

*Thank you!*

I am Leyla Hasanova, chairperson of Queerdian. Queerdian is a non-governmental organization committed to addressing the socio-political underrepresentation and oppression of LGBTIQ+ individuals in Azerbaijan. With our works, we strive to promote a secure and legally supportive space where the fundamental rights and freedoms of every LGBTIQ+ citizen are upheld.

However, shifting our focus to the LGBTIQ+ situation in Azerbaijan, the situation presents a dire reality. In the country's third Universal Periodic Review (UPR) in May 2018, among 259 recommendations received, only 9 concerned LGBTIQ+ rights. The absence of recommendations on legislation for protecting these rights persisted in the first UPR cycle of 2009 and the second in 2013. This report underscores the ongoing governmental disregard for challenges faced by LGBTIQ+ individuals in Azerbaijan.

### ***LGBTIQ+ situation in Azerbaijan***

According to the ILGA's reports Azerbaijan has persistently ranked at the bottom in terms of safeguarding LGBTIQ+ rights for six consecutive years. This ranking is due to the frequent arbitrary arrests and mistreatment of LGBTIQ+ individuals primarily by law enforcement authorities. Our recent report, developed with other leading NGOs in LGBTIQ+ rights, shows a concerning trend. Law enforcement often uses anti-public morality laws in the wrong way, leading to unlawful arrests and detention of LGBTIQ+ community members. Although the Ministry of Internal Affairs says that the number of detainees is 83, human rights lawyers claim that this number is more than 200. On top of this, LGBTIQ+ detainees face emotional and physical abuse, and sometimes they're even forced to have medical exams without their consent.

To highlight the severity of the issue, I want to remember the events of 2017. During that year, large-scale police raid specifically targeted LGBTIQ+ citizens in Azerbaijan. The distressing incident recurred in 2019, magnifying the ongoing shadow of fear and vulnerability cast over the entire LGBTIQ+ community. About 10 people were detained in the police raid held in 2019. These repeated raids serve as a serious ultimatum to the community.

### **Hate speech & Hate Crime**

Another disturbing problem exists in regard to hate speech and hate crimes against LGBTIQ+ citizens. Thus, Azerbaijan's hate speech-related laws do not include the gender identity and sexual orientation as a prohibitive ground for discrimination, and consequently leaving room for impunity in this field. This insufficiency extends to both criminal and administrative laws.<sup>1</sup>

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<sup>1</sup> Neither the constitutional nor any other national legal provisions explicitly prohibit discrimination based on "sexual orientation," and "gender identity" resulting in impunity for serious hate speech and hate crimes in Azerbaijan. This gap allows law enforcement to potentially sidestep defending these rights, citing the absence of "sexual orientation" and "gender identity" in the laws. Thus, there is no separate provision in the Criminal Code to protect LGBTIQ+ from hate speech and hate crimes. Article 283 of the Criminal Code provides for criminal liability only for racial, national, and religious discrimination.

Therefore, hate speech and hate crimes continue to proliferate in both media and society, and unfortunately, the state does not mount an adequate response to counter these concerning trends. For example, in February 2022, queer journalist Avaz Hafizli was murdered by his relative. However, since this crime was not considered a hate crime, the murderer was not adequately punished.<sup>2</sup>

## **Data**

Last but not least, another pressing concern that worsens these challenges is the absence of data concerning LGBTIQ+ citizens within state institutions. This data gap is intricately tied to several factors: the lack of comprehensive information on LGBTIQ+ individuals, their inability to access appropriate services from state institutions encompassing health and law enforcement, and the troubling notion that the state does not regard LGBTIQ+ citizens as a genuine members of society.

Queerdian and its partners address the challenges by proposing crucial recommendations for the government of Azerbaijan. These urgent measures include:

- enacting a comprehensive Anti-Discrimination Strategy covering sexual orientation and gender identity and setting a timeline to ratify the Istanbul Convention against violence against women;
- adopting regulations for data collection on violation of rights linked to sexual orientation or gender identity;
- amending the Criminal Code to ban discrimination and recognize homo/transphobic motivation (gender identity and sexual orientation) as an aggravating factor; and establishing an LGBTIQ+ rights monitoring body within the Ombudsperson Office.

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Homophobic and transphobic intent of the perpetrator of crimes against life and health is not considered an aggravating circumstance.

<sup>2</sup> Article 154 of the Criminal Code provides for liability for violation of the right to equality. But as noted above, since Article 25 of the Constitution does not define “sexual orientation” as a basis for protection, there are serious obstacles to the practical application of this article in cases of violation of the equal rights of LGBTIQ+ people.