



Human Rights Center of Azerbaijan

ALTERNATIVE REPORT

**ON THE COMPLIANCE OF THE AZERBAIJAN REPUBLIC WITH
THE CONVENTION ON ELIMINATION OF ALL FORMS
OF DISCRIMINATION AGAINST WOMEN**

**Submitted to the 44th session of the Committee on Elimination of All Forms of
Discrimination Against Women
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INTRODUCTION

This alternative report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) by the Azerbaijan Republic was prepared by the Human Rights Center of Azerbaijan (HRCA) with the support of the International Federation for Human Rights (FIDH) to review the issues covered by the 4th periodic report of the Azerbaijan Republic (CEDAW/C/AZE/4).

HRCA is a non-governmental human rights organization established in April 1993, registered in 1999 and engaged in monitoring human rights in Azerbaijan. HRCA has submitted alternative reports to several UN Treaty Bodies: CEDAW (1998, 2007), CAT (1999, 2003), CCPR (2001), CESC (2004) and CERD (2005). HRCA also contributed to the examination of Azerbaijan under the UPR mechanism (2009).

FIDH, of which HRCA is a member, is an international human rights NGO with a generalist mandate. The Federation gathers together 155 member organisations in over 100 countries. FIDH seeks to strengthen legal instruments for the protection of human rights and to achieve their full implementation at the local level. FIDH aims to obtain effective improvements in the protection of victims, the prevention of human rights violations and the accountability of perpetrators. FIDH operates at the national, regional and international levels, in support of its member and partner organisations. FIDH has consultative status before ECOSOC.

This report presents information on the observance by the Azerbaijan Republic of the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women. It updates the previous reports submitted by HRCA in 1998 and 2007, focusing on recent events and trends. It covers both positive and negative aspects of the situation of women in Azerbaijan Republic based on the experience of non-governmental actors working for the protection of human rights.

Where not specified, the source of statistics is the State Statistical Committee. Additional information is available upon request to HRCA and FIDH.

BACKGROUND INFORMATION ON THE AZERBAIJAN REPUBLIC



Area: 86.6 thousand sq. Km (33,774 square miles), approximately 16% under foreign occupation

Population: 8.730 million (Jan 2009), 51.7% reside in urban areas, 48.3% in rural areas. About 10% are refugees and internally displaced persons.

Birth rate: 18 births/1,000 population (2007)

Death rate: 6.3 deaths/1,000 population (2007)

Sex ratio: (male/female): men 49,3%, women 50,7%

Average age: 32 years

Life expectancy at birth: 72.4 years (75.1 for females, 69.7 for males) (Jan 2009), alternative estimations: 63.85 years, (68.13 for females, 59.78 years for males) (US CIA, 2006)

Labor force: 4.295.200 (2007)

Economic indicators: per capita GDP: \$ 5403,9 (Jan 2009)

Population below poverty line: 16% (2009)

Ethnic groups: Azeri 90.6%, Lezghin 2.2%, Russian 1.8%, Armenian 1.5%, Talyshes – 1%, other 2.9% (1999 census)

Religion: Majority of population (96%) is Muslim, of them approximately 70% Shi'a and 30% Sunni

Conflict situations: Undeclared war with Armenia since 1988 over Nagorno-Karabakh region; unresolved division of Caspian Sea with Turkmenistan and Iran; incomplete delimitation of borders with Russia and Georgia.

ARTICLE-BY-ARTICLE INFORMATION AND ANALYSIS

The legislative framework (CEDAW Articles 1-3)

Since gaining independence, the Azerbaijan Republic has improved many national laws to increase compliance with the UN and European treaties. The last major law to be adopted concerning the rights of women was the Law on Enforcement of Gender Equality, approved by the President on 10 October 2006.

The principle of gender equality is affirmed in the Law on Enforcement of Gender Equality and several other legal provisions. For example, the Criminal Code, under Article 154, sanctions violations of the principle of equality of citizens when their rights and legal interests are harmed, including acts of discrimination on the basis of gender.

However, the Law on Enforcement of Gender Equality does not contain a definition of discrimination in line with article 1 of the Convention encompassing both direct and indirect discrimination, and extending to acts of discrimination by public and private actors in accordance with article 2.

Furthermore, some of the provisions of the Law on Enforcement of Gender Equality are described as measures of “positive discrimination”, but are in fact discriminatory and in violations of CEDAW. For example, different ages for marriage of men and women (18 years and 17 years respectively)¹. Other discriminatory provisions include: different retirement ages for women and men; imposition of different sentences and imprisonment regimes based on a person's gender; compulsory military service prescribed by the law exclusively for men; specific work or services which can be performed only by women or by men.

However the main problems concerning discrimination against women in Azerbaijan do not arise from the legal framework but from its implementation. In particular, problems of corruption and lack of training within the judicial system present significant obstacles to access to effective remedies for violations.

HRCA calls on the government of the Republic of Azerbaijan to:

- Reform the Law on the Enforcement of Gender Equality to include a definition of discrimination against women in accordance with the Convention and remove all discriminatory provisions.
- Reform Article 10.1 of the Family Code to raise the age of marriage of women to 18 in line with that of men

Temporary special measures (CEDAW Article 4)

Article 3.2 of the Law “On enforcement of gender equality” provides for the adoption of temporary special measures aimed at ensuring the equal social status of men and women. However the government has not adopted specific measures to accelerate de facto equality between men and women. As a result, women remain significantly under-represented in political life and other decision-making positions. This situation has not changed since the submission of the first periodic report to the CEDAW Committee in 1998, despite the fact that the same political party has been in

¹ Article 3.2 of the Law on Enforcement of Gender Equality See also Article 10.1 of the Family Code

government since 1994 (see further below, Articles 7 and 8).

Article 3.2 of the Law “On enforcement of gender equality” provides for special protection of women during pregnancy, childbirth and nursing. It specifically provides for requirements for safety at work aimed at protecting women's health and special programs have been established for the protection of women's reproductive health. However, other provisions within this article, although aimed at protecting women who bring up children, are in fact discriminatory. For example, women who have 3 and more children and have cared for them until they are 8 years old can claim a pension at 45 years. This reinforces stereotypes concerning the role of women and should be reformed to apply to both sexes.

Trafficking of women and girls (CEDAW Article 6)

Trafficking of women and girls for sexual exploitation and slavery from and through Azerbaijan remains a major problem. Azerbaijan serves as a transit country for victims from Uzbekistan, Kyrgyzstan, Kazakhstan and Moldova. The majority of victims are trafficked to Muslim countries such as the United Arab Emirates (U.A.E.), Turkey and Pakistan. The municipality of Nakhchivan serves as a transit point for women trafficked to Turkey.²

Official statistics on migration in Azerbaijan in 2000-2007 show that the departures from Azerbaijan in 2005 were gender balanced in the age categories of 0-14 years and 30 years and over, while in the ages 15-29 years, the departure of women is approximately twice that of men.³ These statistics only cover cases of women changing their permanent residence. Estimates of numbers of women trafficked for sexual exploitation must also take into account the widespread practice of seasonal “sex tours”.

The legal framework

Azerbaijan is a party to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and since 31 May 1996, to the Convention against Transnational Organized Crime as well as to the additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, since December 12, 2000.

After long years of denying the problem of trafficking, on 6 May 2004 Azerbaijan adopted “The National Action Plan for the Suppression of Human Trafficking”. Consequently, at least 8 laws and regulations against trafficking were adopted which criminalized it as an offence. In particular the Law No.274 “On the suppression of trafficking in human beings” was approved on 4 August 2005. The main department responsible for the implementation of this legislation is within the Ministry of Internal Affairs.

Trafficking in human beings is sanctioned within the Criminal Code under Articles 144-1 (Trafficking in persons), 144-2 (Forced labor), 316-1 (Spreading of confidential information about a victim of trafficking in persons). Articles 144 (kidnapping), 145 (illegal deprivation of liberty), 149 (rape), 150 (forcible acts of sexual nature) can also be applied in some cases.

Prostitution is not considered a crime and is punished as an administrative offence under Article 308 of the Code of Administrative Offences. The penalty is a fine. As an additional punishment, female prostitutes can be forcibly placed in clinics to treat venereal diseases. Avoiding medical treatment of AIDS and venereal diseases is also punishable by fine according to Articles 61-63 of

² US Department of State. Trafficking in Persons Report 2008. Source: <http://www.state.gov/g/tip/rls/tiprpt/2008/105387.htm>

³ State Committee on Statistics, source: <http://www.azstat.org/statinfo/demographic/az/051.shtml#s3>

the Code. The premeditated infection of others with these diseases is punishable under Articles 139 and 140 of Criminal Code.

The exploitation of prostitution is punishable under the Criminal Code, Articles 243 (involvement into prostitution) and 244 (maintenance of brothels). However, according to the findings of HRCA in cases concerning managers of brothels sentences are often light. The accused are often over 60 and as a result are usually released early by ways of pardon or amnesty.⁴

Ineffective implementation

According to the reports of the Interior Ministry, 160 facts of trafficking were disclosed in 2005. As a result, 153 people were punished (27 groups), 58 people were recognized as victims of trafficking. 211 cases of trafficking were revealed in 2006, 192 lawsuits were filed, and 86 people were admitted victims of trafficking. In 2007, 283 facts were revealed, 300 people were brought to trial, and 101 people were identified as victims of human trafficking. In 2008, 193 cases of trafficking of women were revealed and 349 persons punished, 56.2% of the traffickers were women.⁵ According to another estimation, 229 crimes were revealed in the first half of 2008 and 233 persons were brought to justice; 46 people were recognized as victims of trafficking.⁶ In January-November 2008, 371 facts of trafficking were registered, 74 of them were investigated, 85 persons were prosecuted and 77 victims were identified.⁷ The difference in statistical data can be explained by the fact that the government's data on prosecutions appear to combine trafficking and prostitution and smuggling charges.⁸

Thus, in 2006, only 27 cases of 211 (13%) were related to article 144-1 of the Criminal Code (trafficking), and in 2007, 74 of 283 (26%).⁹ In 2008, in 76 of 193 cases (39%), accusations were related to trafficking.¹⁰

State policy to combat trafficking remains ineffective. There continues to be a failure to recognise the scale of the problem and to address its root causes. In addition, there is a lack of training and corruption among low-level law enforcement officers and the judiciary which significantly impedes efforts to combat trafficking.

Those who are convicted of trafficking often receive a sentence which fails to reflect the seriousness of the crime. For example, in 2006, 155 traffickers were convicted, and only 48 of them (31%) were imprisoned. The remaining 107 traffickers were sentenced to hard labor or community service, or received administrative charges, fines, or suspended sentences.¹¹ NGO activists reported the same pattern in 50 trials in 2007-2008.¹² In mid-2008, the US Department of State noted that over half of the convicted traffickers received house arrest or delayed or suspended sentences. The remaining traffickers received sentences of one to 10 years' imprisonment.¹³

The authorities explain these "soft" sentences by the difficult social conditions of traffickers, many of whom come from families of participants in the Karabakhi war and have children under their care.¹⁴

⁴ . For instance, in March 2009, a 79-years old man was arrested for the exploitation of prostitutes. Day.az News Agency, 16.03.09, source: <http://www.day.az/news/criminal/150442.html>.

⁵ Day.az News Agency, 19.01.09, source: <http://www.day.az/news/criminal/144297.html>

⁶ Turan News Agency, 06.04.09.

⁷ Zerkalo newspaper, 28.11.08 with a reference to the head of the MIA Main Department on Struggle against trafficking Javad Shykhaliyev.

⁸ US Department of State. Trafficking in Persons Report 2008

⁹ NAHTAZ report 2008, source: http://www.nahtaz.org/doc/Report_on_TIP_for_2008.doc

¹⁰ Turan News Agency, 27.05.09 with a reference to the head of the MIA Main Department on Struggle against trafficking Javad Shykhaliyev.

¹¹ US Department of State trafficking report 2007, source: <http://www.state.gov/g/tip/rls/tiprpt/2007/82805.htm>

¹² Ibid., statement by the head of the Research Foundation "Rechtsstaat" Muzaffar Bakhyshov.

¹³ US Department of State. Trafficking in Persons Report 2008.

¹⁴ Quotation of the officer of the MIA Main Department on Struggle against trafficking Tahir Aslanov by Zerkalo

Victims of trafficking experience problems in receiving shelter and support and in some occasions are themselves arrested. Although Article 13 of the Law of Azerbaijan Republic on the Suppression of Trafficking in Persons provides for the establishment of shelters for temporary accommodation of victims of trafficking, only one such shelter has been founded by the Ministry of Internal Affairs and only individuals recognized as an injured party in a criminal case opened by investigative agencies have access to that shelter.¹⁵

The State Fund to assist victims of trafficking established in 2006 has provided assistance to only 28 women victims of trafficking.¹⁶ Taking into account the fact that in 2006-2008, 233 women were considered as victims, only 12% of them have access to shelter and only after a court decision.

Local NGOs report that many victims, not trusting law enforcement agencies, prefer to seek shelter from friends or NGOs. While the government's shelter shares an agreement with a local hospital to provide for medical services to victims, most medical staff members are ill-equipped to assist them and their needs. Relocation assistance is limited. Some victims have received a one-time payment of \$40 from the government.

Victims rarely receive compensation. According to NGOs, 17 lawsuits were filed in 2008 claiming compensation, but none was successful before the courts.¹⁷ The government claimed in mid-2008 that 11 victims received compensation from traffickers as part of a victim restitution program.¹⁸ This is insignificant in comparison with the number of victims.

Victims who bring cases before the courts require additional measures of protection. Victims giving evidence in trial are vulnerable to harassment and intimidation by the accused and his or her associates. Victims are also often subjected to verbal abuse and stigmatization by judges. Victims are often treated as criminals, and penalized for unlawful acts they committed as a direct result of being trafficked. In one documented case, a judge insulted a victim both during and after the proceedings. As a result, few victims chose to testify against their traffickers.¹⁹

A new NGO Network Against Human Trafficking in Azerbaijan (NAHTAZ) was established in January 2009 which has already submitted its concerns to local and international bodies.²⁰ HRCA supports their calls for the urgent adoption of measures to ensure effective implementation of anti-trafficking laws and increased support to victims.

HRCA calls upon the Government of the Republic of Azerbaijan to:

- Adopt measures to ensure that those responsible for trafficking are investigated, prosecuted and receive adequate sentences, including by establishing training programmes for those involved in the implementation of anti-trafficking law and policy and taking measures to combat corruption within the judicial system.
- Adopt measures to increase protection and support to victims of trafficking and to enable them to access compensation, including protection in judicial proceedings.
- Adopt measures to combat the exploitation of prostitution, including by ensuring the effective investigation, prosecution and sentencing of those responsible.
- Improve the statistics on trafficking in women, separating the figures from trafficking in men and prostitution at the domestic level and including details on victims who received compensations and on specific accusations against the perpetrators.

newspaper, 07.04.2009.

¹⁵ NAHTAZ report 2008, source: http://www.nahtaz.org/doc/Report_on_TIP_for_2008.doc.

¹⁶ Quotation of the Chairwoman of the Fund Khanim Ahmedzade by the *Turan News Agency*, 22.05.09

¹⁷ The head of "Azerbaijan's Migration Center" Alovzat Aliyev, quoted by the *Turan News Agency*, 06.04.09.

¹⁸ US Department of State. Trafficking in Persons Report 2008.

¹⁹ US Department of State. Trafficking in Persons Report 2008.

²⁰ NAHTAZ report 2008, source: http://www.nahtaz.org/doc/Report_on_TIP_for_2008.doc.

Representation of Women in Decision Making Positions (CEDAW Articles 7 and 8)

Participation in elections

Women of Azerbaijan have the right to vote since 1907 and the right to be elected to Parliament since 1918. However in practice women's participation in the political life of the country remains limited.

The low representation of women in the state elected bodies is caused in part by their low representation in political parties. Only one of the 50-60 political parties is led by a woman. Analyzing the Presidential elections of 2003, the OSCE observers noted that “the percentage of women members in political parties ranges from 45% in the ruling YAP party, to 24% in AMIP and 15% in Musavat. Only a handful of women serve as district party chairpersons or in other leadership posts in the parties”.²¹ In the Presidential elections of 2008, there were no female candidates.

As for the Parliamentary elections of 2005, the general statistics demonstrate the same negative trend. Only 214 of the 2063 candidates (10.4%) initially registered in Parliamentary elections of 06 November 2005 were women. This number decreased to 167 as 45 women candidates withdrew their candidacies before Election Day, some allegedly under pressure. More than half of the female candidates ran as independents, and only few women were nominated by opposition parties.²² For example, ruling New Azerbaijan party had 39 women out of 388 candidates (10%), the opposition Liberal party had 6 out of 50 (12%), the Party of Popular Front 3 out of 50 (6%), the Azerbaijan Democratic Party 1 out of 30 (3.3%). Only 20 of the 136 candidates (14.7%) registered for participation in Parliamentary run elections of 13 May 2006 were women, and only 239 of the 4,524 candidates (5.3%) in the municipal elections on 6 October 2006.

The level of women's participation in higher levels of the election administration is low. In 2003, there were only 8.9% women in the constituency electoral commissions (less than 1% of chairpersons). In 2005, they constituted 13% (2.4%). At the level of precinct electoral commissions, 20-26% were women. The Central Electoral Commission included only 2 women among the 15 members (13.3%).

It was no surprise that only 14 of 125 members of Parliament (11.2%) elected in November 2005 were women. In the Parliament elected in 1995 there were 15 women. One of the 3 Vice-Presidents of the Parliament elected in November 2005 is a woman. One of 11 permanent Parliamentary commissions is led by woman (the Human Rights Commission) .

Several female candidates for the Parliamentary elections of 2005 have filed complaints against Azerbaijan before the European Court e.g. Flora Kerimova,²³ a former opposition candidate, concerning the results of the elections. Kerimova's victory was recognized by a decision of the district election commission but later the Central Election Commission annulled the decision. The case is pending.

²¹ Republic of Azerbaijan. Presidential Election 15 October 2003. OSCE/ODIHR Election Observation Mission Report. – Warsaw, 12 November 2003.

²² Republic of Azerbaijan. Parliamentary elections. 6 November 2005. OSCE/ODIHR Election Observation Mission. Final Report. - Warsaw, 1 February 2006.

²³ Flora Kerimova v. Azerbaijan (no. 20799/06).

Participation in governance

The Presidential decree of 6 March 2000 “On the Implementation of Women’s Policy in Azerbaijan Republic” provides for “equal representation of women and men at a supervising level in all state structures of the Azerbaijan Republic taking into consideration the field of activity.” However, in practice women continue to be under-represented in state structures, including amongst the Executive Staff of the President.

Apart from the female head of the State Committee on Family, Women and Children’s Issues, the other 37 ministers are all men, including within the Ministries of Public Health and Education in which the majority of employees are women. This represents 2.6%. There are only 3 women Vice-Ministers.

In 2007, the women occupied 27.7% positions in the state governance system and had 80.8% of the salaries of men.²⁴ On 1 January 2008, women occupied in the state service 7821 of 27566 positions (28,4%). Among them, 136 of 608 (22.4%) were administrative positions of top level (1-4 categories), 4898 of 22181 (22.1%) administrative positions of middle level (5-9 categories) and 2787 of 4777 (58.3%) auxiliary personnel. At the middle level of administration, only 250 women occupied a position of chief of department in comparison with 3178 male chiefs.

There are 59 regions, 11 cities and 1 autonomous republic in Azerbaijan. Among the heads of executive power there is not one woman and 28 vice-heads of executive power are women (women are therefore not represented in every region).

Azerbaijan has an extremely centralized administration which should make it easier to undertake measures to increase representation of women within state structures. The under representation of women in the management of state structures indicates the need for temporary special measures, including quotas, and monitoring of recruitment policy to identify and combat discrimination.

Participation in non-governmental organizations and associations

Women's rights NGOs: There are approximately 60 non-governmental women’s organizations dealing with promotion and protection of women’s rights, 42 of them have been registered.²⁵ Some of them are very successful. For instance, Azerbaijani Association of Protection of Women’s Rights founded by D.Aliyeva won 300 lawsuits on behalf of women since 1989.

Cooperation between the government and NGOs: Article 5 of the Presidential Order of 28 December 2006 “About Approval of National Action Plan on Protection of Human Rights in Azerbaijan Republic” provides that state institutions must cooperate with local non-governmental organizations in the implementation of the document. Some state bodies, such as the Ministry of Justice, created public committees, while others share the opinions and views through irregular meetings with NGOs.

Representation of women in international organisations

There are 4 permanent missions to international organizations, 39 embassies and 5 general consulates of Azerbaijan abroad. Only 2 of them are led by women.

Women are best represented in the delegation of Azerbaijan to the Parliamentary Assembly of the Council of Europe (PACE) which has 2 women out of 6 deputies as well as one female substitute.

²⁴ State Committee on Statistics, source: <http://www.azstat.org/statinfo/labour/az/043.shtml>.

²⁵ Women lawyers in Azerbaijan. Monitoring report. – Baku, 2008.

HRCA calls upon the Government of the Republic of Azerbaijan to:

- Adopt specific concrete measures aimed at increasing the representation of women in decision making positions in the public and political sector, including temporary special measures such as quotas and measures aimed at ensuring women's access to professional training.

Access to education (CEDAW Article 10)

The literacy level of women in Azerbaijan is gradually decreasing. In 1995 the balance of girls and boys among schoolchildren was close to proportionality – 50.8% versus 49.2% - but in 2000, girls constituted 801,068 of 1,653,703 pupils in daily general schools (48.44%). In the school year 2007/2008, there were 703,069 girls out of 1,480,636 pupils (47.5%). This worrying trend starts from the 1st year of school education. There were 79093 girls of 165756 pupils (47.7%) in 1st grade in 2000/2001, and 54,917 of 117,921 (46.6%) in 2007/2008.

It is revealing that while there were 47.5% girls among the pupils of public schools (formally free of charge) in 2007/2008 year, in the non-state (private) schools there were only 1538 girls out of 6841 pupils (22.5%). These statistics demonstrate the unwillingness of parents to pay for the education of girls, as they consider their early marriage and future housewife status.

In higher education, women are also underrepresented. In universities there were 43,325 girls out of 98,812 students (43.8%) in 1995; 49,858 out of 119,683 students (41.7%) in 2000; 62,022 out of 129,948 students (47.7%) in 2005; and 61172 out of 130430 students (46.9%) in 2007.

In terms of specialism, women are in the majority in the areas of education (69.8% of students in 2007/2008), art and cinematography (54.7%). However, in 2007 women constituted only 12.1% among the students specialising in transportation, 22.7% - industry and construction, 21.2% - agriculture, 30% - economy. These figures reflect gender stereotypes.

As a result, graduate women are underrepresented in business and state administration and in the public sector generally. While there are 46.9% of women amongst university students, and 49.7% of all employees are women, there are only 9.9% of employed highly educated women (in comparison with 12.9% of men). In cities, this proportion is 16.2% to 19%, and in rural areas, 2.9% to 6.4%.

In the area of research 48.9% were women (4,971 of 10,168) in 2000 and 52% (5,866 of 11,280) in 2007. Yet, there were only 35.2% female candidates of science (1,170 of total 3,328) in 2000, and 38% (1242 of 3266) in 2007. Among doctors of science, in 2000 there were 83 women of 676 (12.3%), in 2007 – 115 out of 731 (15.7%). As a result, in the science sector, women occupy the lower positions.

Women are not sufficiently encouraged to enrol in higher education. Women are influenced by patriarchal attitudes and gender stereotypes according to which women should be housewives, or at best, secretaries or saleswomen. The reality of the labour market shows that gender stereotypes and discrimination mean that women have much less chance to make a successful career, for example as ministers, parliamentarians, senior managers in businesses, etc.

HRCA calls upon the Government of the Republic of Azerbaijan to:

- Adopt measures to increase girls' and women's access to education, including higher education, in particular by taking steps to combat gender stereotypes that result in girls and

women not enrolling in education or leaving school.

Access to work (CEDAW Article 11)

45.3% of women were economically active in 1995, 47.8% in 2000, and 49% in 2007. There were 45.2% female workers in the employed population in 1995, 47.7% in 2000, and 49.5% in 2007.

Women represent the majority of workers in the public health and social services areas (73.8%), public education (69.7%), and communal, social and personal services (57.1%). But in typically "male" industries and sectors with high incomes they are a minority: real estate and rent (36.1%), finances (34.3%), wholesale and retail trade (32.1%), hotel and restaurant business (32.1%), processing industry (29.6), state administration and social welfare (27.7%), transport, storage and telecommunications (24.6%), fishing industry (20.3%), agriculture, hunting and forestry (19.4%), electricity, energy and water supply (19.0%), fossil exploration (14.3%), construction (8.3%).

Education alone does not guarantee access to high-level, well-paid positions. For example, research into the situation of women with legal education²⁶ reveals that only 1 out of 101 state prosecutors is a woman. 80 women with legal education work in the system of Ministry of Internal Affairs (1.5%). In the State Customs Committee there are 330 male and 11 female lawyers (3.2%). In the Ministry of Taxes there are 214 male and 13 female lawyers (5,7%), in the Tax Crime Department of the Ministry which deals with checks of businessmen there are 120 male and 3 female specialists with legal education (2,4%). There are 84 women among 463 members of the Bar Association (18.1%), and only 12 female lawyers work outside the capital.

Almost everywhere in Azerbaijan the average salary of female workers is lower than that of male workers. The average woman in Azerbaijan gets 50.5% of a man's salary. That is true even in the fields where women are a majority but do not occupy high positions, e.g. in public education (69.9%) or public health sector (55.1%). Only in the hotel and restaurant business do they have almost equal salaries (97.8 %), as well as in commerce (92.2%), and state administration (80.2%).

In households headed by women, the average monthly income in 2008 was 115.1 AZN per capita (in households headed by men it was 108.0), including income from employment – 37.1 AZN (35.8), income from self-employment – 18.4 (27.0), income from agriculture – 15.8 (17.4), income from rent – 1.0 (1.1), income from property 0.2 (0.3), current transfers received – 21.6 (16.4), including pensions – 18.4 (13.5), benefits and social contributions – 2.1 (1.8), social transfers in kind – 1.1 (1.0); other income – 21.0 (10.1), including income from other households – 10.5 (8.4), money received from abroad – 10.5 (1.7).²⁷ While households headed by women have bigger incomes, they are more dependent on men. At least 42.6 AZN (37%) is received from other and external sources (mainly male relatives), in comparison with 26.5 AZN (24,5%) in houses headed by men.

The statistics of unemployment should be treated with caution. For example, there are persons who formally are employed but who are granted indefinite leave, sometimes for years at a time. There are persons who are not employed in the state sector and work in the shadow economy, e.g. travelling prostitutes. Since 2003, the Government uses the methodology of the International Labor Organization and obtained differing estimations for unemployment. For example, in 2003 there were 194,700 women among 400,900 unemployed (48.6%), and in 2007 – 117200 out of 281100 (41.7%). As for the officially registered unemployed people, there were only 29,100 women of 54,400 people with unemployment status (53.5%) and 25,300 out of 50,600 (50%) in 2003 and

²⁶ Women lawyers in Azerbaijan. Monitoring report. – Baku, 2008.

²⁷ Source: http://www.azstat.org/statinfo/budget_households/en/007.shtml#s6

2007 respectively²⁸, and 44,481 unemployed people in 2008, 46.9% of them women²⁹. The registration for unemployment provides the right to small state allowances.

Despite the Government's reports on the 766,000 newly opened job positions in 2003-2008³⁰, the number of unemployed is steady or has even increased. While the total number of unemployed persons varied in 2003-2007 between 281,000 and 400,000 (ILO) or 54,400 and 50,600 (state statistics), i.e. much less than the number of new job positions, they most probably were temporary ones. The reports about huge number of new job positions appear unreliable against the background of the world crisis and mass dismissals of workers even in the leading oil industry.

HRCA calls upon the Government of the Republic of Azerbaijan to:

- Take measures to ensure that women have access to traditionally male dominated sectors of employment and to close the wage gap between men and women.
- Develop a state program to increase the employment opportunities of graduated women in rural areas.

Access to Health Services (CEDAW Article 12)

According to Article 41 of Constitution, everyone has the right to health protection and medical assistance. Article 31 guarantees that motherhood and childhood are protected by the law.

Maternal and infant mortality in the last decade is reducing, mainly because of improving social and economical situation. Maternal mortality (during pregnancy, childbirth and the puerperium) still is high: 9.3 per 100,000 live births in 1990 (before the independence); 37.0 in 1995; 37.6 in 2000; 28.9 in 2005; 35.5 in 2007. The infant mortality was 23.3 deaths per 1000 live births (21.8 in urban and 24.7 in rural areas) in 1995; 12.8 (12.9; 12.8) in 2000; 12.1 (14.7; 9.7) in 2007. The death of children under 5 years constituted 40.5 of the deaths per 1000 live births in 1990, 43.2 in 1995, 30.5 in 2000, and 16.1 in 2007.

Foreign and independent sources challenge these statistics claiming that a number of abortions and births happened outside medical institutions or illegally. For instance, the UNICEF reported numbers of infant mortality that were 4 times higher.³¹ Even the official statistics on infant and maternity mortality are much higher than in Europe.

Amongst the reasons are the high number of women-refugees, the high level of poverty and corruption of the public health institutions. Although, according to the Law on the Health of the Population", births must take place in state hospitals free of charge, in reality it is necessary to pay.³²

There were 36.5 medical specialists per 10,000 inhabitants in 2001, 36.8 in 2005, 38.1 in 2008. Despite the problems with infant and maternal mortality, there is a general trend of a decrease in the number of women getting medical consultations. There were 1,003 women consultations, children polyclinics and ambulances (included in the structure of independent and other organizations) in 1991; 943 in 1996, 913 in 2001, 923 in 2006, 904 in 2008 (including non-state institutions), while number of beds for pregnant women and childbirth (including medical and gynecological beds) was 7.4-7.6 thousands in 2001-2008.

²⁸ Source: <http://www.azstat.org/statinfo/labour/az/043.shtml>

²⁹ Day.az News Agency. Source: <http://www.day.az/news/economy/144854.html>

³⁰ Day.az News Agency, 16.01.2009. Source: URL: <http://www.day.az/news/economy/144035.html>

³¹ Day.Az News Agency. Source: <http://www.day.az/news/society/39520.html>.

³² Special Bulletin of "Azerbaijan Against Corruption" Survey Group No., September 2004.

There are only 4.8 gynecologists per 10,000 women, 17.3 pediatricians per 10000 children at age of 0-14, 0.6 specialists in skin and venereal diseases per 10,000 inhabitants in 2008.

On 15 September 2006, the Committee of Ministers adopted the “Program of measures for the protection of health of the mother and child” for 2006-2010. The program mentioned 26 maternity houses with 7122 beds and 90 maternity divisions of hospitals with about 1500 gynecologists.

These measures were adopted in the face of criticism of the lack of equipment, water supply and telecommunications, etc. Pregnancy in 28% of cases is complicated. 30% of pregnant women are not followed by a doctor. Pregnant women suffer from illnesses, among them main problem is anemia (70.5%), urino-genital diseases (10.6%), blood circulation problems (7.9%), histosis (6.4%), vein diseases (4.7%)

It is notable that such criticism and the subsequent reforms became possible only after the dismissal and arrest of the previous Minister of Public Health, A. Insanov, who denied any problems in the Ministry in connection to the alternative reports submitted by HRCA in 1998 and 2003. In the case of *Latifa Efendiyeva v. Azerbaijan* before the European Court of Human Rights³³, the applicant was dismissed from the position of head physician (director) of the Republican Maternity Hospital after she had criticized the Minister. The fact that she was a high level professional yet her case had failed in all national judicial instances demonstrates both a lack of criticism in the system and the absence of effective remedy.

The number of preschool institutions also decreased from 1973 in 1995 to 1790 in 2000, 1761 in 2005, and 1653 in 2008. The buildings of closed kindergartens were sold to private companies which used these spaces for building of expensive housing. There were only 3 private kindergartens in 2002-2007 with 100-150 children, and 5 in 2008 (346 children), while 103,556 children were registered in 1,653 less expensive state institutions in 2008.

Women from the poor strata of population do not have access to modern (and expensive) methods of contraception, while the minimal salary in beginning of 2009 is 75 AZN. That results in increasing number of abortions. Now, only 30% of births are without medical complications.³⁴ The Ministry of Public Health reported about 3,048 sterile women.³⁵

Poverty results in a significant number of rejected children, especially children with physical or mental defects. In 2008, there were 4 houses for abandoned infants (105 children), 6 children's houses (564 children), 2 boarding schools for orphans and refused children (449 children), 14 special boarding schools for ill children (3984), 2 boarding houses for children with mental problems (306 children), 31 boarding houses of general type (11,309 children). It is interesting to note that 60% of the pupils in boarding schools under the jurisdiction of the Ministry of Labour and Social Protection have one or two parents, the rest of them - 40% of the children - are orphans.³⁶

Along with the problem of the rejection of children, is that of illegal adoption of children by foreigners and their export abroad. In this regard, in 30 March 2004 the Parliament ratified the Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption.

In the course of parliamentary debates around this issue, it was stated that since 1998, foreigners had adopted 450 minor citizens from Azerbaijan. The chairwoman of Azerbaijan Children's Association, member of the Parliament Gular Ahmedova, expressed her concern on the lack of information about the fate of adopted children. In this regard, the media suggested in 2004 that the

³³ Case No. 31556/03, 25 October 2007

³⁴ “Echo” newspaper, 20.06.2006.

³⁵ “Echo” newspaper, 11.09.2004.

³⁶ Information Agency “Turan”, 05/04/2004.

children could have been used for transplantation of organs under the pretext of adoption.³⁷ The prohibition on the adoption of Azerbaijani children announced in April 2004 was abolished in August 2005. The US Department of State reported that American citizens adopted 62 Azerbaijani citizens in 2003, 26 in 2004, 4 in 2005, 44 in 2006, and 5 in 2007.³⁸

The United Nations Committee on Economical, Social and Cultural Rights recommended in 1997 “to set up an efficient control over adoption of children by foreign citizens in order to prevent their sexual and other forms of exploitation”³⁹. Consequently, the Government adopted in July 2008 “Regulations on accreditation of the organs assisting foreigners in the area of international adoption of children⁴⁰.” Such organizations have to be not-for-profit and accredited at the State Committee on problems of family, women and children. However, there is no public control over the procedure of adoption and the work of respective foreign agencies.

HRCA calls upon the Government of the Republic of Azerbaijan to:

- Increase efforts to reduce maternal deaths.
- Make available a wide range of contraceptives free of charge.
- Take measures to efficiently control adoption of children by foreign citizens in order to prevent sexual and other forms of exploitation.

Protection of women in rural areas (CEDAW Article 14)

In rural areas gender stereotypes prevail and it is expected for a woman to be a housewife taking care of a large family and/or to have a low-income job. As mentioned above, only 12 women lawyers work in rural areas (i.e. 1 female member of the Bar Association for 5 rural regions) (see above on Article 10). It is also particularly rare for women to have executive power in rural areas (see above on Article 7).

While women represent almost half of all employed persons in rural areas (49.7%), they are in minority amongst specialists with high education – 2.9% in comparison with 6.4% of highly-educated men.⁴¹

38.3% of Azerbaijan women work for rural family businesses and make 60.8% of their staff. Men avoid the low-income work in such enterprises and mostly work for non-state companies (66%) and small individual businesses (87%).

Rural men often immigrate to other Commonwealth of Independent States (CIS) countries and support their families from abroad by transferring money to them. Statistics show that in households led by women, 46.3% of the family’s income comes from external sources (see above on Article 11).

The estimations of such migration numbers significantly differ depending on the sources - governmental, the opposition, or foreign. Russian sources report about 1,5-2 Mln. Azeri migrants, and 542,000 in 2008.⁴²

Women in rural households represented, in 2005, 28.6% of the working population, 61% of the

³⁷ Newspaper “Ekho”, 31.03.2004.

³⁸ Newspaper “Ekho”, 29.07.2008.

³⁹ E/C.12/1/Add.20, 22 December 1997, par.36.

⁴⁰ Day.Az News Agency, 25.04.2008.

⁴¹ State Committee on Statistics, source: http://www.azstat.org/statinfo/labour/az/040_6.shtml#s6.

⁴² Vice Chief of Russian Federation Migration Service quoted by *Zerkalo* newspaper, 13.02.2009.

unemployed and 73.6% of the economically inactive population.⁴³ 'Unemployed' and 'economically inactive' mean in practice that women still work, but from home. Amongst people in rural households working in personal ancillary, women represent 25.5% of workers (men - 14.4%), 4.4% rural women work in public sector (5.7%), 0.9% in free professional activity (self-employed) (8.3%), 0.7% - in business, commerce, craft (3.2%), 0.5% - in private sector (2.3%), etc.⁴⁴ This demonstrates that rural women have less economic independence and work in areas with low income, mainly in households.

In rural areas in 1995 there were 6.0 marriages and 0.2 divorces per thousand of population, in 2000 – 5.0 and 0.3, in 2005 – 9.0 and 0.5, in 2007 – 9.8 and 0.5. In urban places, statistics are higher: in 1995 – 5.4 and 1.2, in 2000 – 5.0 and 1.1, in 2005 – 8.4 and 1.6, in 2007 – 9.6 and 1.4. So, with approximate equal rate of marriages, divorces are 3 times rarer in rural areas. This can be explained by fact that rural women are less inclined to initiate a divorce because of the stigmatization of divorced women and their greater financial dependence from their husbands.

More and more women give birth without having formalized their relationship with the father. This is for several reasons. Urban women are considered more emancipated, and therefore traditionally the percentage of births by unmarried women in cities is higher. In rural areas girls giving birth without having formalized their relationships with men are often stigmatized. Over a long period births out of wedlock were considered as reflecting the “amorality of urban women”.

However, in rural areas women increasingly marriage under religious law, but official statistics consider them unmarried. The marriage age is 17 for women; therefore, marriages of women under 17 are registered only by Mosques and are not reflected in the general statistics on the marital status. On the other hand, many migrants coming from rural areas and living in other CIS countries have 2 marriages, one of which is registered in an Azerbaijani Mosque, the other abroad on official state registers. The percentage of live births by unmarried women of all live births in rural areas was 1.8% in 1990, 4.5% in 1995, 3.6% in 2000, 17.3% in 2005, and 12.1% in 2007 (in urban areas – 3.6%, 7.4%, 7.7%, 19.3%, 11.4% respectively). Religious marriages leave women vulnerable, including in relation to their rights to property on divorce.

Stereotypes of women, which consider them to be housewives have led to an increase in early marriages. In 2000, 2,473 out of 39,611 brides (6.2%) were under 18, and in 2007 – 5,023 of 81,758 (6.1%). The statistics on women between 15-19 who have given birth show: in 1995 in 7,586 cases out of a total of 78,260 births (9.7%), in 2000 – in 7,288 out of 67,363 (10.8%), in 2005 – in 9,998 out of 77,539 (12.9%). In comparison, in urban areas, these statistics were 8.9% in 1995, 8.3% in 2000, and 8.2% in 2005, i.e. the trend is quite the opposite.

Urban women are more likely to emancipate and have a professional career, which is rare, if not impossible, for rural women.

Higher education on agriculture as a first step to the career in local administration attracted more and more female students; in 1990 - 10.9%, in 1995 - 16.7%, in 2000 - 18.0%, and in 2007 – 21.2%. To this day, there are only 1/5 female alumni in rural specialization who have the possibility of getting an administration job position in a rural area. In practice it is even fewer. There are very few female managers of farms or rural state administration.

During the years 1962-2000, infant mortality in rural areas was higher than in urban ones, e.g. in 1995 – 24.7 per 1,000 live births (21.8 in cities), in 2000 – 12.8 (12.9), in 2005 - 8.6 (10.1), and in 2007 – 9.7 (14.7). This can be explained by the fact that mothers in the rural families care for their infants themselves, without medical assistance. This phenomenon was registered in the

⁴³ Source: http://www.azstat.org/statinfo/budget_households/en/072.shtml.

⁴⁴ Source: http://www.azstat.org/statinfo/budget_households/en/073.shtml.

economically and politically unstable 1935-1961 years, when infants died more frequently in cities. Recent reports show that new medical institutions are being built in rural areas.

Women's rights defenders in Azerbaijan have repeatedly urged the Government to take further measures to prevent the early marriages of underage girls as well as religious marriages.

HRCA calls upon the Government of the Republic of Azerbaijan to:

- Make the registration of marriages in an official register compulsory and take urgent measures to prevent early marriages under religious laws, especially in rural areas.
- Encourage contracts during registration of new marriages.

SUMMARY OF RECOMMENDATIONS TO THE GOVERNMENT OF THE REPUBLIC OF AZERBAIJAN

The Human Rights Center of Azerbaijan (HRCA) requests the UN Committee on the Elimination of Discrimination Against Women to raise the following recommendations with the representatives of the Government of the Republic of Azerbaijan and to include them in its Concluding Comments to be adopted at the conclusion of the examination of Azerbaijan.

HRCA calls upon the Government of the Republic of Azerbaijan to:

- Reform the Law on the Enforcement of Gender Equality to include a definition of discrimination against women in accordance with the Convention and to remove discriminatory provisions.
- Reform Article 10.1 of the Family Code to raise the age of marriage of women to 18 in line with that of men.
- Adopt measures to ensure that those responsible for trafficking are investigated, prosecuted and receive adequate sentences, including by establishing training programmes for those involved in the implementation of anti-trafficking law and policy and taking measures to combat corruption within the judicial system.
- Adopt measures to increase protection and support to victims of trafficking and to enable them to access compensation, including protection in judicial proceedings.
- Adopt measures to combat the exploitation of prostitution, including by ensuring the effective investigation, prosecution and punishment of those responsible.
- Improve the statistics on trafficking in women, separating the figures from trafficking in men and prostitution at the domestic level and including details on victims who received compensations and on specific accusations against the perpetrators.
- Adopt specific concrete measures aimed at increasing the representation of women in decision making positions in the public and political sector, including temporary special measures such as quotas and measures aimed at ensuring women's access to professional training.
- Appoint more women as heads of diplomatic missions abroad.
- Adopt measures to increase girls' and women's access to education, including higher education, in particular by taking steps to combat gender stereotypes that result in girls and women not enrolling in education or leaving school.
- Take measures to ensure that women have access to traditionally male dominated sectors of employment and to close the wage gap between men and women.
- Develop a state program to increase the employment opportunities of graduated women in rural areas.
- Increase efforts to reduce maternal deaths.
- Make available a wide range of contraceptives free of charge.
- Take measures to efficiently control adoption of children by foreign citizens in order to prevent their sexual and other forms of exploitation.
- Take measures to efficiently control adoption of children by foreign citizens in order to prevent their sexual and other forms of exploitation.
- Fully investigate all allegations of domestic and sexual violence and improve the data collection and statistics on such crimes.

- Make the registration of marriages in an official register compulsory and take urgent measures to prevent early marriages under religious laws, especially in rural areas.
- Encourage contracts during registration of new marriages.
- Consult women's non-governmental organizations and other NGOs on the implementation of the National Action Plan on Protection of Human Rights in the Republic of Azerbaijan.