



m  
e  
m  
o  
r  
i  
a  
l



## **Anti-Discrimination Centre Memorial**

### **Nafas LGBTI Azerbaijan Alliance**

**Joint Submission to the Human Rights Council  
at the 44<sup>th</sup> Session of the Universal Periodic Review  
(Fourth cycle, November 2023)  
Republic of Azerbaijan**

**Discrimination based on gender and/or SOGI:  
underrepresentation of women in public and political life, professional bans for women,  
discrimination against LBT women and girls and intersex persons**

#### **TABLE OF CONTENTS**

##### Introduction

- I. Insufficient participation of women in public and political life
- II. Discrimination of women in employment and in access to education
- III. Gender-based violence
- IV. Reproductive healthcare, the issue of harmful practices and lack of sexual education
- V. Discrimination of LBT women and girls and intersex persons
  - V.1. Lack of access to justice
  - V.2. Hate speech
  - V.3. Bullying and other forms of harassment at schools
  - V.4. Stigmatization of sex workers
  - V.5. Inappropriate healthcare for trans women and the lack of effective legal gender recognition
  - V.6. Violations of the right to family life

##### Recommendations

1. Anti-Discrimination Centre (ADC) Memorial<sup>1</sup> and Nafas LGBTI Azerbaijan Alliance<sup>2</sup> made this joint submission in relation to the problems of discrimination based on sex, gender, sexual orientation and gender identity, gender expression and sex characteristics in the Republic of Azerbaijan.
2. During the 3rd circle of the Universal Periodic Review Azerbaijan received more than 50 recommendations on the situation with women's rights in the country<sup>3</sup>. A number of states have also addressed various concerns on LBT issues<sup>4</sup>.

### **I. Insufficient participation of women in public and political life**

3. Women are underrepresented in the public and political life of Azerbaijan. For the first time ever, a woman has been elected the spoke-person and chair of the Parliament Members. At the same time, out of 88 local executive powers only 1 is led by a woman. Although the percentage of female members of parliament increased from 11 to 18 percent between 2005 and 2020, and as of 2020, there were only 23 women in the 125-seat parliament (18.4%). Among these 23 female deputies, only 7 are under 35. Young women are not empowered enough to run for the elections to the Advisory Council of the State Committee for Family, Women and Children Affairs, and the Council currently consists of the older generations (35+).
4. It is also mentioned in the state progress report that young people's, especially young women's participation in decision-making is lacking, thus the voice of youth is not heard while drafting important policy recommendations and legislation projects.
5. Among the barriers preventing women from achieving equality in the public and political sphere, there are: restrictions imposed by the family; the burden of unpaid domestic labor; pervasive gender stereotypes; lack of financial resources and tools to run for office and organize an effective campaign; and fear of harassment in the workplace. The data suggest that similar barriers impede women's economic empowerment across several regions - this is the case regardless of the urban/rural divide and employment status.

### **II. Discrimination of women in employment and in access to education**

---

<sup>1</sup> Anti-Discrimination Centre (ADC) Memorial is a Human Rights NGO defending the rights minorities and vulnerable groups (such as representatives of ethnic minorities and indigenous peoples, migrants, stateless persons, LGBTI+ and others) and fighting against any form of racism, sexism, homophobia and xenophobia in the former Soviet Union through advocacy, litigation assistance, Human Rights education, research and publications (see more: <https://adcmemorial.org/>).

<sup>2</sup> Nafas LGBTI Azerbaijan Alliance is an independent LGBTI+ rights organization promoting diversity and integration of marginalized communities into social, political life, and the advancement of human rights discourse in line with the principle of justice and equality. The organization aims to transform Azerbaijan into a country where every LGBTI+ is free, equal and safe, through advocacy and community building and amplifying queer voices from Azerbaijan (see more: <https://nafaslgbti.org/>).

<sup>3</sup> See [A/HRC/39/14](#). [A/HRC/39/14/Add.1](#): recommendations # 141.91, 141.90, 141.89, 141.88, 141.87, 141.23, 141.11, 141.10, 141.9.3, 141.9.2, 141.9.1, 140.131, 140.129, 140.128, 140.127, 140.126, 140.125, 140.124, 140.123, 140.122, 140.121, 140.120, 140.119, 140.118, 140.117, 140.116, 140.115, 140.114, 140.113, 140.112, 140.111, 140.110, 140.109, 140.108, 140.105, 140.104, 140.103, 140.99, 140.65, 140.57, 140.56, 140.53, 140.51, 140.38, 140.37, 140.32, 140.31, 140.30, 140.28, 140.25, 140.20, 140.19.

<sup>4</sup> Third cycle of Universal Periodic Review of Azerbaijan, [A/HRC/39/14](#). Among them: take the necessary measures to combat acts of violence and discrimination, such as stigmatization, against persons pertaining to the lesbian, gay, bisexual, transgender and intersex community, and encourage Azerbaijan to deepen the measures to ensure the investigation and sanctioning of those acts (*Ibid.* para. 141.16, Argentina); ensure that lesbian, gay, bisexual, transgender and intersex people are protected against all forms of discrimination and violence in both law and practice (*Ibid.* para. 141.17, Canada); adopt a comprehensive legal framework against discrimination based on sexual orientation and gender identity (*Ibid.* para. 141.18, Chile); thoroughly review its applicable legislation, in line with its international obligations and commitments, in order to eliminate and combat discrimination based on any ground, including sexual orientation and gender identity (*Ibid.* para. 141.19, Honduras); ensure that the existing anti-discrimination legal framework explicitly prohibits discrimination based on sexual orientation and gender identity (*Ibid.* para. 141.20, Iceland); incorporate the prohibition of discrimination on the grounds of sexual orientation and gender identity in the current legal framework (*Ibid.* para. 141.22, Mexico); take measures to eradicate torture, ill-treatment and arbitrary arrests in line with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition, strengthen public policies and education to combat discrimination and violations of the rights of the lesbian, gay, bisexual and transgender community (*Ibid.* para. 141.29, Costa Rica); protect persons from arbitrary detentions and ill-treatment that they face for any personal consideration, including their sexual orientation and gender identity, ensuring their full social integration on the same footing (*Ibid.* para. 141.30, Spain).

6. While the Labor Code of Azerbaijan proclaims equality between men and women in employment (Article 16, ban of discrimination in labor relations; and Article 12, equal opportunities and conditions), professional restrictions for women are still in place. There are still 600 professions, including jobs that are well-paid and in high demand in Azerbaijan, which are officially restricted for women<sup>5</sup>. Professional bans also have an adverse effect on the already complex economic situation of women. In a country dominated by the oil and gas, energy, chemical, food, metallurgical, and machine- and ship-building industries, bans on the labor of women in a number of professions in these sectors deprives them of access to a large number of jobs, and, as a result, complicates their path to economic independence. The railways, which are one of the country's main means of transportation, are also not accessible to women<sup>6</sup>.
7. The stereotype of women as the keepers of the home and the family prevails in the society, together with the 'family honor' concept. All this limits women's mobility and decision to live independently.
8. For girls, the family pressure limits their access to education and leads to mass drop-outs in higher school (after 9<sup>th</sup> grade or earlier) and underrepresentation of girls in universities. While parents refuse to educate daughters in favour of sons, many girls get unofficially married at the age of 15-17. This practice is widespread despite the criminal responsibility<sup>7</sup>.
9. The burden of unpaid domestic work increased during the COVID-19 pandemic. Women experienced a decrease in working hours and a majority of them were forced to work from home in contrast to men, which meant that they had to spend more time at home doing unpaid domestic work. In fact, one in two women reported an increase in at least one unpaid domestic chore ([the survey by the UNFPA, 2020](#)). Women's access to health services including access to sexual and reproductive care and contraceptives also decreased during the outbreak. Negative impacts on household income and mental well-being triggered intra-family tensions and domestic violence.

### III. Gender-based violence

10. The violence against women is increasing in Azerbaijan and results in lower representation of young women in the community-building and decision-making processes. According to societal beliefs and norms, domestic violence is part of the culture and cannot be changed. Even police departments and local executive power representatives believe that men should be forgiven because domestic violence is a family issue and it is not polite to interfere. Many victims of domestic violence are sent back from the police departments as an excuse that domestic violence is "family issue". A high proportion of women do not even know where to seek help in a situation of domestic violence. We believe that violence against women is a political issue in which the government of Azerbaijan should take a systematic approach to protecting women and girls by ensuring better implementation of the Law of the Republic of Azerbaijan, and establish new policing to ensure all women have their full access to and enjoyment of their legal rights.

---

<sup>5</sup> Article 241 of Azerbaijan's Labor Code and Resolution No. 170 of the Cabinet of Ministers of the Republic of Azerbaijan "On the Approval of a List of Arduous and Harmful Sectors, Professions (Positions) and Underground Jobs Banned for Women" of October 20, 1999.

<sup>6</sup> It should be welcomed that the authorities of Azerbaijan took into account recommendations of international bodies and expressed their intention to abolish the List of about 700 banned professions (positions) and jobs (response to the List of Issues, 2022, [CEDAW/ C/AZE/RQ/6](#)).

<sup>7</sup> Under Article 176-1.1 and 176-1.2 of the Criminal Code of Azerbaijan, forced marriage is punishable by up to four years' imprisonment or a fine of AZN 2,000-4,000 (\$1.176-\$2.352) for forcing an adult woman and/or a minor into marriage.

11. As of 2020, the Istanbul Convention has been signed by 45 out of the 46 countries in the region that are members of the Council of Europe, with Azerbaijan being the only exception<sup>8</sup>. As the Convention remains not signed by the Azerbaijani government, therefore victims of domestic violence are not protected or treated accordingly<sup>9</sup>. There is no customized shelter available for women and girls (victims of domestic violence).
12. Some critics of the domestic violence law and a [4 years action plan](#) (2020-2023) on combating domestic violence in Azerbaijan (2020) asserted that the lack of clear implementing guidelines reduced its effectiveness. Activists reported that police continued to view domestic violence as a family issue and did not effectively intervene to protect victims, occasionally resulting in the murder of women by their husbands<sup>10</sup>. Special attention in this legislation should be paid to women belonging to minority groups, who are often subject to multiple discrimination.
13. Data collection on domestic violence is not disaggregated by gender identity, thus making it challenging to collect data on gender-based domestic violence faced by LBT+ women and girls in particular. Many violence cases are not reported, and due to the significant delay in reporting, the actual number of gender-based violence and domestic violence cases is much higher than the statistics would suggest.
14. Domestic violence experiences by LBT women in the country includes physical abuse and domestic confinement, conversion therapy, compulsory marriage with corrective purpose, and honor crimes. Lesbian and bisexual women are confronted with intersecting forms of domestic violence due to both their sexual orientation and gender in general.<sup>11</sup>
15. Many LBT women, who fortunately escaped the family or relatives, struggle to find accommodation due to financial reasons. There is a significant lack of LBT women sensitive state-funded shelters and rehabilitation programs for victims of domestic violence. In several cases known to us, family members or relatives were able to find LBT women through the police assistance, as the police's reconciling attempts are always the case for victims of domestic violence in general. On 9 January 2019, Nafas LGBTI Azerbaijan Alliance addressed a list of questions to the State Committee for Family, Women and Children Affairs asking about carried awareness-raising programs, availability of safe shelters and rehabilitation remedies, particularly for LBT women and girls. However, our inquiry left without any response.
16. LBTQ+ women, and specifically transgender women also face difficulties accessing healthcare services which also interferes with their right to health.

---

<sup>8</sup> In various Eastern European countries, opposition to signature and ratification has been a focus of rising conservative movements. Azerbaijan has no official statement explaining the exact reason for not adopting this convention, but the public discourse reproduces fears about "losing the tradition, culture, custom, and social norms".

<sup>9</sup> Women are considered to be responsible for family honor and dignity and perceived to be more vulnerable to both physical and societal dangers. There are also concerns about the safety of young girls walking in public spaces including to school and to the workplace as street harassment is a widely spread behavior by men who believe that it is ok to harass women and apply violence.

<sup>10</sup> Some cases:

Baku, 2021 – S.M. ran away from her abusive husband on March 20 and filed a complaint with the police. Although various women's rights organizations fought alongside her to achieve justice, no action was taken. S.M. then returned to her husband to be with her children. On August 3rd, she was murdered by her husband.

Baku, 2021 - On September 30, Kh.M., together with her children, went to the 24th Police Department to file a complaint about her abusive husband, who served as policeman at the same station. Despite the woman's pleadings, the police called her husband and informed him about the complaint. He immediately went to the police station and shot and killed Kh.M. as well as their children and another policeman present in the room.

<sup>11</sup> This is due to a number of factors, such as: the pervasive practice of forced marriages arranged by consent of parents, or bride kidnapping; the compulsion to stay with a man who forced upon lesbian and bisexual women as a husband; and the harmful impact of the traditional perception of divorce. Indeed, for lesbian and bisexual women who had to hide their sexual orientation and were forcedly married, it means both life-long physiological and sexual abuse. According to requests that we receive through our social network accounts, many lesbian and bisexual women also choose to hide their sexual orientation by agreeing to fake marriage with gay men not to face family rejection and social ostracism.

#### IV. Reproductive healthcare, the issue of harmful practices and lack of sexual education

17. Women, particularly from rural and remote areas, have poor access to healthcare, including reproductive healthcare. The maternal mortality ratio is still high (26 per 100,000 live births in 2017). There is low use of modern contraceptive methods. Comprehensive and age-appropriate education on sexual and reproductive health and rights is not provided in schools. Information on family planning methods is not consistently provided to women before or after they undergo an abortion. Although the numbers of people living with HIV/AIDS is relatively low, there is not universal access to medicines, including for the prevention of mother-to-child transmission of HIV.
18. 11% percent of girls in the country were married before they were 18<sup>12</sup>. There are reported cases of suicide of children who were forced to be married (for instance, [July 2019, Zagatala district, a 17-year-old girl](#)).
19. Illegal early marriages (-18) and traditional marriages which are based on religious units between couples negatively impact women's access to healthcare. Even though the official marriage age in Azerbaijan is 18 and above, families still push their teenage daughters to get married and since state registration can not approve marriage below 18 years old, parents ask religious leaders to proclaim their children wife and husband. Due to economic instability and cultural beliefs in the families, parents tend to “marry” their young daughters to men who are 15-20 years older than them. Parents in the districts of Azerbaijan consider women as “keeper of family honor” and the only job of women should be household management and childcare. Access to opportunities in districts of Azerbaijan and lack of media awareness on role of women in society make parents think that the only call for women is to get married and have kids.
20. At schools and in families, parents mostly don't educate their daughters on reproductive and sexual life. It is considered a taboo topic among parents as they believe that children will find out by themselves when “the right time comes”. Lack of education and awareness on this important topic leads to dangerous early pregnancies, sexual harassment and HIV transmission<sup>13</sup>.
21. Although, due to institutional obstacles, we have limited information about harmful practices performed on intersex children, it is known that they are subjected to corrective surgeries.<sup>14</sup> Such interventions have been repeatedly recognized as a harmful practice.<sup>15</sup> The patriarchal social structure that leads to son-preferred sex-selective abortions in Azerbaijan deepens our concerns on the possibility of selective-sex surgeries (or conversion surgeries) on intersex children. In addition to it, the national identity card, educational, and other official documents are among the struggle areas for intersex persons, as they indicate only one of the two options: female or male. It is a site for discrimination and inequality, as intersex persons struggle to have an appropriate gender allocated for them. It also hinders their access to the labor market and sufficient health services.

---

<sup>12</sup> UNICEF, [State of the World's Children report, 2019](#)

<sup>13</sup> The data of the Ministry of Health (2016) [show](#) that 47 percent of infected HIV+ (from 4,955 in total in official records) caught the illness due to the use of drugs, 42.1 percent through heterosexual and 1.8 percent from homosexual contacts, 1.8 percent are children infected by mothers, while one person got it through blood transfusion. The cause of infection was not defined for the rest 7.8 percent.

<sup>14</sup> ILGA Europe Annual Review (2017), page 51, Bodily integrity

<sup>15</sup> I.e., Concluding observations on Costa Rica, 29 July 2011, CEDAW/C/CRI/CO/5-6, para. 40



## V. Discrimination of LBT women and girls and intersex persons

### V.1. Lack of access to justice

22. In Azerbaijan, there is no human rights education intending to promote gender sensitivity, inclusion and non-discrimination on SOGIESC<sup>16</sup> for civil servants, including law enforcement officers. This is another substantial obstacle for the LGBTI community to have effective access to justice. Due to the pervasive distrust towards the justice system and facts of perpetration of discrimination and ill-treatment by civil servants or law enforcement officers, LGBTI community members, including LBT women, refuse to lodge formal complaints out of fear of reprisal or retaliatory persecution.
23. The following example depicts the ineffectiveness or failure of the training courses provided by the State for law enforcement officers in the capital:

*In September 2017, 83 gay men and trans women were arbitrarily arrested.<sup>17</sup> Statements of detainees during the court hearings indicate that detainees were ill-treated or even tortured in police holding facilities to extort a written confession on not obeying the police order. They were beaten, tortured with electric shocks, sexually abused, and forced to reveal their friends' contacts. They had also been forced to undergo medical examinations without their consent, and hair of trans women were shaved. According to our observations of the district court hearings, interaction of judges, court employees and police officers with detainees was very discriminatory and insulting. This was condemned by UN Special Procedures mandate holders.<sup>18</sup> The European Court of Human Rights already started the communication process of 25 lodged cases in this regard.<sup>19</sup>*

24. We welcome the fact that the State plans to implement the project of Access of Women to Justice that envisages developing educational programs, curricula for judges and prosecutors.<sup>20</sup> However, as it was the case in previous years, we are concerned that the program or curricula will not take into account both direct and indirect nature, and intersecting grounds of crimes that affect LGBTI persons.

### V.2. Hate speech

25. Existing legislation does not protect hate speech on the grounds of SOGIESC. Article 283 of the Criminal Code sets forth penal sanctions for actions - committed openly, including by using mass media - aimed at inciting national, racial, social, religious hatred and enmity. Despite ample evidence of hate speech, by public figures and government officials in particular, there is no single case known where those speeches are sanctioned. Even the opposite, in various examples, the state refrained from opening an investigation when such cases were reported.
26. For instance, on July 7, 2021, social media influencer Sevinj Huseynova shared a video on her Instagram account, openly inciting her followers into committing violence against LGBTIQ persons, and trans women in particular, even encouraging police to stay silent when such attacks occur. Shortly after, her videos got viral. Shortly after, on August 23, the burned body of Nuray, amongst those whom Huseynova targeted in her videos in particular, was

---

<sup>16</sup> SOGIESC - sexual orientation, gender identity, gender expression and sex characteristics.

<sup>17</sup> RFERL, '[They Gave Me Electric Shocks- Accounts Of LGBT Crackdown In Azerbaijan](#)', 23 October 2017

<sup>18</sup> OHCHR (2017), '[Azerbaijan: UN rights experts alarmed by reports of persecution of people perceived to be gay or trans](#)'

<sup>19</sup> A against Azerbaijan and 24 other applications, Application no. [17184/18](#), communicated on 26 Feb 2019

<sup>20</sup> [CEDAW/C/AZE/6](#), para 96-97

found in the Buta settlement of Garadagh district, Baku.<sup>21</sup> In response to Sevinc Huseynova's call on the mass killing of LGBTI+ persons, transgender women in particular, a group of activists made a collective appeal to the State Security Service (SSS). Upon this petition, representatives of the petitioners were invited to SSS and were told that "nor the concept of social groups is clearly defined in the legislation, neither laws of Azerbaijan does define the LGBTIQs as part of the social group; therefore, they (SSS) cannot take any measures".<sup>22</sup>

27. Throughout the reporting period, hate speech towards LGBTQ+ community and has significantly increased, with worrying trend in terms of the rhetoric. In an analysis of public hate speech incidents targeting LGBTQ+ people in Azerbaijan, 100 examples were selected by [OC Media](#), of which 65 were performed by politicians<sup>23</sup>.
28. For example, on May 2022, Eldar Guliyev, parliament member from the ruling party, told to media that people with LGBTI+ identities must be either disciplined (referring to conversion therapy), or expelled from the country", further adding that "as a parliament member, as a senior, I firmly say that it is necessary to fight against them."<sup>24</sup> Two weeks later, another parliament member from the ruling party Javid Osmanov, named LGBTIQs (and feminists) as "worthless and of no utility to the society", while urging to "fight back".<sup>25</sup> In response to a journalist's question on how 'this fight' be so that there is no conflict, for instance, with Constitutional rights, Osmanov proposed complete isolation and disintegration, adding that "the society should completely isolate LGBT representatives and feminists, they should not have any integration into the society". Months after, on October 28, another parliament member Tahir Karimli, also known for his anti-LGBT and anti-feminist sentiment, in an interview with the same media platform above, states that "propaganda about LGBT must be banned in Azerbaijan."<sup>26</sup> He raised this issue when commenting on the draft law prepared by the Russian State Duma on banning the 'propaganda' of LGBTIQs in the mass media, internet, literature and cinema, adding that "I have talked about this many times with my fellow deputies. I wish we could achieve this too. Propaganda of LGBT is a danger for Azerbaijan, it is necessary to urgently implement a draft law on it."
29. In Azerbaijani political discourse, LGBTI identity has always been rhetoric to discredit political opponents. Frequent hate speech by public and political figures in the absence of SOCIESC-inclusive hate speech law feeds the impunity of perpetrators of such hate speech. Chapter 19 of the Criminal Code on crimes against freedom and dignity does not recognize one's SOGIESC as a ground of deliberate humiliation of honor and dignity of a person.
30. For example, during the debates on Public TV pertaining to the 2018 presidential elections, a candidate of the "New Musavat" Party used homophobic language to discredit the chair of the "Popular Front" Party, and a candidate from "Social Democrats" party called homosexuality an illness, using example from the homophobic Russian policy regarding LGBTI people to support his homophobic argument.<sup>27</sup>

---

<sup>21</sup> Pink News (2021), 'Trans woman brutally stabbed and burned alive in Azerbaijan' <https://www.thepinknews.com/2021/08/30/trans-azerbaijan-nurray/>

<sup>22</sup> Abzas Media (2021), 'People are killed, how can this not concern SSS? (Original: İnsanlar öldürülür, bu necə DTX-nı narahat etməyə bilər?)' <https://www.facebook.com/AbzasMedia/videos/200669732203448/>

<sup>23</sup> The examples consisted of MPs, party members and government officials, including the chair of the parliament's Human Rights Committee, who said to "unequivocally support the punishment of transgender individuals and the establishment of a moral police in the country".

<sup>24</sup> Pravda (2022), 'They must be either disciplined (referring to conversion therapy), or expelled from the country' (Original - Deputat: "'Üzdənirəq"ları ya tərbiyə etmək, ya da ölkədən çıxarmaq lazımdır') <https://pravda.az/news/81705> ')

<sup>25</sup> Oxu (2022), 'MP: "Society should completely isolate LGBTI+s and feministst" - INTERVIEW (Original: Deputat: "Cəmiyyət LGBT nümayəndələrini, feministləri tamamilə təcrid etməlidir" – MÜSAHİBƏ)' [https://oxu-az.translate.google/politics/608322?x\\_tr\\_sl=auto&x\\_tr\\_tl=en&x\\_tr\\_hl=fr](https://oxu-az.translate.google/politics/608322?x_tr_sl=auto&x_tr_tl=en&x_tr_hl=fr) .

<sup>26</sup> Pravda (2022), 'Tahir Karimli: Immorality is widely spreading, LGBT propaganda must be banned in Azerbaijan (Original: "Tahir Karimli: Azərbaycanda da LGBT-nin təbliği qadağan olunmalıdır, əxlaqsızlıq baş alıb gedir')' <https://pravda.az/news/95885>

<sup>27</sup> Nabiyev Cavid (2018), '[Hate remarks by candidates for president elections](#)', YouTube

31. On another occasion, during the "Maiden Tower -To Be a Woman" Festival organized by the European Union's Delegation to Azerbaijan and several diplomatic missions in 2019, graffiti work by a Swedish artist Carolina Falkholt, depicting the body of a trans woman, caused public discussion about the visibility of sexuality. It led to transphobic hate speeches and even a government response in defense of the country's traditional mentality. The statement issued by the Baku Mayoral Office said: "Even though Azerbaijan is a multicultural country, it has its national values and mentality. [...] Just because it was allowed to draw on a building within the scope of the festival, it does not mean they are allowed to project their values that are against our morality. [...]"<sup>28</sup>
32. Hate speech targeting LBT women and girls has also been used after the rally held to support women's rights and to protest against violence against women on the International Women's Day in Baku in 2020.<sup>29</sup> Violently rounded up, activists were taken to the Gobustan region and released in a wasteland.<sup>30</sup> The march and its participants faced public lynching through dozens of articles by prominent media outlets, public figures and politicians (i.e. "immoral AIDS viruses in the streets of Baku"; "attack on national-religious values and family institution"; "propagating prostitution, LGBT in the name of feminism").<sup>31</sup> Another state sponsored prominent media outlet used homophobic rhetoric to discredit the well know Rabiyya Mammadova, the independent candidate for 2019 municipality elections by claiming that she is a member of sexual minorities and active defender of them.<sup>32</sup>
33. On 14 May 2020, during a discussion organized on Zoom platform that presumably was a leaked video, Rafiq Manafli, the chair of the Supreme Assembly of the Civil Solidarity Party and a member of the Coordination Centre of the National Council of Democratic Forces (union of opposition parties), justified the Holocaust committed by Nazi Germany, adding: "I am very sorry that Hitler did not kill (deconstructed) those gays in [19]41-45."<sup>33</sup>

### V.3. Bullying and other forms of harassment at schools

34. Bullying was actively discussed on social media for the first time after the death of 13-year-old Elina Hajiyeva. She committed suicide due to bullying on 4 April 2019, at school #162 in Baku. Although Elina had informed her teachers about being bullied, the school administration had not taken any measures.<sup>34</sup> According to Elina's mother, her classmates and schoolmates continuously humiliated her, calling her a "lesbian" because of the differences in her appearance (i.e., dyeing her hair, wearing different clothes, differences in her behavior).<sup>35</sup>
35. The absence of inclusive curriculum to promote equality, peace and non-violence in learning environments and tackle pervasive social and cultural patterns on sexuality and gender makes LGBTI children vulnerable to intersecting forms of physical and emotional violence (i.e., mobbing, bullying, harassment) both within and outside of educational settings. In case it appears, the success of such curriculum will also rely on its implementation by teachers who are often poorly qualified and have a biased attitude against sex education especially in relation to SOGIESC issues.
36. On 9 January 2019, in line with the Development Strategy of Azerbaijani youth in 2015-2025, Nafas sent an inquiry to the Ministry of Youth and the Ministry of Education

<sup>28</sup> Arzu Geybullayeva (2019), '[Arts festival caught in the crosshairs of Azerbaijan's 'national mentality'](#)', Global Voices

<sup>29</sup> Caucasus Watch, '[8 March protests in the South Caucasus](#)', 10 March 2020

<sup>30</sup> Contact.az, '[All People Detained at Feminist Rallies Released](#)', 8 March 2020

<sup>31</sup> Publika.az, '[Legalization of LGBT under the umbrella of feminism](#)', 10 March 2020

<sup>32</sup> Azvision.az, '[Proxy-opposition in women's clothing: What is the goal of feminists? - Analysis](#)', 8 March 2020

<sup>33</sup> APA News, '[Zoom call reveals homophobia of Azerbaijan opposition politicians](#)', 26 May 2020

<sup>34</sup> Lala Mahmudova (2019), '[A Comprehensive Approach to Bullying Prevention in Azerbaijani Schools](#).' Baku Research Institute

<sup>35</sup> Minority, '[The student, who was bullied as "lesbian" in Baku, committed suicide](#)', 5 April 2019



asking them about measures taken to address bullying that puts LGBTI children and youth at risk in gaining access to education, exposes them to violence in school and the community, and on their way to and from school. Both of the Ministries made no response. With this in mind, the absence of needed policies or programs to make schools safe for LGBTI children and youth or to support already affected ones not only damages their mental health. Consequently, it also has an impact on their academic performance, compared to their peers, and, therefore, their access to higher education. Altogether, this leads to weaker capacities, social mobility and poverty.<sup>36</sup>

#### V.4. Stigmatization of sex workers

37. The word 'prostitution' is burdened with considerable historical and cultural baggage in Azerbaijan. Expressions such as "common women" or "immoral" (küçə qadını, əxlaqsız) are mainly associated with sex workers, and its usage reproduces negative labeling and contributes to the deepening of sex workers' stigmatization. It is also crucial to differentiate the context of sex workers and victims of human trafficking.
38. Due to limited employment opportunities, many transgender women do sex work as the only option available for them. However, according to Article 524 of the Code of Administrative Offences, selling sex is punishable.<sup>37</sup> Consequently, criminalization drives sex workers underground where their vulnerability to sexually transmitted infections increases, and the ability to protect themselves from physical and sexual violence committed by clients decreases. For instance, on 18 June 2020, a trans woman who was a sex worker, had been stabbed 11 times before she lost her life.<sup>38</sup>
39. Furthermore, criminalization increases sex workers' vulnerability to trafficking, creates legal obstacles for sex workers to report physical and sexual harassment (i.e., forced sex), hence fuels the sense of impunity for perpetrators. Given that the state healthcare institutions are the primary provider of HIV prevention programs, the fear of detention or becoming subject to fines are severe barriers for sex workers to uptake state-sponsored tests, prevention and treatment programs, and other services.<sup>39</sup> This decreases the efficiency of the State's HIV/AIDS/STIs prevention policy.
40. As it is known to us, through outreach work with the community, trans women and gay sex workers have to give police money to secure the safe space to operate (work).
41. In fact, rather than addressing the social and economic causes, the State uses Article 524 of the Code of Administrative Offences (punishment for sex work) as a tool for oppression and persecution against cis and trans women sex workers. Most of the time, the State actors also apply the Law on the Fight Against Illness Caused by HIV to justify their actions. This happened, for example, with a purge in 2017. 'Public health matter' argument allows the State to gain wider public support, legitimizing the prosecution of sex workers. The action plan for 2020 approved by the Baku City Police Department is a worrying example of it. According to the head of the department's press service, the creation of a police squad consisting of Operation, Investigation and Public Security staff aimed to combat people who have a "morally free lifestyle" and are endangering public morality and national mentality.<sup>40</sup>
42. Hence, without considering the socio-economic factors (as for cis and trans women selling sex has a survival meaning), punishing the act itself and not offering exit and reintegration programs for those who wish to exit the sex industry, Article 524 of the Code of

<sup>36</sup> [JS](#) to CESCR Pre-Sessional Working Group 65, para. 3.5

<sup>37</sup> The Code of the Azerbaijan Republic on Administrative Offense. Article 524, [Bill 96-VQ](#)

<sup>38</sup> Minority, '[A trans woman stabbed to death in Baku](#)', 23 June 2020

<sup>39</sup> UNAIDS (2014), '[The Gap Report](#)'

<sup>40</sup> Meydan TV, '[Police squad is being set up against people who have a "morally clean lifestyle"](#)' (Original: "Yüngül əxlaqlı həyat tərzini sürən şəxslərə qarşı polis naryadı yaradılır), 3 September 2019

Administrative Offences encourages various forms of abuse, including extortion, beating, rape, and even killing of sex workers.

### **V.5. Inappropriate healthcare for trans women and the lack of effective legal gender recognition**

43. The legislation does not restrict LGBTI persons' access to healthcare services. However, LGBTI community members, especially trans women, face discrimination in medical facilities due to homo- and transphobia. There are no or very little providers with knowledge in transgender healthcare, as it is not being taught in medical curricula. There are also no guidelines on rules of conduct for medical staff.<sup>41</sup> On 9 January 2019, Nafas LGBTI Azerbaijan Alliance made an inquiry to the Ministry of Health to find out about any measures, such as developing guidelines for medical personnel to increase awareness on non-discriminatory behavior, taken to ensure that health care is accessible to all without discrimination of any kind. The Ministry did not provide any reply.
44. Many trans people face daily-life problems because their legal gender does not match their gender identity. For trans persons, including trans women to change the documents in Azerbaijan, the law requires gender reassignment surgery as a prerequisite. One must acquire and submit a doctor's certificate stating that the person has completed the full process. However, the healthcare system neither performs gender reassignment surgeries nor provides hormone treatment<sup>42</sup> and other services pertaining to gender reassignment surgeries. The domestic legislation neither prohibits nor regulates gender reassignment surgery and related processes. The Law on "Transplantation of human organs and/or cells/tissues" could be the only applicable law in this area.<sup>43</sup> However, there is no pertinent provision on gender reassignment surgery as it is not among the transplant procedure list. Consequently, issues regarding how and where these surgeries should be performed and what specific procedures should be followed by those wishing to perform this procedure are not regulated.
45. This gap in the legislation goes beyond being an administrative obstacle. Trans people who wish to undergo gender reassignment, have to do it abroad, in most cases, in Turkey. However, after the procedures performed, these trans people face administrative problems trying to return to Azerbaijan. Their ID not matching their present appearance makes them vulnerable to humiliation at the border control. For instance, on 26 May 2019, an employee of the Azerbaijan Airlines shared the ID card of a transgender person on social media by turning it into a laughing object that resonated on social media.<sup>44</sup> Furthermore, due to problems mentioned above, those who underwent surgeries and returned to Azerbaijan are not able to have access to healthcare in case of post-surgery health problems.

### **V.6. Violations of the right to family life**

46. According to the Constitution of Azerbaijan, "everybody shall have the right to marriage upon reaching the age specified by law"<sup>45</sup>; however, the wording "husband and wife have equal rights (original: Ər ilə arvadın hüquqları bərabərdir.)" stated in the Constitution makes it clear that only heterosexual couples are entitled to marriage rights.<sup>46</sup> The Family Code of the Republic of Azerbaijan also reiterates the same clarification.<sup>47</sup> No other form of legal

---

<sup>41</sup> Nafas (2018), '[Transgender being refused access to the service at the hospital](#)'.

<sup>42</sup> Minority, '[I couldn't look at myself on a mirror](#)' (Original: *Güzgülərə nifrət edirdim, çünki baxanda özümü görürdüm*), 20 January 2019

<sup>43</sup> The Law 'On transplantation of human organs and /or cells/tissues', [Bill 726-IQ](#), 28 October 1999

<sup>44</sup> Minority, '[An official statement from AZAL regarding the dissemination of a transgender individual document](#)', 27 May 2019

<sup>45</sup> The Constitution of the Republic of Azerbaijan, [Article 34. I](#)

<sup>46</sup> *Ibid.* Article 34.IV

<sup>47</sup> The Family Code of the Republic of Azerbaijan, [Article 2.3](#)

recognition of same-sex couples, such as civil union or registered partnership, is provided by the legislation of Azerbaijan. As a result, lesbian and bisexual women are deprived of access to any family-related rights and benefits stem from their union. This includes taxes, ownership over the common property, usage and order rights and property distribution, joint adoption, succession to a tenancy, health insurance and access to healthcare, alimony, rights related to death and inheritance, extended access to survivor's pensions, etc.

47. We are deeply concerned about possible negative implications of the Law "On protection of children from information harmful to their health and development" that came into force in 2020.<sup>48</sup> Firstly, information discrediting both the traditional family and the institution of marriage is characterized as a type of harmful information. We are concerned that it may be used to discriminate against LBT women and organizations or initiatives that disseminate information about their rights, equality, and inclusion. Secondly, in the State's report, it is noted that the ratification of the Istanbul Convention requires additional internal State agreements.<sup>49</sup> Besides, remarks of the President Ilham Aliyev and Aynur Sofiyeva, the deputy chairman of the State Committee for Family, Women and Children Affairs, can also be a worrying indicator of policy path on gender equality that the State might take:

*Ilham Aliyev: We are building our state on traditional values. Some countries are not paying attention to this now. But we live and must live in a traditional society. We must respect women, protect them: we must protect them, not women should protect us. [...] Where should we integrate, into a society saying "Stop Islam"? (referring to Western world) Where should we integrate, into a society of those who do not see the difference between men and women? I don't want to go into detail. We will not integrate there – by no means!*<sup>50</sup>

*Aynur Sofiyeva: "They want to impose same-sex marriages as a family model. When we have a look at this, we see that the family model has collapsed in the West. This leads to demographic problems in the world. In fact, instead of addressing these problems the West aims to transmit it to other societies. Our main purpose must be to protect our national values."*<sup>51</sup>

---

<sup>48</sup> Azerbaijan. Parliament. (2020) 'The Law on protection of children from information harmful to their health and development.' Bill [1310-VQ](#), Baku. 1 January 2020

<sup>49</sup> [CEDAW/C/AZE/6](#), para 95

<sup>50</sup> President's official webpage (2019), 'Speech by Ilham Aliyev at the ceremony to mark the 100th anniversary of Baku State University' <https://president.az/en/articles/view/34985>

<sup>51</sup> Minority, '[Homophobic statement from the Deputy Chairperson of the State Committee](#)', 23 February 2019

## **Recommendations**

48. Within the light of the described we have further recommendations for the Republic of Azerbaijan:

- Adopt comprehensive antidiscrimination legislation;
- Sign and ratify the Istanbul Convention - Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence and allocate adequate resources for its implementation;
- Revise the Law on Gender Equality and the Law on Prevention of Domestic Violence to ensure that its provisions effectively address all grounds of direct and indirect discrimination, including sexual orientation, gender identity, gender expression and sex characteristics;
- Amend the Criminal Code, by explicitly recognizing crimes based on sexual orientation, gender identity, gender expression and sex characteristics as an aggravating factor; and to ensure that such cases are properly investigated and that perpetrators are held accountable;
- Amend the Criminal Code to counter hate speech, including on social media, on the basis of sexual orientation, gender identity, gender expression and sex characteristics as grounds of deliberate humiliation of honor and dignity of a person;
- Ensure that Resolution № 57 on “List of diseases that do not allow to engage in pedagogical activities” will not be used as a restriction against LBT women to exercise their pedagogical activities;
- Amend the Labor Code and repeal the List of jobs prohibited for women, promote and facilitate the entry of women into previously restricted or prohibited jobs by improving working conditions and adopting appropriate temporary special measures to encourage such recruitment thus guaranteeing real access to all professions for women;
- Increase the number of female appointments to lead the executive powers, public administration institutions such as state agencies, state committees and ministries in order to achieve improved political participation and better representation in decision-making positions;
- Empower female involvement in political parties by providing a minimum of 35% quota for young women representation in the parliament of the country;
- Build regional shelters for victims of domestic violence in all economic districts of Azerbaijan by providing different funding opportunities on the government level to local authorities and civil society organizations from those regions;
- Provide training for police officers on professional and non-abusive treatment of victims of domestic violence;
- Empower the engagement of girls and women in school, universities and other educational institutions throughout the whole country;
- Apply the Article 176-1.1 and 176-1.2 (forced marriage) of the Criminal Code of Azerbaijan strictly in line with the legal provisions, regardless the status and/or religious motives of perpetrators;
- Raise awareness on the negative impact of early/child marriages on the reproductive and sexual health of women;
- Conduct comprehensive human rights education for judges, prosecutors, police officers with an emphasis on promoting gender sensitivity and non-discrimination based on sexual

orientation, gender identity, gender expression and sex characteristics;

- Strengthen the judicial system, including through additional financial, technical and specialized human resources to handle hate crimes committed against LBT women and intersex persons in a timely, non-discriminatory and competent manner;
- Adopt a comprehensive anti-bullying policy to promote equality, peace and non-violence in learning environments for all students, including anti-LGBTI bullying;
- Develop and adopt a comprehensive sexual education curriculum in schools that is inclusive of the full spectrum of gender identity and sexual orientation, culturally responsive that provides evidence-based information about healthy relationships and non-stigmatized preventative methods for STIs;
- Abolish the Article 524 of the Code on Administrative Offences penalizing sex work, to ensure that cisgender and trans women who engage in sex work can, without fear, have effective access to justice and state-sponsored prevention programs on HIV and other sexually transmitted infections;
- Collect statistical data on the number and nature of complaints of police abuse and complicity in corruption targeted at cis and trans women sex workers, and ensure that such complaints are duly investigated, that perpetrators are prosecuted and punished with appropriate sanctions; ensure that victims are provided with protection and support in a gender-sensitive manner, and the confidentiality of victims is preserved;
- Provide exit programs and alternative income-generating opportunities for cis and trans women who wish to leave the sex work industry;
- Review health legislation and policies by developing medical curricula and guidelines on rules of conduct to address the stigma and discrimination experienced by lesbian, bisexual and transgender women and intersex persons in health care, including sexual and reproductive health care;
- Amend the Law on "Transplantation of human organs and/or cells/tissues" to include gender reassignment surgeries into the transplant procedure list and to establish how and where these surgeries should be performed and what specific procedures should be followed;
- Adopt legislative provisions explicitly prohibiting the performance of unnecessary surgical or other medical treatment on intersex children until they have reached an age to where they can provide appropriate consent; ensure that rights-based healthcare protocol prohibits public hospitals and private clinics from conducting conversion therapy targeting lesbian, bisexual and trans women;
- Provide effective, timely gender-sensitive remedies, including inclusive shelter services to respond to domestic enslavement, conversion therapy and forced marriage of lesbian, bisexual and trans persons;
- Revise existing laws to ensure that all forms of families, including same-sex couples and de facto unions, are fully encompassed in the notion of the family used in all State laws, policies, programs and strategies;
- Ensure that interpretation of the Law "On protection of children from information harmful to their health and development" will not be used to discriminate against LBT women and organizations that disseminate information about LGBTI rights, equality and inclusion.