
**Study on Homophobia, Transphobia and Discrimination on
Grounds of Sexual Orientation and Gender Identity**

Sociological Report: Azerbaijan

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A. Executive summary

1. The situation for LGBT persons and organisations in Azerbaijan, and the drafting of this report, must be assessed in the light of human rights reports documenting general human rights violations and restrictions of freedom for civil society in the country. All information sources, used during the conduct of this report, except Azerbaijani public officials, estimate public opinion and attitudes towards LGBT people as being highly negative and hostile. This is emphasised by several accounts of police harassment of LGBT venues and persons - ranging from harassment and blackmail to physical and sexual abuse.
2. During the mission to Azerbaijan for drafting this report, public officials unanimously described Azerbaijan as a country with no discrimination and as an example of tolerance for other countries to follow. At the same time explicitly negative attitudes towards LGBT people were voiced and no official data were presented.
3. There is one NGO in Azerbaijan focusing mainly on LGBT related issues. Gender and Development (G&D) is an NGO established in 2006 which receives the main part of its funding from COC Netherlands (Dutch NGO) and the Dutch Ministry of Foreign Affairs.
4. There have been no attempts to organise gay pride marches. However, there was a small gathering on 17 May 2009 to commemorate International Day against Homophobia and Transphobia. Some LGBT-oriented venues are found in Baku, but there are several accounts of reoccurring police control and harassment towards the places.
5. Hate crimes and hate speech are not recognised as legal concepts by the criminal law. There are however many reported cases, where individual(s) are subjected to violence (verbal and physical) because of their perceived sexual orientation and/or gender identity. There are accounts of incidents of police brutality against individuals due to their sexual orientation or gender identity. However, there seem to have been no investigations regarding these incidents.
6. Many parents reportedly cut off their children, when/if they find out that they are lesbian, gay, bisexual or transgender. Family is an institution of social control, and, in particular lesbians or bisexual women, in some cases employ a strategy of sham marriages (for example to a gay man) to avoid strict family supervision.
7. There are no cohabitation rights for same-sex partners.
8. The curriculum in public schools does not include sex education or life skills, and LGBT people are not represented in the educational material.
9. There are no official data on discrimination on the grounds of sexual orientation and gender identity in employment - and no officially reported cases. While being fired from a job on the grounds of sexual orientation or other discrimination grounds remains illegal, LGBT individuals and representatives report that employers found other reasons to fire them, such as "under-performance". Transgender persons are to a large extent excluded from the labour market.
10. Article 25 of the Constitution of Azerbaijan guarantees for everyone equality of rights and freedoms regardless of his or her "country, race, nationality, religion, language, sex, origin, property and official status, conviction, affiliation with political parties, trade unions and other social organisations". Corresponding provisions are embodied in various fields of legislation, including civil, criminal, criminal procedure, labour and family law. Azerbaijani

legislation does not directly touch on the issue of non-discrimination on the basis of sexual orientation and gender identity, While equality is in theory guaranteed to everyone, however in practice the grounds of sexual orientation and gender identity remain invisible.

11. Men who have sex with men are assessed to be a high-risk group in relation to HIV/AIDS. However, there are different numbers presented of the prevalence in the country. A particular concern regarding the health service is highlighted in incidents of discrimination and the refusal to treat transgender persons at hospitals. Also, there is a lack of possibilities for gender reassignment treatment.
12. A general taboo regarding LGBT people and related issues is also seen in the media with very little representation of LGBT persons, and problems with broadcasting programmes showing a neutral presentation.
13. Transgender people are both facing problems receiving gender reassignment treatment and difficulties in changing documents. Though legally not forbidden, the generally negative attitude together with sophisticated bureaucracy turns changing documents into a real challenge.

B. Data collection

14. Data have been collected for this report through:
15. A study of available online and print data on the situation regarding homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity in Azerbaijan.
16. Data collection through interviews in Azerbaijan held in Baku 11 and 12 April 2010 with:
17. Authorities:
 - Ministry of Health
 - Ministry of Labour and Social Protection
18. NGOs:
 - Gender & Development Social Union
 - Clean World Social Union
19. National Human Rights Structure:
 - The Ombudsman

C. Findings

C.1. Public Opinion and Attitudes

20. All information sources, used during the conduct of this report, except Azerbaijani public officials, estimate public opinion and attitudes towards LGBT people as being highly negative and hostile. "Forced out" - a report conducted by ILGA Europe and COC Netherlands written on the basis of a mission to Azerbaijan – describes various cases of harassment, institutional discrimination and hatred behaviour towards LGBT persons¹. "Forced out" reports on a number of stories from LGBT persons who are ashamed of coming out, even to their closest family and friends, because of their fear of being rejected. Other cases from the report tell stories of LGBT persons in Azerbaijan, who – because of the exclusion from their workplaces, universities, and other social spheres – are forced to choose an unsafe and very exposed life as sex workers².
21. The LGBT NGO Gender & Development also describes the situation as "not good", and refers to several incidents of discrimination and blackmail, carried out by ordinary citizens or by police. In particular the situation outside of Baku is described as highly problematic.³
22. "Violations of basic human rights of sexual minorities lead to a decreased quality of life and feeling of uselessness within the republic – while the Constitution of the Azerbaijani Republic maintains that all citizens of the republic are entitled to equal rights and opportunities regardless of various statuses"⁴.
23. The information received from the sources referred to above is mirrored in a documentary made by ILGA-Europe and COC Netherlands in which several LGBT persons from Azerbaijan tell their stories of discrimination, abuse and blackmail carried out by police.⁵
24. The following quotes, all views expressed by the Ombudsman at the meeting with the team,⁶ can be seen as indicative of the attitudes to LGBT persons:
25. "I don't think that it [homosexuality, ed.] is normal. The roles of the sexes are defined by nature (...) This will be a general view of most from my country, though we never discuss this issue."
26. "Sometimes people say that there is no bad impact of the lesbians and gays on the society, the work places etc. But I think there is. Some of them try to attract more and more people to their community. We must look at it from the point of demography. No man can replace the mother care. Two mothers are also not normal"
27. "As a woman and as a mother, I don't want my child or a grandchild to be lesbian or gay, because they will always be outside of society".

1 *Forced out: LGBT People in Azerbaijan – Report on ILGA Europe/COC fact-finding mission*, August 2007.

2 *Ibid.*

3 Meeting with Gender & Development, 11 March 2010.

4 Discrimination and violence against lesbians, bisexual women and transgender people in Azerbaijan Republic, Presented for 44th Session of CEDAW by G&D Social Union.

5 ILGA-Europe and COC Netherlands, Everyone has the right to life, liberty and security of person.

6 Meeting with the Ombudsman, 11 March 2010.

28. "We have a lot of nationalities, we have a lot of different faiths, and all of them give positive impacts to society. But they [homosexuals, ed.] do not. What is the need for them to be able to get married? We have a lot of other problems."
29. The views expressed by the Ombudsman during the meeting with the team are quite exceptional in their open approach to the topic. Other officials interviewed described Azerbaijan as a country with no discrimination at all and characterised by nothing but "tolerance".⁷
30. The Human Rights Report for Azerbaijan published by the Bureau of Democracy, Human Rights, and Labour under the US Department of State characterises political situation and degree of freedoms in the country in 2009 in the following way:
31. "Though the legislative authority in Azerbaijan is vested in the Milli Majlis (National Assembly) in practice the president dominated the executive, legislative, and judicial branches of government. Members of the security forces at national and local levels committed numerous human rights abuses. Torture and beating of persons in police and military custody resulted in at least four deaths in 2009 and law enforcement officials acted with impunity...Pervasive corruption, including in the judiciary and law enforcement, continued. Restrictions on freedom of assembly continued.... Restrictions and pressure on the media and restrictions on political participation worsened. Cases of violence against women were also reported. Trafficking in persons for sexual exploitation and forced labour remained a problem."⁸
32. At the background of the growing economy and decreasing level of freedoms in the country⁹ the situation for representatives of minorities seems to be getting more difficult. The government does not officially condone discrimination based on sexual orientation or gender identity, however, all sources analysed point at strong societal prejudice, traditional taboo, stigma and hostile attitude in the society against LGBT persons.¹⁰
33. The negative attitude is also reflected in political and religious leaders' opposition to the debate on 29 April 2010 in the Parliamentary Assembly on the PACE report on Discrimination on the basis of sexual orientation and gender identity . Hadi Rajabli, chairman of the Azerbaijani parliamentary committee on social policy, said:
34. "I have a very negative view of the debate. Yes, we have declared integration with European structures as our priority, but we must also protect our national and cultural values. This is unacceptable for us and we do not intend to copy everything that is adopted in Europe."¹¹

C.2. Freedom of assembly and association

35. There is one NGO in Azerbaijan focusing mainly on LGBT related issues. Gender and Development (G&D) is an NGO established in 2006 which receives the main part of its funding from COC and the Dutch Ministry of Foreign Affairs.

7 Meetings with the Ministry of Health and Ministry of Social Development and Labour Protection, 12 March 2010.

8 US Department of State, *2009 Human Rights Report Azerbaijan*, Bureau of Democracy, Human Rights and Labour, 2010.

9 *Freedom in the World 2009 - Azerbaijan*, 16 July 2009, www.unhcr.org, accessed 24 September 2010.

10 E.g. described in: US Department of State, *2009 Human Rights Report Azerbaijan*, Bureau of Democracy, Human Rights and Labour, 2010.

11 Quoted in *Azerbaijani MPs not to attend European Debates on Same-Sex marriage*, News.az, 22 January 2010, www.news.az/articles/7279, accessed 11 July 2010.

36. During the establishment and registration of G&D the founders were several times called for a personal meeting with the State Security Committee where they were questioned about the objectives and the target groups of the organisation and their interrelations with other countries. The process of registration and permission took six months¹². During the four years since being established, authorities have, however, never visited the premises of G&D and no official harassment of its work is reported¹³.
37. The Council of Europe Human Rights Commissioner reports from a visit in Azerbaijan in 2010: "Members of NGOs defending LGBT (lesbian, gay, bisexual, transgender) rights have allegedly been subjected to blackmailing using information obtained through the unlawful tapping of telephones."¹⁴ In their comments to the report, the authorities in Azerbaijan state that they do not know of any such incidents.
38. There seems to be room for improvement regarding the acceptance and inclusion of LGBT organisations by public bodies. The following statement made by the Ombudsman when asked about having meetings with LGBT NGOs is indicative of this:
39. "I would think about it, if they wanted. But I would have to think about that, because they would exploit it in advertisement. It would not be discrimination not to meet with them."¹⁵
40. Also concerning is the fact that the right to freedom of assembly and association of LGBT persons was more or less directly questioned by the Ombudsman:
41. "Let them [homosexuals, ed.] live, but who says that there should be special clubs and places for them?"¹⁶
42. G&D stressed that it is important to act in accordance to the laws of Azerbaijan and in line with the moral requirements of the society. In order not to be accused of poor morals or debauchery of youth they close the office not too late, do not have any alcohol in the office and do not allow minors (under 18) to visit the organisation.
43. The Chairman of G&D has on a number of occasions been asked by the authorities (e.g. the Ombudsman or Ministry of Foreign Affairs) to present the views of the LGBT community to foreign delegations, for example in March 2010 in a meeting with a representative of the Council of Europe.¹⁷
44. Another organisation of relevance is Clean World, a women's NGO working primarily with victims of trafficking and domestic violence. The organisation offers shelter and mediation in family disputes as well as assisting in registration of NGOs (G&D was among them). Though lesbians and bisexual women are not the direct target group of the organisation, the organisation have in some cases mediated for LB women facing problems in connection with coming out to their families.
45. The research, conducted for this study, shows that there are various websites targeting the LGBT community. For instance, www.lgbt.az was closely investigated for the purpose of conducting this report. The website is professionally made and offers its users a variety of information/news updates, communication/chat options, discussion/forum options and

12 Registration procedure for the Cleaner World set forth below took six years.

13 Meeting with Gender & Development, 11 March 2010.

14 Report by Hammarberg, T., *Commissioner for Human Rights of the Council of Europe*, following his visit to Azerbaijan from 1 to 5 March 2010, par. 44, <https://wcd.coe.int/ViewDoc.jsp?id=1642017&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679>, accessed 11 July 2010.

15 Meeting with the Ombudsman, 11 March 2010.

16 Ibid.

17 Meeting with Gender & Development, 11 March 2010.

networking options. The visitors can establish their profiles on this website and communicate with each other, upload pictures, share experiences etc. Existence of such websites is a positive development for the LGBT community, however, only those with Internet access can benefit from them.

46. There are a number of night clubs/cafes in Azerbaijan, where the LGBT community meet. It is also common knowledge e.g. that Tbilisi Avenue one was the place where transgender sex workers met clients up until a police raid stopped the activities in May 2007.¹⁸ The existence of venues where LGBT persons meet sometimes results in police harassment. This is confirmed by several sources, for example, in the report by ILGA-Europe and COC:
47. "(...) raids take place in bars where LGBT people meet, usually to intimidate or take money from them. Other people confirmed this story: "Someone had told the police that they should check out this Club P. So 3 guys went there and beat up transvestites who were in the bar. One guy was killed over there."
48. An article in the Zerkalo newspaper confirms this practice: "As one of the officials of Yassamal Regional Department of Internal Affairs (...) said (...), the police periodically carry out spot-checks or raids in places where gays meet. This is, by the way, not only Tbilisi Avenue, but also several central city bars where transvestites and their potential clients prefer to party."¹⁹
49. The police raids can not only be seen as problematic and causing harm because of the harassment that LGBT persons undergo during them, but also because of the fact that they keep community members from participating in social events and community activities at these places.
50. However, according to the Ombudsman there are no restrictions to the freedoms of assembly and associations - there are no laws restricting in any way the freedom of assembly for any specific groups of people.²⁰
51. There have been no attempts to organise gay pride marches. However, there was a small gathering on 17 May 2009 to commemorate International Day Against Homophobia and Transphobia.

C.3. Freedom of expression

52. Despite the fact that the LGBT community is poorly represented in the Azerbaijani media, the websites visited under conduct of this report, give their members an opportunity to express their opinions.²¹
53. The novel "Artush and Zaur" by Ali Akbar,²² published in February 2009, a controversial romance novel about two gay men, one Armenian and the other Azerbaijani, addresses the two biggest taboos in the country - relations between Azerbaijan and Armenia and gay relationships. The plot is straightforward: *Artush, an Armenian, and Zaur, an Azeri, become attracted to one another as schoolboys in Baku, but are separated as violence breaks out between their countries over the disputed territory of Nagorno-Karabakh. Zaur is left wandering the streets of Baku, mourning the loss of Artush to Armenia.*

18 The place was mentioned in several meetings among others by Ombudsman and Ministry of Health and Gender & Development, 11-12 March 2010. Gender & Development informed that the activities had stopped after the mentioned police raid.

19 *Forced out: LGBT People in Azerbaijan – Report on ILGA Europe/COC fact-finding mission*, August 2007, p. 33.

20 Meeting with the Ombudsman, 11 March 2010.

21 The reason for not being able to access those domains are mostly ethical.

22 Akbar A., *Atrush and Zaur*, Dissident Publishing House, 2009.

54. Radio Free Europe reports: "One bookseller told the Caucasus Reporting Service the novel was "selling like hotcakes", but pressure from religious customers forced one of the two Baku-based bookstores to stop selling it shortly after the sale start.
55. "I started a war against two stereotypes," Akbar says. "See what people [in Azerbaijan] do these days: either they look for someone's Armenian origins, or they say, 'I don't like you, so you must be gay.'"²³
56. The truth to the last part of the quote above is underlined by the tendency to use "gay" as a negative marker to discredit political opponents - a strategy used, among others, by the government towards members of the opposition.²⁴

C.4. Hate crime - Criminal law

57. Hate crimes and hate speech are not recognised as legal concepts by the Azerbaijani criminal law, and Azerbaijan has reported to OSCE/ODIHR that no data on hate crime are collected.²⁵ There are, however, many accounted cases, where individual(s) are subjected to violence (verbal and physical) because of their real or perceived sexual orientation and/or gender identity.
58. Though there are no laws criminalising consensual same-sex acts, there are accounts of numerous incidents of police brutality against individuals due to their sexual orientation or gender identity. However during 2009 there were no investigations into or punishments of those responsible for these acts²⁶. This was largely due to the victims' unwillingness to file claims due to fear of social stigma and exposure.
59. A documentary with several LGBT persons telling about their experiences includes also a story of several incidents of police discrimination in the form of arrests, blackmail, beatings, and sexual abuse.²⁷
60. The Bureau of Democracy, Human Rights, and Labor, US Department of State reports that during 2009, police raided gay bars on four occasions and arrested almost 50 persons. Police reportedly held the individuals and threatened to expose their sexual orientation publicly unless paid a bribe²⁸.
61. A few cases set forth below illustrate the scale of hate crime and are concerning examples of the illegitimate use of force by the police. The case from 2006 – the so-called "Toma" case:
62. "A 22 year old homosexual was beaten and raped on June 1 in the Police Department #27 of Yassamal Region in Baku. On that particular night Toma/Gassanov and some friends were strolling in the streets of the Yassamal Region. There Gasanov met somebody whom he liked. Toma got to know him. Soon after, a police car approached them and the policemen arrested everyone, including the stranger in the street. Gasanov, however,

23 Radio Free Europe, Radio Liberty, www.rferl.org/content/Controversial_Azeri_Novel_Takes_On_Double_Taboos/1506890.html, accessed 24 September 2010.

24 Meeting with Gender & Development, 11 March 2010.

25 OSCE/ODIHR, *Hate Crimes in the OSCE Region - Incidents and Responses*. Annual Report for 2008, 2009.

26 US Department of State, *2009 Human Rights Report Azerbaijan*, Bureau of Democracy, Human Rights and Labour, 2010.

27 ILGA-Europe and COC.

28 US Department of State, *2009 Human Rights Report Azerbaijan*, Bureau of Democracy, Human Rights and Labour, 2010.

escaped. Later, when he found out that his “girl-friends” were taken to the Police Department #27 of the region he decided to help, and came to the police station. The “girlfriends” were released, the stranger too, but Gasanov was asked to stay for a “talk”. He was then beaten and raped by somebody called Arzuman – Captain of police. To escape the police Gasanov cut open his stomach several times with a razor. The police got scared by that and let him escape.”²⁹

63. A case from May 2007 refers to “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 gunshots 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 families/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.”³⁰
64. Addressing this case during the meeting with the Ombudsman the team learned that a written complaint on that case was indeed submitted to the office of the Ombudsman. However no action from the side of the office was undertaken because the Azerbaijani law requires full names, original signatures and official addresses of the submitter of a complaint to take action. In this case only names were listed in the complaint.³¹
65. In the interview with G&D (the organisation has a copy of the response from the Ombudsman rejecting the complaint) further details on the case were provided to the team: During the arrest policemen confiscated the mobile phones of the detained sex workers and illegally copied the call histories. During the 18 months following the incident, police approached those people who were on the contact lists and questioned them on the suspicion of being clients of the sex workers. One such hearing ended up tragically when a married man who was disclosed towards his family for using services of a sex worker tried to kill the sex worker with a knife because he suspected that the sexworker had given his contacts to the police. Though only wounded in the fight, s/he died in a hospital where medical personal refused to treat him/her because s/he was transgender. No complaint was submitted this time.³²
66. Another case, reported in the shadow report for a third periodic report for Azerbaijan to the UN Human Rights Committee in respect of the International Covenant on Civil and Political Rights (ICCPR) in 2009, tells the story of a transgender person killed on the grounds of gender identity:
67. “The case involved the murder of a transgender man called Samir in August 2007 by a member of a Wahabi religious group. The two agreed to meet in person after meeting on an Internet site. However the murderer came to Samir’s flat intending to kill him with a large kitchen knife. There were other witness in the flat at the time, and the murderer was identified and caught. The lawyer of the accused openly stated in court, in his client’s defence, that such people as Samir need to be killed. The lawyer did not receive any admonition from the judge.”³³

29 *Forced out: LGBT People in Azerbaijan – Report on ILGA Europe/COC fact-finding mission*, August 2007, p. 33.

30 Labrys, <http://kyrgyzlabrys.wordpress.com/2008/09/10/labrys-writes-reports-on-sexual-and-reproductive-rights-in-azerbaijan-turkmenistan-and-uzbekistan/>, accessed 28 January 2010.

31 Meeting with Ombudsman, 11 March 2010.

32 Meeting with Gender & Development, 11 March 2010.

33 *The Violations of the Rights of Lesbian, Gay, Bisexual, Transgender Persons in Azerbaijan*, a shadow report presented UN Human Rights Committee in respect of ICCPR and for 44th Session of the Committee on the Elimination of Discrimination against Women (CEDAW) (20 July - 7 August 2009).

68. The fact that a lawyer can in court allow him/herself to use gender identity or expression as a justification of a violent act such as a murder, not to mention the fact that such action in itself takes place, is indicative that homo- and transphobia are present in Azerbaijan, including in the Azerbaijani judiciary³⁴. The convicted was given a lowered sentence – six years, but it was changed to 13 ½ years by the Appeal Court³⁵. For the appeal case increasing the sentence, Gender & Development hired a lawyer. It is the assessment of Gender & Development that the sentence would not have been changed had they not interfered with a good lawyer.³⁶
69. Another report focuses on transgender sex workers and their interaction with police: “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 use 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.”³⁷

C.5. Family issues

70. Various family issues particularly problematic for LGBT persons have been reported. First and foremost, many parents are reported abandoning their children, when/if they find out that they are lesbian, gay, bisexual or transgender. Many LGBT persons consider leaving Azerbaijan a better solution than to come out to their family and friends³⁸. In some cases the family reactions are very violent. “Forced out” tells the story of a 22-year old transgender woman. Christina, was tied up with chains in the cellar of her father’s house and systematically beaten up during 8 months. She was afterwards forced to marry someone, but got divorced a year after the marriage. After the divorce the father kept her in his cellar again. As a result Christina tried to commit suicide³⁹.
71. Lesbians and bisexual women face specific difficulties in the form of double discrimination – being discriminated against both as women and as lesbian or bisexual. As women they shall to a larger extent obey the parents and follow strict family rules and procedures required by society - marry and have children. Until marriage there are often strict regulations to go home directly from the workplace, and not to go out alone. As a representative from the Gender & Development women's group phrases it: “*There is no other ways to leave the family - you either get married or you die.*”⁴⁰
72. Several NGOs have described the situation in a report submitted to the UN Universal Periodic Review as follows:
73. “Azerbaijan has strict gender and social norms focused on a heterosexual-centered and extended family [...] The ‘family honour’ concept prevails in Azeri families, limiting women’s

34 Ibid.

35 *The Violations of the Rights of Lesbian, Gay, Bisexual, Transgender Persons in Azerbaijan*, a shadow report, submitted during the third periodic reports to UN Human Rights Committee, July 2009.

36 Meeting with Gender & Development, 11 March 2010.

37 *Report on Azerbaijan – 4th Round of the Universal Periodic Review*, February 2009, by The Center Women and Modern World, Baku, Azerbaijan, LGBT Organisation Labrys, Kyrgyzstan, and the Sexual Rights Initiative.

38 *Forced out: LGBT People in Azerbaijan – Report on ILGA Europe/COC fact-finding mission*, August 2007.

«Азербайджанская однополая семья растит семимесячную дочь»/“Azerbaijani same-sex family is bringing up a 7-month old daughter”, 4 November 2009, <http://gayarmenia.blogspot.com/search/label/azerbaijan>, accessed on 22 January 2010. Also meetings with Gender & Development and Clean World, 11 March 2010.

39 *Forced out: LGBT People in Azerbaijan – Report on ILGA Europe/COC fact-finding mission*, August 2007, p. 23.

40 Meeting with Gender & Development, 11 March 2010.

mobility, placing them in a vulnerable situation if they have sex before marriage or decide to live independently."⁴¹

74. A way of navigating within this social framework is for some lesbians to look for a marriage with a homosexual man as the solution. G&D thus receive numerous requests from women who would like to go for a sham marriage and are looking for a gay partner⁴².
75. Another family related issue is domestic violence. Clean World report of many cases with violence as the result of a member of the family coming out. Besides assistance offered by Clean World there are no special advising services/materials on how to handle domestic violence in families. The only written document/guideline on this issue is a manual, recommended on the LGBT website www.lgbt.az and conducted by the Russian Association of Crisis Centres "Stop the Violence!"⁴³. The authors of a shadow report on Azerbaijan for the third periodic review for UNHRC consider domestic violence especially problematic for LBT women:
76. "(...) there is family violence, which we consider to be one of the most insidious forms of violence against women in general. The huge majority of more frank displays of violence against the lesbian and bisexual women occurs at home and includes verbal and physical abuse, the internal confinement and compulsion, compulsory marriage, and possibility of crimes of honour. Information about crimes of family violence over the lesbian and the bisexual woman is virtually nonexistent, mostly because of the full social ostracism, which these women can encounter after reporting⁴⁴."
77. Despite a hostile atmosphere and sometimes highly problematic conditions in the family, leaving the family is not always an option for LGBT youth. Young people in Azerbaijan are most often economically dependent on their families and only a small number of young people can afford to live on their own.⁴⁵

C.6. Asylum and refugee issues

78. There is no publicly available data on cases of LGBT persons having applied for asylum in Azerbaijan based on persecution on the grounds of sexual orientation or gender identity. However, NGO reports that some Azerbaijani gay men have been granted asylum in Western Europe (Czech Republic and Netherlands).

C.7. Social security, social care and insurance

79. Azeri legislation regulating the field of social security and social care does not appear to be discriminatory against LGBT people in particular. LGBT persons receive social benefits as any other people. However, the legislation does not recognise same-sex couples, and partners are therefore not entitled to any family-related social benefits. This also goes, however, for the heterosexual couples that are not registered in the official way. Social

41 Women and Modern World, LGBT Organisation Labrys, and Sexual Rights Initiative, *Report on Azerbaijan - 4th Round of the UN Universal Periodic Review*, February 2009, para. 2 and 4.

42 Meeting with Gender & Development, 11 March 2010.

43 LGBT, www.lgbt.az/index.php?option=com_content&view=article&id=56:2009-12-21-09-43-23&catid=39:nasiliyekat, accessed on 25 January 2010.

44 *The Violations of the Rights of Lesbian, Gay, Bisexual, Transgender Persons in Azerbaijan*, a shadow report, submitted during the third periodic reports to UN Human Rights Committee, July 2009, p. 13.

45 Meeting with Gender & Development and Clean World, 11 March 2010.

benefits are largely structured around households, where benefits are targeted to the head of the household.⁴⁶

C.8. Education

80. There are little data on the matter. According to Gender & Development, the curricula in public schools do not include sexual education or life skills, and LGBT people are not represented in the educational material. Attitudes regarding LGBT persons, sexual orientation and gender identity at schools and universities echo general society patterns.⁴⁷

C.9. Employment

81. There are no official data on discrimination on grounds of sexual orientation and gender identity in employment - and no reported cases.⁴⁸
82. While being fired from a job on the grounds of sexual orientation or other discrimination grounds remain illegal, LGBT individuals and representatives reported that employers found other reasons to fire them, such as "under-performance".
83. Though cases of discrimination in the workplace may exist it would be difficult to record or prove them. Sexual orientation or gender identity would not be used as a formal ground for the dismissal of an employee and the reasons that there are no complaints are likely to be grounded in the fact that victims prefer to keep a low profile in the workplace.⁴⁹
84. Article 25 of the Constitution of Azerbaijan guarantees to everyone equality of rights and freedoms regardless of his or her "country, race, nationality, religion, language, sex, origin, property and official status, conviction, affiliation with political parties, trade unions and other social organisations". Corresponding provisions are embodied in various fields of legislation, including civil, criminal, criminal procedure, labour and family law. Azerbaijani legislation does not directly touch on the issue of non-discrimination on the basis of sexual orientation and gender identity. While equality is, in theory, guaranteed to everyone, however in practice the grounds of sexual orientation and gender identity remain invisible.
85. A report made by ILGA-Europe and COC describes the case of two lesbians, who have lost their jobs in an insurance company because of their sexual orientation.⁵⁰
86. Public authorities strongly reject even a possibility of these kinds of incidents. Representatives of the Ministry of Labour and Social Protection strongly objected any chance for discrimination of LGBT persons in Azerbaijan: "*We do not have any discrimination statistics, because we do not have any discrimination.*" State Inspectorate under the Ministry Labour and Social Protection receive approximately 3,000 complaints about violations of the Labour Code annually. Not one single case ever has been related to discrimination on grounds of sexual orientation and gender identity.⁵¹ This was also confirmed by a representative of the Ministry of Health and the Ombudsman.⁵²

46 Meetings with Gender & Development and Ministry of Labour and Social Protection, 11-12 March 2010.

47 Interview with Gender & Development, 11 March 2010

48 Meetings with the Ombudsman and the Ministry of Labour and Social Affairs, 11-12 March 2010.

49 Interview with Gender & Development, 11 March 2010.

50 ILGA-Europe and COC, *Forced Out: LGBT People in Azerbaijan*, 2008.

51 Meeting with the Ministry of Labour and Social Protection, 12 March 2010.

52 Meetings with the Ombudsman, 11 March 2010.

C.10. Housing

87. There are no data on discrimination regarding access to housing. However, there is no reason to believe that the negative attitudes towards LGBT persons would not negatively affect the access to housing for, for example, trans persons or same-sex couples.⁵³

C.11. Health care

88. The taboo related to being a member of the LGBT community and described above, has a huge impact on the statistical numbers available on the HIV infected in Azerbaijan, as they do not reflect the real situation. According to the "Forced out" report, interviewing a spokesperson for an organisation of People Living with AIDS, the real number of HIV positive persons is 30 times higher than official statistics.
89. According to a National Report on Implementation of Declaration on Commitment on HIV/AIDS, submitted by Azerbaijan in December 2008, the estimated number of persons living with HIV was 1,379 persons. The report states that MSM (men who have sex with men) are estimated to be a high-risk group.⁵⁴ The figure of 2,174 HIV positive in 2009 was mentioned by representatives of the Ministry of Health.
90. The Ministry also presented to the team a report (in Azerbaijani language) on the survey conducted in 2008 among the HIV/AIDS high-risk groups - drug abusers, sex workers, homosexuals, children living on the street, prisoners. The survey included 1700 persons and 100 of the participants were MSM. The tests being part of the survey discovered that 16% of the MSM were HIV positive.⁵⁵
91. In the final stage of the project conducted by G&D the organisation will carry out a survey that is partly aiming at ascertainment of the actual size of the MSM community and partly at testing the participants for HIV/AIDS to understand how serious the problem is among this group of people. It took eight months for the G&D to agree on cooperation with the Ministry of Health. The Ministry will provide facilities for the tests and will publish the results in the official report for 2010⁵⁶.
92. In order for transgender persons to change the documents in Azerbaijan, one must acquire and submit a doctor's certificate stating that the person has completed a full gender reassignment treatment. This information is sufficient to obtain new documents. To change documents it is not enough to pass only some stages of gender reassignment such as: castration, sterilisation, hormonal therapy, figure correction, or insertion of silicone breasts. There are no government programmes to care for gender reassignment treatment. For this reason, transgender people are not able to receive free hormone therapy and psychological assistance. Private health insurances are too expensive for most people to be able to afford.⁵⁷
93. According to Gender & Development there were cases when transgender persons did not receive proper treatment in the health care institutions.⁵⁸ This is also reported as a problem in the *Human Rights Report: Azerbaijan*, Bureau of Democracy, Human Rights, and Labour, US Department of State from 2009: in 2008 two transgender individuals died from

53 Interview with Gender & Development, 11 March 2010.

54 *National Report on Implementation of Commitment on HIV/AIDS in Azerbaijan*, submitted 31 January 2008, www.unaids.org/en/KnowledgeCentre/HIVData/CountryProgress/2007CountryProgressEasternEuropeAndCentralAsia.asp, accessed 28 January 2010.

55 Meeting with the Ministry of Health, 12 April 2010.

56 Meeting with Gender & Development, 11 March 2010.

57 Written information provided by Gender & Development.

58 Meeting with Gender & Development, 11 March 2010.

injuries received from a car accident because physicians at Baku Hospital Number 1 refused to treat them.⁵⁹

94. Meeting the team representatives of the Ministry of Health, however, objected to this information arguing that there have been no incidents of mistreatment or discrimination in access to health care in Azerbaijan.⁶⁰

C.12. Access to goods and services

95. There are very little data on discrimination in the access to goods and services. The only information collected is anecdotal evidence presented by Gender & Development of a fast food restaurant in Baku that refuses to openly serve LGBT persons.⁶¹

C.13. Media

96. A general taboo regarding LGBT people and related issues is also seen in the media. According to Gender & Development the media addresses LGBT persons mainly when looking for sensation to try and increase ratings or sales.⁶² An exception to this is one TV programme offering a neutral presentation of the life of LGBT persons on TV that was mentioned to the team during the field visit. The programme was, however, closed after the first show, and the producer asked not to mention the name of the show in this report to avoid problems with the employer.⁶³

C.14. Transgender issues

97. Although some transgender women are visible on the streets in specific places known by the public,⁶⁴ transgender persons otherwise remain highly marginalised and invisible in Azerbaijan.⁶⁵ However, there are several issues of concern in relation to transgender persons. One of them is the difficulty with performing surgery and necessary follow-up in relation to gender reassignment treatment in Azerbaijan. "Forced out" reports that the Funda Medical Centre is the only medical centre that offers gender reassignment surgeries.⁶⁶ According to the information from a doctor working at the Funda Medical Centre about 100 persons in Azerbaijan have received a gender reassignment surgery since 2002, when the first surgery was performed. This information is contradicted by other sources. As also described in the chapter in this report on Health, the public health system in Azerbaijan does not provide for treatment.⁶⁷ Also, according to Gender & Development, clinics in Azerbaijan do not conduct full gender reassignment surgeries. The information above, which slipped in the press, is allegedly the invention of a journalist. In Azerbaijan clinics can perform only certain stages, for example, sterilisation, hormonal therapy, figure correction, insertion of silicone breasts.

59 US Department of State, *2009 Human Rights Report Azerbaijan*, Bureau of Democracy, Human Rights and Labour, 2010.

60 Meeting with the Ministry of Health, 12 April 2010.

61 Meeting with Gender & Development, 11 March 2010.

62Ibid.

63 Mentioned by a trustworthy source who wishes to remain anonymous.

64 See also Ch 3.2, Freedom of assembly and association.

65 Leysan, L., *Azeri Transsexuals Face Social Stigma*, Baku, CRS No. 527, 15 January 2010,

<http://gayarmenia.blogspot.com/search/label/azerbaijan>, accessed on 22 January 2010.

66 ILGA-Europe and COC, *Forced Out: LGBT People in Azerbaijan*.

67 Women and Modern World, LGBT Organisation Labrys, and Sexual Rights Initiative, *Report on Azerbaijan - 4th Round of the Periodic Review*, February 2009.

98. This is confirmed by information from the Ministry of Health stating that only the first phase of treatment can be performed in Azerbaijan. According to the Ministry of Health most transsexual individuals in Azerbaijan have received their treatment in Turkey, Russia or Thailand.⁶⁸ Gender & Development further explains this by the need to obtain a certificate from a psychologist in order to receive gender reassignment treatment. However, the certificate usually includes diagnoses of mental illness, such as schizophrenia. If one wants to avoid this categorisation, it is often not possible to change the sex.⁶⁹
99. Another problem for transgender persons is that after having undergone surgery it is very difficult to change any legal documents. Though legally not forbidden, the generally negative attitude together with sophisticated bureaucracy turns changing documents into a real challenge.⁷⁰
100. Another issue of serious concern is that it is almost impossible for transgender people to get a job. This means that some transgender persons have to rely on sex work.⁷¹ "Forced out" describes the transgender sex workers as one of the most vulnerable groups in Azerbaijan.⁷² According to the report this group is under a very big loophole in terms of police harassment and violence. This is described already case from May 2007 where 28 transgender sex workers were forcibly detained and taken to a police station presented above is a good example that proves that.
101. NGOs have summarised the situation as follows:
102. "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. Organisations working on LGBT issues in Azerbaijan report constant police abuse of transgender sex workers including arbitrary detention, blackmailing, physical and sexual violence."⁷³

C.15. Data availability

103. There are no official data on homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity in Azerbaijan.
104. The available data is almost entirely anecdotal evidence, however, with various sources describing similar incidents and thus making it possible to describe tendencies and an overall situation. It is worth noting, however, that the lack of official data by authorities is a used as a sign of no discrimination, as stated by the Ministry of Labour and Social Protection: "*We do not have discrimination statistics because we do not have any discrimination.*"⁷⁴

68 Meeting with Ministry of Health, 12 May 2010.

69 Meeting with Gender & Development, 11 March 2010.

70 Ibid.

71 Ibid.

72 *Forced out: LGBT People in Azerbaijan – Report on ILGA Europe/COC fact-finding mission*, August 2007. Also meeting with Gender & Development, 11 March 2010.

73 Women and Modern World, LGBT Organisation Labrys, and Sexual Rights Initiative, *Report on Azerbaijan - 4th Round of the Periodic Review*, February 2009, para. 31.

74 Meeting with the Ministry of Labour and Social Protection, 12 March 2010.