment. In 15% of the cases the perpetrator was a step-father and in 9% a father-in-law. The same survey indicated that 10% of the interviewed women had been sexually abused with approximately 85% of abused women reporting marital rape<sup>7</sup>.

9. In case of rape the family usually tries to cover up that it happened and, if a victim is single, may offer her the possibility to marry the perpetrator. Reporting a rape is also a long and humiliating endeavor in a society which blames the woman for being sexually abused.

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<sup>3</sup> Written by Labrys and Sexual Rights Initiative

<sup>4</sup> Survey of Azerbaijan Sociological Association (2001) quoted in Gender Assessment report p.8

<sup>5</sup> Human Development Report p. 71

<sup>6</sup> Text of the Law in Russian available at [http://www.gender-az.org/index.shtml?id\\_doc=1128](http://www.gender-az.org/index.shtml?id_doc=1128)

<sup>7</sup> Survey of Azerbaijan Sociological Association (2001) quoted in Gender Assessment Report p. 8

10. High levels of corruption among law enforcement agencies makes it very difficult to punish the perpetrators.

### **11. Recommendations:**

- *Conduct research to assess the situation of sexual harassment in Azeri society and plan accordingly. Take measures to implement the existing legislation provisions.*
- *Conduct public awareness campaigns to address the issue of sexual harassment and the existing legal framework.*
- *Include marital rape in the current legislation and raise public awareness about the issue of consent in sexual relations.*
- *Implement the appropriate mechanisms for women to be able to report rape cases, including training and sensitivity among law-enforcement personnel, women police stations, strong measures against corruption.*

## **Marriage<sup>8</sup>**

12. One of the main reasons of family disruption along with socio-economic status, is the rapid transformation of modern families to global ideas, abandoning the national values. Another reasons are early marriages in some rural areas, as the result of influence of existing subcultures, and low awareness.

13. In the area of sexual and reproductive rights related to marriage the two main issues are forced marriages within extended families (sometimes at an early age, before the official ages of 17 for women and 18 for men) and religious marriages. The supporters of the rise of marriage age believe that such regulation would lead to decrease the number of early marriages.

14. The issue of marriage within the same extended family has been raised by the government since 1959<sup>9</sup> and yet as many as 37% families as of 2006 continue to arrange marriages between cousins<sup>10</sup> (kindred marriages). Religious marriages which are socially accepted and practiced only recently started to require official registration by the state.

15. Among early marriages<sup>11</sup> registered in 2009 by the Ministry of Justice departments of registration 37% are women under 18, 29% are 18-19 years old, 25% are 20-24 years old, 6% are 25-29 years old, and 3% over 30. Approximately 1/3 of early married women were married in 2009, the rest were married in the following years.

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<sup>8</sup> Written by Labrys and Sexual Rights Initiative

<sup>9</sup> Gender Assessment Report (2004) p. 7

<sup>10</sup> CEDAW Shadow Report (2005) p.8

<sup>11</sup> Human Development Report 2007 p. 61

16. 39% of early married women were inhabitants of urban areas, while 61% lived in rural areas. 37% of women married under 18 years of age got married at their own will, 26% were forced by their parents, 11% got married because of difficult financial situation of their family, 8% got married because of wealth of men, 6% were kidnapped, 2% because of getting pregnant, and the rest 10% had other reasons.

17. 22% of fathers and 13% of mothers of women who got married at an early age had higher and vocational secondary education, 2/3 had vocational and complete secondary education, respectively 12% and 19% had general secondary education.

3 % of spouses of these women were 18-19 years old, 69% were 20-24, 26% were 25-29, and 2% were over 30.

At the same time, 22% of them had higher and secondary education, 68% had vocational and complete secondary education, 10% had general secondary education.

18. Religious marriages performed before that date leave women without any legal claims in case of divorce, death of the spouse or child support. Traditionally there is also a custom of *sighe* which is a temporary marriage blessed by the religious authorities which can happen parallel to the officially registered marriage with a different woman<sup>12</sup>.

#### **19. Recommendations:**

- *Work with religious authorities to establish a procedure of registration of religious marriages, that will also allow retrospective registration of marriages.*
- *Continue and improve the current efforts to eliminate kindred marriages, particularly those involving minors.*
- *Ensure that girls have completed secondary education before getting married.*

### **Reproductive health and rights<sup>13</sup>**

20. According to the Constitution of Azerbaijan Republic (Article 41), every citizen has the right to protect her/his health and receive medical aid. Besides, every woman has the right to protect her health in connection with childbirth. Article 17 of "The Law about Protection of Health of the Population" states that during the pregnancy, before and after childbirth every pregnant woman should be provided with free of charge medical services in the establishments of the state health system. Under this Law hospital and treatment establishments were created, including children and women treatment centers to provide medical aid free-of-charge to every citizen.

21. However, women can not yet fully enjoy their rights to sexual and reproductive rights due to, among others, the following underlying factors:

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<sup>12</sup> Human Development Report 2007 p. 61

<sup>13</sup> Written by Labrys, Sexual Rights Initiative and The Center

- The military-political events that occurred around Qarabakh in 1988 resulted in a great number of loss and disability in men of reproductive age affecting the natural increase of population in Azerbaijan, and resulting in a increased pressure on women to produce male children.
- The economical difficulties related to the transition period, and the large number of men who have gone abroad in search of employment, turned women into the majority of the workforce in Azerbaijan. These new responsibilities did not replace the traditional ones – keeping the family hearth and bringing up children – but were added to them.
- Today an Azerbaijani woman keeps centuries-old traditions, while also fluently speaking foreign languages, using the most modern technology, and introducing her children to Western culture. So there is a tension in her social and cultural environment that results in psychological-emotional pressure, all of which affect her organism.

22. Even though work has been done in Azerbaijan in this field, a majority of the population does not yet have full enjoyment of their right to sexual health, nor enough awareness and knowledge of health issues in general and sexual issues in particular. A national strategy on reproductive health for 2008-2015 is currently being prepared in Azerbaijan. Five main priority directions are taken into account in this document: Maternal and infant health of mother and new born babies; Reproductive choices; Sexually transmitted infections (including HIVS/AIDS); Reproductive health of youth; Gender violence and sexual exploitation.

### **Maternal and infant mortality<sup>14</sup>**

23. The high incidence of maternal and infant death in Azerbaijan is connected primarily to three factors:

- low degree of awareness and knowledge of reproductive health of women, even though the State is making efforts to change this situation;
- low qualifications of doctors, even though State facilities provide free-of-charge care for pregnant women;
- widespread poverty among the population, even though traditionally special attention is paid by families to the proper nourishment for pregnant women.

24. In 2006, the Ministry of Health estimated maternal mortality rates in 34,25/100.000. But data from the Institute of Gynecology subordinated to the Ministry of Health, The Republic Maternity Home and The Republic Hospital refutes those figures, providing a rate of 85/100.000 and the national average and 79,2/100.000 in Baku.

25. Azerbaijan ranks first among European countries for its infant mortality rates. According to the World Health Organization and UNICEF, infant mortality rates (during

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<sup>14</sup> The Main Law of Azerbaijan Republic (Constitution) - Baku, 2003; The Law on Health Protection of Azerbaijan Republic - Baku, 1998; Report on Women Conditions in Azerbaijan Republic - Baku, UNDP, 1999, L.A.Bayramova; Monitoring materials for improvement of the conditions in the field of mother and child health protection in Azerbaijan by "Himayadar" Humanitarian Prosperity Public Union.

the first year of life) in 2006 were 75 / 1000 in Azerbaijan - ten times higher than in other European countries. However, figures from the Ministry of Health are much lower: 15,76 as national average and 25,7 in Baku.

26. Resolution 211 (September 15, 2006) of the Cabinet of Ministers, set into motion the "Action Program on protection of mother and child health". The program involves a complex and multi-dimensional approach and plans actions on 20 directions, and has a budget of 21,324 million manats, to be implemented until 2010. Its main objectives are the following:

- strengthening of maternal and child health;
- protection of reproductive health of the population;
- creation of necessary conditions for childbirth of healthy and desirable babies.
- decrease of illness and death incidents amongst mother and babies.

27. Some of the positive initiatives included in the Program are the following:

- analysis of the current systems in place for the protection of mother and child health;
- certification of establishments providing assistance in childbirth;
- creation of 7 prenatal centers;
- supply of equipment.

28. Within the framework of the Millennium Development Goals, Azerbaijan undertakes to decrease thrice the number of maternal deaths and twice that of infant deaths by the year 2015. In 2006, the Regional Bureau on Europe and Commonwealth of Independent States estimated that Azerbaijan would need approximately 20 years to reach such decrease in infant mortality, as current State action is not enough to produce positive changes in this situation.

**29. Recommendations:**

- *To fully implement the "Action Program on Protection of Mother and Child Health".*
- *To take all necessary steps to tackle those factors that have already been identified as causes of maternal mortality, i.e. improving nourishment of pregnant women; increasing their awareness of the need for medical follow-up during the pregnancy; funding programs to improve the skills of medical personnel in this area.*
- *To ensure that all programs for maternal and infant health reach the rural areas, where the situation is even more serious than in the cities.*
- *To review the discrepancies about the data collected by different state bodies on maternal and child mortality, as well as the contradictions between the State figures and those provided by UN offices, with a view to portrait a most accurate picture of the situation and be able to plan accordingly.*

## **Family planning**

30. Family planning or regulation of childbirth in the family corresponds to the demographic image of the country. Taking into account the social-political situation of the republic, the Program of Family Planning has its specific directions. It propagandizes actively against early marriages, marriages among close relatives and other specific characteristics of demographic situation in the republic. Family planning centers researching gender problems are working in the country. A serious problem are the distorted sex-ratios observed broadly in regions of Azerbaijan.

31. There are not any legal obstacles for women to receive sexual health medical services, including family planning in the country. The above mentioned Law on Protection of Population Health mentions family planning as well as artificial ferment and implantation of embryo (article 29), disturbance of pregnancy in artificial way (article 30), and medical sterilization (article 31).

32. Pregnant women undergo ultra-sound examination before childbirth. If any defects are discovered during examination, the pregnancy can be terminated and all that is required is the woman's consent. According to the Article 30 of the above mentioned Law, every woman has the right to make independent decisions about motherhood. "Termination of pregnancy in artificial way" (abortion) during the first 12 weeks of pregnancy requires only the woman's consent. Under special social conditions abortions are allowed up to 22<sup>nd</sup> week. It should be done by specialist doctors in state and private medical establishments. The lists of medical facilities providing disturbance of pregnancy in artificial way are defined by the Cabinet of Ministers. It is forbidden to disturb the pregnancy in artificial way by doctors outside of hospitals and other medical establishments. According to the Article 141 of the Criminal Code, abortion by doctors outside medical establishments is punished with fine and reformatory work for 6 months. Abortion by persons without special high medical education is punished with fine or social work from one hundred and eighty hours to two hundred hours, and reformatory work for 1 year. Women with incomplete abortions receive medical attention in State faculties and are provided with advice on how to avoid undesirable pregnancy and given contraceptives, if they so desire.

33. According to the Article 31 of the Law on protection of Health of the Population, women can undergo medical sterilization, but only in accordance with medical instructions, as defined by the Cabinet of Ministers of Azerbaijan Republic. The procedure is carried out in state and private medical establishments. The couple's consent is required for the procedure. The persons accused for carrying out medical sterilization illegally bear responsibility according to the rules defined by legislation. Man sterilization is not carried out in the country.

34. A national strategy for the period 2008-2015 in the field of family planning is being prepared by the Ministry of Health of Azerbaijan Republic.

35. Gender-based restrictions represent one of the key issues in the field of sexual and reproductive rights for both women and men. The society values men over women because ethnicity and family name are passed through men. Many families decide to abort female fetuses. The estimates are that in the category 0-19 years old there are 110.000 fewer girls

than boys. In the 0-4 age cohort there are 10% more boys than girls<sup>15</sup>. In 2006 there was a ratio of 3/1 among newborn boys and girls. Medical specialists report that 4 out of 10 women request abortion because the fetuses they are carrying are female<sup>16</sup>. Women who give birth to girls lose their social status and some men may choose to divorce their wife if she is not able to produce male offspring. As many as 23% of respondents interviewed for 2005 Azeri shadow report on CEDAW implementation stated that they aborted their pregnancy because the fetus was female.. Most gender-selective abortions are registered as based on fetus' defects. About 10% of pregnancies are aborted in the third trimester of pregnancy as medical specialists report<sup>17</sup>.

### **36. Recommendations:**

- *Extend the possibility to opt for surgical sterilization to men as well.*
- *Implement strict measures to punish medical personnel involved in sex-selective abortions, while working on the social conditions that sustain this practice (see Recommendations in the first section)*

## **Sexual orientation and gender identity-based discrimination**

37. Sexual relations between men in Azerbaijan were decriminalized in January 2001 possibly due to its being a pre-requisite for membership in the Council of Europe<sup>18</sup>.

38. Transgender women who engage in sex work in the streets are the group which suffers the highest level of abuse from both law enforcement bodies and society. Gender reassignment surgeries and hormonal therapy are not available in Azerbaijan which considerably limits transgender women's access to employment. Organizations working on LGBT issues in Azerbaijan report constant police abuse of transgender sex workers including arbitrary detention, blackmailing, physical and sexual violence. Sex work is not criminalized in Azerbaijan but police frequently conducts raids. In May 2007 28 transgender sex workers aged 18 to 37 were forcibly detained and taken to a police station where they were forcibly tested for STIs and HIV. During the raid they were severely beaten and there were two gun shots made into the air to scare them. The next day they were tried in court for 'not following police orders' and sentenced to three days of detention. Their parents were not allowed to be in the court during the trial and the NGO representatives had difficulty accessing the detention facility. Personal belongings taken during the raid were not returned to their owners. The case was reported to the Azerbaijani Ombudsman's office but no response was received or action taken.

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<sup>15</sup> Azerbaijan National Statistics 2002 LINK quoted in Gender Assessment for USAID/Caucasus/Azerbaijan (2004) p. 14

<sup>16</sup> Human Development Report. Gender Attitudes in Azerbaijan: Trends and Challenges (2007) p. 50

<sup>17</sup> CEDAW Shadow Report (2005) p.17

<sup>18</sup> Dennis Van Der Veur 'Forced Out', Report on Azerbaijan ILGA-Europe/COC-Netherlands fact-finding mission on LGBT situation in Azerbaijan ILGA-Europe, COC-Netherlands (2007)

39. Transgender women are forced to use self-harm as a means to avoid detention and sometimes agree to cooperate with the police by providing phone numbers and personal data of their clients. Police uses this information to blackmail the clients and in turn clients beat the sex workers angry that their 'secret' was discovered. NGOs report at least one case of murder of a transgender sex worker in retaliation.

40. Most lesbian, gay, bisexual and (LGBT) people live with their families because of family pressure and the social norm that a child should live with their family until marriage. Very few LGBT people tell their families about their sexual orientation or gender identity fearing being disowned or forcibly married. Many migrate to the capital city to escape family pressure and control<sup>19</sup>. In those cases in which their sexual orientation or gender identity was disclosed by the police or in the course of an accidental situation, there were cases of violence, expulsion from home, or forced marriage.

41. Until now there is no place for LGBT people to gather except for the office of an NGO that focuses its work on LGBT issues. Society largely believes that LGBT people are sick and immoral. It would be unsafe to run an LGBT-friendly venue because the general public could become violent against the clients of the venue.

42. LGBT organizing is very limited. The only LGBT NGO in the country reports that they have to use HIV as a cover-up for their work with LGBT communities and are not able to register officially as an LGBT organization which limits the scope of their work significantly. The staff of the NGO cannot appear in public speaking about LGBT rights due to fear of violence and retaliation. The NGO outreach workers working on HIV prevention who go to parks and clubs where LGBT people gather are constantly harassed by the police. Police also monitors websites which LGBT people use for meeting each other. There were cases reported of police officers meeting with LGBT people through a personals website and then blackmailing or detaining them.

43. Though homosexuality is not prohibited in Azerbaijan, it is not openly accepted by society.

#### **44. Recommendations:**

- *Conduct proper investigations on police blackmailing, harassment and violence against LGBT people, duly punishing those responsible and setting up administrative and legal frameworks to eradicate such practices*
- *Develop legislation to address family violence and hate crimes against LGBT people*
- *Develop a legal and medical system which would allow transgender people to change their bodies and legal papers in accordance with their gender identity.*
- *Take all necessary steps to ensure that organizations working on LGBT issues can legally register and operate, in accordance with the non-criminalized status of same-sex relationships in the country.*

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<sup>19</sup> 'Forced Out' Report and communication with LGBT NGO in Azerbaijan

## HIV/ AIDS

45. Officially there are 1010 registered HIV cases in Azerbaijan but NGOs report that there are at least ten times more people living with HIV. In 2006 out of 263,443 people tested for HIV at least 33,000 have not gone through pre-test counseling<sup>20</sup>. A service for prevention of AIDS has been created in the country, having organization-methodological, connective and control functions and headed by the Azerbaijan National AIDS Struggle Center. The structure of the center consists of 12 regional laboratories. A person responsible for AIDS prophylaxis has been appointed in every medical establishment of the country. At the state level, numerous legislative acts directed to prevention of AIDS have been adopted in the country.

46. Forced testing enforced by law enforcement bodies is common among the key affected populations such as sex workers, injection drug users and men who have sex with men.

47. It is necessary to note that in accordance with serious financial problems, the population does not have sufficient information about the HIV/AIDS problem. Due to high unemployment a lot of men migrate to Russia and Ukraine to find employment. In 2006 10-15% of people living with HIV were infected in Ukraine or Russia and 89% of new HIV cases were men<sup>21</sup>. NGOs report that HIV testing is not available in the rural areas where most of the migrants come from and they have to travel long distances to be tested.

48. Organizations working with people living with HIV reported that access to ARV therapy was limited and HIV patients had to pay for receiving treatment. The treatment free of charge is guaranteed by 1996 law on 'Prevention of spread of the diseases caused by AIDS'.

42. NGOs working in the area of sexual and reproductive rights and HIV prevention often become subject of attacks from the religious and state authorities through media channels. They are blamed for propagandizing sex and prostitution. Information about sexuality for young people is restricted and many feel uncomfortable discussing sexuality matters which makes them vulnerable to HIV.

### **49. Recommendations:**

- *Take measures to stop forced testing of key populations affected by HIV/AIDS. Conduct public campaigns on raising awareness about HIV prevention and testing targeting groups which are affected by HIV, specifically migrants, young people, sex workers and injecting drug users.*
- *Ensure free treatment for people living with HIV*
- *Ensure that organizations working on HIV/AIDS and sexual/reproductive rights more broadly can fully exercise their right to freedom of expression and information.*

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<sup>20</sup> WHO data on HIV situation in Azerbaijan (2008) available at: [http://www.euro.who.int/aids/ctryinfo/overview/20060118\\_4](http://www.euro.who.int/aids/ctryinfo/overview/20060118_4)

<sup>21</sup> WHO Data on HIV situation in Azerbaijan (2008)