

**CEDAW - Convention on the Elimination of All Forms of Discrimination against Women
60 Session (09 Feb 2015 - 27 Feb 2015)**

**Implementation of the UN Convention on the Elimination of All Forms of Discrimination
against Women in by Azerbaijan**

**ALTERNATIVE REPORT TO THE COMMITTEE ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN (CEDAW)**

**About the monitoring of the legal and practical activities held with the final notification
conditions and recommendations related to the 4th periodic report of Azerbaijan state
accepted in the 44th session of the Committee of United Nations Organization dated 20
July-07 August 2009 on the Convention on Elimination of Discrimination Against Women**



This Alternative Report was made possible by the generous support of the American people through the United States Agency for International Development (USAID) under the terms of its Cooperative Agreement Number AID-112-LA-11-00001 for the Women's Participation Program (WPP) in Azerbaijan, implemented by the Lead Agency Counterpart International and its partners. The contents and opinions expressed herein are the responsibility of Counterpart International and do not necessarily reflect the views of USAID.

CONTENT

1.About members of Coalition.....	3
2. INTRODUCTION	5
3.FULFILLMENT OF THE LIABILITIES IN THE DIRECTION OF THE PROVISION OF RIGHTS REFLECTED IN THE CONVENTION.....	5
3.1.Measures directed to the prevention of early marriages.....	6
3.1.1.Principal causes provoking early marriage settlements.....	7
3.1.2.Educational measures directed to the prevention of early marriage settlements.....	8
3.1.3.Statistics related to the early marriages.....	9
3.2.Violence against women.....	10
3.2.1.Legislation against the violence against the women.....	10
3.2.2.Other reasons preventing the effective fight against domestic violence...	15
3.2.3.Lack of unit state activity in the field of application of legislation on the struggle against the violence	16
3.2.4.Situation of the legislation related to the punishment and sanctions for the prevention of violence.....	17
3.3.Trafficking.....	19
3.3.1.Legislation the field of combating against human trafficking.....	19
3.3.2.New normative legal acts related to the fight against human trafficking.....	21
3.3.3.Action against Trafficking in Human Beings.....	21
3.3.4.Assistance to the victims of trafiking.....	22
3.3.5.Informing and awareness-raising activities aimed at the prevention of trafficking in human beings.....	24
3.3.6.Measures aimed at the prevention of prostitution.....	25
3.4.RECOMMENDATIONS.....	25
3.4.1. On the clearance of family relations and early marriages.....	25
3.4.2. About the elimination of violence against the women.....	26
3.4.3. On the increase effectiveness of the fight against human trafficking.....	26

1. About members of Coalition

Clean World public union Aid to Women

Clean World public union Aid to Women has been established in 1998 and since that carried out numerous projects in the field of trafficking, victim's protection, assistance, identification, cooperation and coordination, combating domestic violence and HIV/AIDS. Since the day of establishment staff consisting on trainers, experts are functioning with the technical base. The organization has applied for the official registration to the Azerbaijan Republic Ministry of Justice and has been registered with the 1106-Q14-2228 number on 29 September 2006. Organization has covered all regions of Azerbaijan with the raise awareness seminars defending and preventing all forms of violence toward women. Organization has been cooperating with relevant government bodies, international organizations and local NGOs.c

Clean world Public Union Aid to Women is working for the benefit of the society with the women and by the means of women.

The organization's mission : Prevention of violence against women in all cases

Icheri Sheher 18 Mammadyarov str. apart.5

AZ 1010, Baku, Azerbaijan

Tel: [\(+994 12\) 497 10 58](tel:+994124971058), [\(+994 12\) 511 11 51](tel:+994125111151)

Fax: [\(+994 12\) 497 10 58](tel:+994124971058)

Cell: [\(+994 50\) 314 35 15](tel:+994503143515), [\(+994 55\) 314 35 15](tel:+994553143515)

Hot Line: [\(+994 12\) 408 56 86](tel:+994124085686), [\(+994 12\) 408 56 96](tel:+994124085696)

E-mail: tamizdunyasu@gmail.com

tamizdunyasu@rambler.ru

Skype: tamizdunyasu

MSN: tamizdunyasu@gmail.com

web: www.cleanworld.az

Citizens' Labor Rights Protection League

1. The address of the organization where it conducts activity:

A. Huseynov str.,7, quarter 1061, entrance # J, apt.,347

2. Telephone, fax, e-mail:

Telephone: (+994 12) 530 86 25; Fax: (+994 12) 510 42 71; mobile: (+994 50) 314 49 15

e-mail: sahib.mammadov@gmail.com; office@labourrights-az.org; <http://labourrights-az.org/en/>

3. The history of establishment of the organization and its registration

The Citizens' Labor Rights Protection League was established in July of 1997. It was registered by the Ministry of Justice on 18th of March of 2000.

4. The managing body of the organization

During the period between general assembly's the activity of the organization is managed by the Executive Committee. The Executive Committee is electing from its rows the chairman of the Executive Committee.

5. Mission of the organization and its main directions of activity

The basic mission of the Citizens' Labor Rights Protection League is to conduct legal, public, educational and advocacy activities in a way of provision of human rights and freedoms in social

sphere of the country. Alongside with protection of socio – economical rights, the organization is also specialized in direction of provision of fundamental rights and freedoms. The organization is basically organizing its activity in a form of litigations, public campaigns, awareness raising and advocacy activities. The organization has cooperation relations with relevant state structures.

National Coalition and networks where the Citizens' Labor Rights Protection League has membership:

- The information and cooperation network of the organizations fighting against corruption
- The Coalition of Transparency Initiative in Extracting Industry
- The Public Committee on Penitentiary Service under the Minister of Justice
- The Public Council under the Ministry of Labor and social protection of people;
- The Citizen Response Network on Influence on Extracting Industry

2. INTRODUCTION

Azerbaijan Republic joined the Convention of United Nations Organization "On the Elimination of All Forms of Discrimination against Women" (CEDAW) on the date of June 30, 1995. The Optional Protocol of the Convention "On the Elimination of All Forms of Discrimination against Women" was signed by Azerbaijan Republic on June 06, 2000 and was ratified on June 1, 2001. According to Article 25 of the Constitution of the Republic of Azerbaijan "*Everyone is equal before the law and court*", "*Men and women have the same rights and freedoms*".

And the 3rd part of Article 25 of the Constitution contains the standards identified for ensuring equality in the international norms. Thus, according to this Article equality of rights and freedoms of everyone shall be guaranteed by the state "*irrespective of race, nationality, religion, language, sex, origin, property status, position, beliefs, relation to political parties, trade unions and other public associations*" and does not allow the limitation of rights and freedoms according to the mentioned signs. According to the above aspects, nobody can be harmed, cannot be granted privileges or cannot be denied to give privileges. The principle of equality is applied also in access to the state organs, and during the relations with the decision making persons.

Another article (Article 34) of the Constitution declares the equality of rights and duties of husband and wife in family relations.

According to Article 16 of the Labor Code "*It is decisively prohibited to give way to any discrimination between the employees in labor relations for their citizenship, sex, race, religion, nationality, language, place of residence, property situation, social origin, age, family status, faith, political view, possession to trade unions and other public unities, service, as well as for other factors not related to the business qualities, professional experience, and results of the activities of the employee, to determine direct or indirect privileges and concessions in the ground of the same factors, as well as to limit their rights*".

Its specially stated in the same article that, "*With the exception of professional types and positions not allowing the work of persons living with immunodeficiency virus, to employ them according to the reason of infection of immunodeficiency virus, to refuse to promote them in the work or to dismiss them is prohibited.*". Besides, can not disclose information in the employer about the persons having any disease.

According to this article of the Code, determination of privileges and guarantees intended for the people belonging to different categories (under 18, women, invalid persons) is not called discrimination.

Responsibility is considered for the discrimination in the workplace and the employee subject to the discrimination can apply to the court for the provision of their rights.

In general, the legislation of the country currently provides the legal basis for the provision of gender equality. However, provision of equality in practice remains problematic.

There are both horizontal and vertical cases of discrimination against the women in the field of employment. This is a hidden discrimination, but it exists.

Participation indicators of women in public and social life are lower than the men.

Some of the women are the potential victims of social violence and human trade. Early marriages and the number of persons forming family without a marriage (unofficial marriage) in the country are not reduced.

Most of the above mentioned problems are related to Stereotypes, bad habits and high effects of religious prejudice in some regions.

3. FULFILLMENT OF THE LIABILITIES IN THE DIRECTION OF THE PROVISION OF RIGHTS REFLECTED IN THE CONVENTION

The United Nations Committee on the Elimination of discrimination against women suggested general nature reservations and recommendations by listening to the 4th period report on the

implementation of the obligations of Azerbaijani State about "Convention on the Elimination of all forms of Discrimination Against Women" held in 44th session dated July 20-August 07 2009, as well as considering the alternative reports of institutions protecting the human rights and by discussing the report of the state. An alternative report shall be presented below on the legal, social, and economic activities carried out by Azerbaijani State associated with some of the comments and recommendations of the Committee.

3.1.Measures directed to the prevention of early marriages

Discriminatory laws

15.The Committee notes with appreciation the information provided by the head of the delegation that the Parliament will consider an amendment to the Family Code at its session in the third quarter of 2009 in order to equalize the minimum legal age for marriage to 18 for both women and men. It remains concerned, however, about the different minimum age of marriage for women and men, which is set at 17 years for women.

16.The Committee urges the State party to speedily enact the amendment to the Family Code in order to equalize the minimum age of marriage for women and men to 18, in accordance with article 16 of the Convention and the Committee’s general recommendation No. 21.

Family relations

39.The Committee is concerned at the persistence of early and unregistered religious marriages in the State party and at the lack of statistical data in this area.

40.The Committee urges the State party to continue to implement awareness-raising campaigns and work with religious authorities in order to prevent early marriages and to ensure that all marriages are properly registered. The Committee reiterates its previous recommendation that the State party include in its next report information on marriages in Azerbaijan of girls under age 18 and on religious or traditional marriages, including their prevalence and trends over time, and their legal status.

The Parliament of Azerbaijan made changes and amendments to the Family Code considering the Committee's concerns and the implementation of recommendations set forth by the Committee as well as the evaluation of the difference in age between men and women with respect to the age of marriage as the discrimination.

The sentence “The age for marriage shall be determined 17 for women, and 18 for men” in Article 10.1 in the Family Code was replaced by the sentence “The age of marriage in the Republic of Azerbaijan is determined by the age of 18”. The President of Azerbaijan Republic has confirmed the change to the Code with the decree dated November 15, 2011. The President delegated the implementation of relevant activities related to the changes made to practical actions and other standards to the central executive bodies with another decree dated December 22, 2011.

Taking into account the principle of voluntary, the Constitution of Azerbaijan Republic provides the right to enter into the marriage in the 2nd part of Article 34. The 3rd part of the same Article states that, “marriage and the family is under the auspices of the state”. In its turn, Section 1 of the Family Code of the Republic of Azerbaijan which entered into force on 01 July 2000 determines the basis of marital relations. Article 5 of the Family Code defines the relationships between family members as the civil relationships.

Marriage closure and its termination are defined by Section 2 of the Family Code. The principle of equality between husband and wife has been enshrined in the selection of their free working activities (Article 29.3) and in civil relations (Article 32). These standards fully comply with the formal requirements of 5th Article of the Protocol № 7 of The European Convention on Human

Rights. It states: “husband and wife have equal rights between themselves and their children and bear the equal responsibilities”¹.

3.1.1. Principal causes provoking early marriage settlements

Dynamics of early marriages in the country has a tendency of development against the background of legislation and strengthening of state control. This case is obviously noticed in the regions especially outskirts of the country, and in the regions with high level of superstition, customs, traditions and religious influences. The implemented studies show that the main reasons of early marriages are the followings:

- Lack of having future plans for the girls who completed compulsory secondary education, as they have limited access to the education and labor market.

Socio-economic conditions in a number of regions limits the ability of women who have completed compulsory education to make choices independently in the community. Limitations in the access to education, employment, lack of the opportunities of participating in social and cultural life causes other perspectives besides getting married related to life to be impossible for the girls who completed the education.

- Difficult social economic condition.

Because of low conditions in some regions of the country, it causes youth to marry without early and unofficial marriage. However, in most cases the failed marriage creates additional problems for these families. In many cases, girls have to go home as soon as possible and majority of them with a baby.

- Prejudice and bad habits.

The role of religious superstition and bad traditions in the making of early marriages is important. According to the legislation of the country, religious marriage should be concluded only after the official marriage. Some of the religious leaders closure religious marriage, by violating this law. There are no impact mechanisms to be effective against such persons. The development of the Internet and communication technologies is also sometimes used to closure this illegal marriage.

- Existence of the impunity environment.

- Although there is considered criminal responsibility for the early marriages (forced marriage) in the Criminal Code, the number of persons involved in the criminal responsibility related to the occurred events are not exactly known.

Is it possible to add?

Although the marriage (exception is specified in the legislation) of persons under 18 is prohibited and there is responsibility for this, different means are used in places.

One of these means has been mentioned above. The problems related to the non-clearance of marriages and lack of having birth certificate of new born children.

“If the age of the man is included in the marriage, but the age of the woman is not included, after a period of time woman already wants the legalization of marriage. We encounter the fact in many cases that, the man does not want to legalize the marriage. Because he has marriage with another woman. In this case, without having the marriage, the woman wants to violate it. And in these cases that stay in the difficult situations is the woman”².

And one of the negative effects of early marriages is associated with the children born of such marriages. In case that they are not in necessary age, the birth of children is not legalized. This can only be carried out after the woman reaches the necessary age. These children are not

¹Jeyhun Garajayev. Judge of the Constitutional Court of Azerbaijan Republic. Source: <http://femida.az/2012/05/04/az%C9%99rbaycan-respublikasinda-m%C9%99is%C9%99t-zorakiligi-il%C9%99-mubariz%C9%99-n%C9%99z%C9%99riyy%C9%99-tarix-v%C9%99-t%C9%99crub%C9%99/>

²Early marriage: reason and results (Investigation). Farah Fadi. Source: <http://azadqadin.az/index.php?newsid=5916#.URym76Utz-s>

registered in the medical centers, are not inoculated and as the result of this the indicators of child death stays at high level in the country.

There are no accurate statistics related to early marriages. Although the relevant state authorities try to conduct the registration of such marriages, it is very difficult to obtain full statistics.

3.1.2. Educational measures directed to the prevention of early marriage settlements

Campaigns and educational events about the social and medical consequences of early marriages significantly increased in recent years. Such events are organized by State Committee for Family, Women and Children Affairs, Office of Human Rights Commissioner (Ombudsman), international donor organizations, and by local civil society organizations.

The Council of State Support to NGOs under the President of the Republic of Azerbaijan which started its activity in 2008 shows regular financial assistance to the events directed towards the prevention of domestic violence and early marriages. In this regard, there are some successful activities in last few years.

"Clean World" Social Union Aid to Women and the NGO Coalition consisting Citizens Labor Rights Protection League has conducted investigation related to the reasons forming the early marriage and organized educational seminars during the implementation of the project of "The use of awareness, education and defense mechanisms in the elimination of discrimination against women" held within the framework of Counterpart International Azerbaijan - Women's Participation Program with the financial support of the U.S. Agency for International Development in 2012-2013s

"Ufuk" Public Union for Youth Development carried out events in the regions within the framework of the project named "Increasing young people's social activity against early marriages" funded by Youth Fund Under the Ministry of Youth and Sports of the Republic of Azerbaijan. The aim of the project is to contribute to the elimination of the lack of information in the direction of prevention of early marriage spread among the youth living in regions, reduction of of the damages related to the problems in the violation of human rights, violence cases and problems in education, to coordinate the efforts of state and civil society, protect the rights of youth and to strengthen the family institution.

Number of measures related to the enlightenment is increasing.

Gulnara Mammadova, chief of the Family Problems Department of State Committee for Family, Women and Children Affairs noted on the activities of the committee that, "We are taking the necessary steps for full awareness of the population about the consequences formed by the early marriages. Our main purpose is that. Thus, young people should be aware of the consequences that, they would not be later entered into the early marriage and have the problems. At the same time, parents should restrain their children, relatives from the early marriage and should not force to do that. Thus, we are carrying out regular awareness-raising activities at schools. Since last year we are we are working on it with local executive authorities in the regions"³.

But the investigations show that, the educational events are mainly carried out in the cities and the rear regions that the early marriages occur are not covered. At the same time there is need for the preparation of relevant educational modules for the group without high level of education.

The problem of early marriage is one of the most important issues that concern our society. The persons who express that, the reasons are different are enough. It is mentioned that, the fact that in the theme that we highlight is caused by customs and traditions of Azerbaijan, folk idioms, and sayings. For example, those who make their daughter have early marriage; take this step without paying attention to the existing legislation. And when called to account, it becomes

³Early marriage: reason and results (Investigation). Farəh Fadi. Source: <http://azadqadin.az/index.php?newsid=5916#.URym76Utz-s>

either very late, or they want to gain alibi by easily coordinating that with the traditions. Although these acts were prohibited, they have occurred even during the period of Soviets. Some specialists state that in the occurrence of such events there is great impact of social-economic factors.

During the cross-sectional analysis it was determined that these respondents are mainly among the art-time education.

3.1.3. Statistics related to the early marriages

The State Statistics Committee conducted a statistical survey within the country in October, 2010, "About the early marriage of girls and study of births outside of official marriage". According to the information provided by the Committee, examination was carried out in 2009 by Registration departments of the Ministry of Justice in the households recorded with the early marriage and birth beyond the official marriages and with the survey, 19711 women until 50 were covered by the query. 37 percent of the women surveyed were under 18, percent were between the ages 18-19, 25 percent were between the ages of 20-24, 6 percent between 25-29 and 3 percent were above 30 who had early marriage.

39 percent of women having early marriage are from city, and 61 percent from the villages. 37 percent of women who got married until 18 had marriage by her own request, 26 percent under the pressure of the parents, 11 % due to the difficult financial situation of the family, and 6 percent were abducted, 2 percent were pregnant, and the other 10 percent had early marriage for various reasons.

Early marriage cases on the grounds due to the rich husbands and their pregnancy case were dominated in the cities and other reasons in the villages. 22 percent fathers and 13 percent mothers of women having early marriage have high and secondary education, 2/3 vocational and secondary education and 12 and 19 % respectively had secondary education.

While getting married, 3 percent of the husbands of those women were 18-19, 69 percent were 20-24, and 26 percent 25-29 and 2 percent were above 30. At the same time, 22 percent had high and vocational, 68 percent had initial vocational and full secondary, and 10 percent had secondary education. Majority of the fathers of women who had early marriage were involved in agriculture, were transport workers, laborers, mothers were housewife or agricultural worker and their husbands were agricultural workers, were involved in trade, transport and construction sectors, as well as were workers, farmers and unemployed.

During the examination, the reasons for not having official marriage by the women were investigated and it was determined that, 41 percent of them do not have the proper documents, 2/3 of them did not have necessary age for the marriage, and 26 percent were not registered in the relevant authorities of the Ministry of Justice due to various reasons. The number of persons who were under age for the marriage was more in the rural areas.

According to the results of the examination, 90 percent of the women who were surveyed had children, and 97 percent of them were stationary but 3 percent were born at home. 54 percent of viviparous women explain the reason for this with the financial problems, and 28 percent say that the maternity house is located far away from their house. More than half of the women who were under 18 and got married had initial vocational or full secondary, 45 percent had secondary education. Besides, 47 percent of all women included in the examination, as well as 39 percent of women under 18 consider that, the women should absolutely have high or secondary vocational education.

According to the information of examination, 89 percent of women consider that, cases of abduction of girls happen with their own consent, and 11 percent happen by the violence. Half of the respondents consider that, girls should marry at the age of 20-24, 41 percent consider at the age of 18-19, 6 percent thinks until 18. And 67 percent of women consider that, the decision about getting married should be made by the persons getting married, and as per the opinion of 30 percent of them the marriage problem should be solved by the parents.

68 percent of women, as well as 56 percent of women who are under 18 are aware of the damages of early marriage to the health. And when asking the question where should they address when faced with forced early marriage, 2/3 showed law-enforcement agencies, 18 percent showed the relatives and 14 percent gave the answer of municipalities and local authorities.⁴

3.2. Violence against women

21. The Committee commends the various measures undertaken by the State party to raise awareness about and to combat and eliminate violence against women, and takes note of the information provided by the head of the delegation that the draft law on domestic violence will be considered by the Parliament at its session in the third quarter of 2009. The Committee remains concerned about the lengthy process for the adoption of this law and about the prevalence of violence perpetrated against women and girls in Azerbaijan, including domestic violence and other forms of sexual abuse. The Committee is concerned that such violence appears to be at times socially legitimized by a culture of silence and impunity and is socially accepted. It is also concerned about the lack of sufficient shelters and a comprehensive network of referral and rehabilitation centres for victims of violence. It remains concerned that the definition of rape in the Criminal Code is based on the use of force, rather than on lack of consent. The Committee regrets the lack of information regarding convictions and penalties in cases involving violence against women and the lack of statistics provided on the incidence of various forms of violence against women.

22. The Committee urges the State party to accelerate the adoption of the draft law on domestic violence and to ensure that it contains provisions pertaining to sexual violence within the family. The Committee requests the State party to continue its efforts to combat violence against women and girls, in particular domestic violence. It recommends that the State party pursue its public awareness campaigns to combat all forms of violence against women through the media and education programmes. It calls upon the State party to ensure that women and girls who are victims of violence have access to immediate means of redress and protection, including protection orders and the availability of a sufficient number of adequate shelters in all regions. The Committee recommends that legal aid continue to be made available to all victims of violence, including through the establishment of legal aid clinics, especially in rural areas. It also requests the implementation of training for the judiciary and public officials, in particular law enforcement personnel, health-service providers and community development officers, in order to ensure that they are sensitized to all forms of violence against women and girls and can provide adequate gender-sensitive support to victims. The Committee calls on the State party to amend its Criminal Code. It reiterates its previous recommendation that the State party should conduct research on the prevalence, causes and consequences of all forms of violence against women, including domestic violence, to serve as the basis for comprehensive and targeted intervention.

3.2.1. Legislation against the violence against the women

The Law of the Republic of Azerbaijan "On the Prevention of Domestic Violence" was adopted on June 22, 2010.

This law aims the creation and regulation of mechanisms preventing violence occurring in the context of domestic violence. The main burden of the law is to ensure the social protection of victims of violence along with the protection of family relations. Main significance of the Law of Azerbaijan Republic "On the Prevention of Domestic Violence" is to explain the forms of domestic violence: physical, mental, sexual violence as well as unlawful restrictions of economic character⁵.

⁴ Source: <http://www.mia.az/news/15130.html>

⁵ Jeyhun Garajayev. Judge of the Constitutional Court of Azerbaijan Republic. Source: <http://femida.az/2012/05/04/az%C9%99rbaycan-respublikasinda-m%C9%99is%C9%99t-zorakiligi-il%C9%99-mubariz%C9%99-n%C9%99z%C9%99riyy%C9%99-tarix-v%C9%99-t%C9%99crub%C9%99/>

Law “On the Prevention of Domestic Violence” protects from physical, mental, sexual violence not only women but also the children. It should be taken into account that, in the provincial parts of the country, domestic violence can go out of the framework of one family.

According to the law, 2 types of public body shall consider the complaint about the domestic violence:

- Prosecution authorities – if there is information about the crimes prepared and committed in the claim in the manner prescribed by the criminal-procedural legislation,

- Relevant executive authorities – If there is no criminal element in the claim.⁶

If there is no criminal element in the claim, then relevant executive authorities have the following authorities:

1. warning to the person who committed domestic violence about preventing the recurrence of domestic violence by explaining the responsibility stipulated by the legislation and to give short-term protection order to the victim;

2. Deprivation of the person committing domestic violence in accordance with the legislation or to appeal to the court with regard to the limitation of parental rights;

3. To apply to the competent authority about the person to be brought to administrative responsibility if there is information about an administrative offense in the complaint;

4. To apply to the court in connection with the issuance of long-term victim protection order;

5. To provide the injured with the shelter in the center of assistance.⁷

Relevant executive authority gives written notification to the person committing domestic violence within 24 hours since the time of receipt of complaint and he shall be immediately given short-term protection order for a period of 30 days.⁸

For the person who committed domestic violence in the short-term protective order;

2. repeated perpetration of domestic violence,

3. searching for the place of victim and if there is no information to search for that person,

4. Conduction of other actions that concerns the victim can be prohibited.⁹

Failure to comply with notice given to the person who has committed domestic violence, victim or the relevant authority has the right to appeal to the court for the issuance of long-term protection order.¹⁰ Long term protection order is issued by the court during the period from 30 days till 180 days and its copy should be given to the parties on the day of having the copy...¹¹

In the long term protection order, the followings can be explained to the person committing domestic violence;

1. repeated perpetration of domestic violence,

2. searching for the place of victim and if there is no information to search for that person,

3. Conduction of other actions that concerns the victim can be prohibited.

4. communication rules with their underage children;

5. Terms of use of residential area or joint property can be determined;

6. The person committed violence should be imposed by the obligation to pay the costs associated with medical and legal assistance to the victim;

7. It can be explained by being called to account in accordance with the legislation for the person who does not fulfill the requirements of the enforcement order.¹²

The law was adopted by having the opinions of international organizations and after the long discussions. Perfect mechanisms aimed at preventing domestic violence are intended in the law.

⁶The Law of the Republic of Azerbaijan, “On the Prevention of Domestic Violence” Article 5

⁷The Law of the Republic of Azerbaijan “on the Prevention of Domestic Violence” Article 9

⁸cc The Law of the Republic of Azerbaijan “on the Prevention of Domestic Violence” Article 11.1 and 11.2

⁹cc The Law of the Republic of Azerbaijan “on the Prevention of Domestic Violence” Article 10.2

¹⁰cc The Law of the Republic of Azerbaijan “on the Prevention of Domestic Violence” Article 12.1

¹¹cc The Law of the Republic of Azerbaijan “on the Prevention of Domestic Violence” Article 12.6

¹²cc The Law of the Republic of Azerbaijan “on the Prevention of Domestic Violence” Article 10.3

Besides, despite the adoption of the law and its application was several years ago, there still remain serious problems. Thus, there are no mechanism and tradition aimed at preventing domestic violence in the country. Police intervention occurs only in cases of violence of a criminal nature. Although there are mechanisms aimed at preventing illegal acts of violence of a criminal nature. Short-term and long-term protective orders reflected in the law are not applied. Currently additions and changes are expected to be made in connection with application and provision of administrative law enforcement warrant.

The main part of the social assistance to victims of domestic violence is connected with the activity of help centers. According to the legislation the center of social assistance can be created by state and non-state subjects. Establishment of such assistance centers is especially important. Thus, a person who is a victim of violence should immediately be separated from the person committing the violence and should be specially kept protected.¹³

Mechanisms and problems of the application of law

Based on the results of the various studies carried out by non-governmental organizations the main forms of violence applied against women within the family are the followings:

- As there are no physical elements in the violence signs, it is impossible to register both criminal and administrative punishment cases. Here mainly includes chasing the women, to come to their work place, checking their phone and other bothersome actions;
- Violence exists, but it allows applying the administrative responsibility. However, the Code of Administrative Offences does not provide a complete understanding of such violence for today and punishment may only be imposed indirectly;
- The violence is resulted in severe physical suffering and the use of and occasionally use of a cold weapon and sustainable and long-term damage to health. In this case, the criminal law is applied. This results in the collapse of the family;
- And another case, victims of violence and their relatives make a complaint to the relevant bodies. However, this time mechanisms provided by law - mechanism of long-term or short-term protection order does not work. As the result, police intervention leads to a deepening of the conflict within the family.

Despite the requirements of the law shelters for victims of domestic violence has not been organized in the country. There is only one shelter in the country meeting the minimum requirements and operating within NGOs and that shelter has been operating in the capital city, Baku. The shelter operating under “Clean World” Social Union Assistance to women does not meet the growing demand. At present, the relevant government agencies are carrying out certain activities related to the organization of shelters. Law “On Social Services” adopted in March 2012 expand activities related to the organization of such shelters. That law will allow us to receive orders from the state in the field of social service to the NGOs and other legal and natural persons.

Besides, the Cabinet of Ministers has approved the rules "Organization and maintenance of a database on domestic violence", "Preventive registration of persons who committed domestic violence and carry out and educational and preventive work with them ", “grievance, in case of the absence of criminal elements in the complaints against the domestic violence”.

Application of a number of methods and techniques that can be considered effective in Azerbaijan in the field of domestic violence against women in the European countries seems to be problematic. Thus, mechanisms combating against domestic violence cases that do not constitute a crime are weak. The intervention of police and administrative organs not only does not solve the problem in many cases but even deepens it and leads to the destruction of the family. This is particularly common in the provinces. Police intervention to the family works is considered to be shameful. In this case non-governmental organizations offer the establishment

¹³ Jeyhun Garajayev. The judge of the Constitutional Court of Azerbaijan Republic. Source: <http://femida.az/2012/05/04/az%C9%99rbaycan-respublikasinda-m%C9%99is%C9%99t-zorakiligi-il%C9%99-mubariz%C9%99-n%C9%99z%C9%99riyy%C9%99-tarix-v%C9%99-t%C9%99crub%C9%99/>

of specialized police agencies its composition to be consisted of mainly from women. Application of both short-term and long-term protective order, considers women to be more effective the police involvement in the implementation of measures aimed at the prevention of domestic violence and in this case there is no deepening of the conflicts in the family.

It was determined that, in addition to the legal issues that prevent service of women in the police departments of the country, there are also many stereotypes. From this point of view, the conducted survey is called "*Break stereotypes! Myths about women police*". In general, after the ratification of the Convention "on the Elimination of All Forms of Discrimination against Women" Optional Protocol to the Convention by UNO, Azerbaijan is carrying out a number of activities for the elimination of harmful traditions and stereotypes. However, despite efforts on the principle of the abolition of all forms of discrimination against women in government, there is still an open secret and discrimination against women.

The emergence of a variety of obstacles in complete elimination of all forms of discrimination against women is inevitable. Thus, such cases in the Convention of UNO on the elimination of all forms of discrimination against women were taken into account and such obstacles have been emphasized. Item a) of the Article 5 of the Convention reads as follows: participation states implement measures such as "change model of social and cultural behavior of men and women in order to achieve the elimination of traditions and other practices based on the stereotype role of men and women or eliminating of prejudice thoughts"

The investigation paid attention to the field of attention that the women are less represented and searched the reasons for the low participation of women in the police organizations.

The investigation was mainly conducted in Baku city and western regions of the country: Gazakh, Aghstafa, Shamkir, Tovuz regions, on the basis of random sampling technique among 300 men and women beginning from 18 till 60 and more.

As a result of the research it was determined that only 3.5% of employees working in the country's internal affairs system are women. These are mainly working at management and infrastructure (hospital, clinic, police agencies and other apparatus.). The number of policewomen in the operational works is almost null.

One of the questions given to the respondents was that, "If the women are imposed to the violence in the family, should she apply to the police?" 85.4 of the respondents gave the answer no.

As seen from the answers appeals to the police related to the occurred violence is not accepted well. As the questions were given in the personal context, the participants could not hide how they depend on the stereotypes. The results once again proves that, most of the occurred violence cases are remaining as latent.

According to the conducted research:

Attitudes of the participants of survey towards the reasons of application of women to the police during the violence within the family are determined as follows:

In which cases would you apply to the police?(the question has been addressed to the police)			
	Woman		
	Region	city	total
Coming across with any form of violence	5,30%	12,00%	17%
When faced with the threat of losing their children	12,00%	22,60%	35%
In order to frighten the partner	5,30%	21,30%	27%
When faced with the danger of thrown into the street	9%	20,00%	29,30%
When you got a fatal injury	12,00%	25,30%	37%
All of the above mentioned cases	3%	6,60%	9,30%

As can be seen, the issue of appeal to the police, is a serious stereotypes. Thus, women from the regions state that they can apply to police only when faced with the danger “losing their cchildre” and “having fatal injury”. Inaction of women associated with the above mentioned problems makes us come to the conclusion that possibility of appeals to the police associated with the violence in the family and other place is very little. But the women from cities are not afraid of admitting that they can appeal to the police “in order to threaten the partner”. There are some dangerous and hidden spots in this case. Thus, eager of women to threaten their husbands can establish the opinion that it comes from the jealousy. And this can lead establishment of the authority of one of them on the other one and changes of the roles in the application of violence’s. Taking into account the mentioned issues, special preparation of police becomes necessary in order to have serious investigation of appeals of the parties during the violence and to make fair decisions. Generally, the women residing in cities are more active than the women residing at rural areas in the application to the police related to the problems such as safety of themselves and their children, as well as other problems¹⁴.

There are problems associated with addressing to the police during the occurrence of the problems. One of the questions answered by the respondents in the surveys carried out within the framework of investigation was the following.

The attitude of those who participated in the survey about the reasons preventing the appeal of women to the police during the domestic violence is defined as follows:

For which reasons would not you refer to the police in cases of violence in the family?			
	Woman		
	Region	city	Total
As men are usually represented in the police department, this step is not accepted for women	61,30%	78,60%	70%
As the dissemination of family secret causes public condemnation	46,60%	68,00%	57%
For no destruction of the family	64%	65,30%	64,60%
As the women are mostly considered as guilty	52,00%	70,00%	61%
For all reasons	4%	14,60%	9,30%

The substance of reluctant appeal of woman to the police in this part of the survey is seen clearly. The women does not appeal to the police due to the violence because of the reasons such as “police workers are mostly men” “they try to protect their family (according to their own opinion)” and finally “are considered more guilty”. As mentioned above, these responds are actually connected with non-objective approaches on the police among the general public. As mentioned in above table, there is a great need for fundamental changes in the police propaganda.

Surveys show that, victims of the domestic violence address to the police and other law enforcement agencies inexceptional cases:

The attitude of those who participated in the survey about the reasons of addressing to the police by women during the domestic violence is defined as follows:

Which cases can be justified for the women’s while addressing to the police during the domestic

¹⁴Let’s break the stereotypes! From the material named “Myths about women police”. by IB and Labor Rights Protection League "Clean World" assistance to world at the expense of the U.S. Agency for International Development has been implemented within the framework of Counterpart International's "Women's Participation Program".

violence in the family? (has been addressed to men)			
	Man		
	region	city	Total
When exposed to a deadly natural shocks	2,60%	4,00%	7%
When faced with the threat of losing their children	4,00%	5,30%	9%
When faced with the danger of thrown into the street	1%	2,60%	4,00%
All the above mentioned cases	0%	0,00%	0,00%

The attitude of those who participated in the survey about the reasons preventing the appeal of women to the police during the domestic violence is defined as follows:

For which reasons should not women apply to police during the domestic violence?(has been addressed men)			
	Man		
	Region	city	Total
Because application of woman to the police may prevent her from returning to home	77,30%	69,30%	73%
For not giving family secrets to the strangers	86,60%	81,30%	84%
Because women are mostly considered as guilty	83%	52,00%	67,30%
In order not to humiliate her husband in front of a strange man (police)	12,00%	53,30%	71%
All the above mentioned cases	3%	29,30%	14,60%

The majority of male respondents opposed the women to apply to the police if there has been violence in the family and mainly explain this as the reprehensible act and as the spread of family secrets (84%) and think that women's appeal to the police will prevent them to come back to the family (73%). And this proves that existing stereotypes and traditions create a basis for the violence as the main factors. Investigation group consider that, until the actions are carried out about elimination of stereotypes and myths, unless the number of women among police does not increase, then the violence cases shall stay as latent and male dominance will dominate constantly.

Conducted research and surveys clearly show that, it is not enough only to create perfect legislative base in the fight against domestic violence. Both the state and civil society is increasing the activities in the field of the fight against stereotypes, in other areas, including awareness

NGO coalition have submitted its suggestions and recommendations to the relevant government agencies about effective ways of fighting in combating against domestic violence, as well as in the creation of specialized police mainly consisting of women.

3.2.2. Other reasons preventing the effective fight against domestic violence

The lack of accurate statistics

Currently, there are not conducted exact statistics on cases of domestic violence. In fact, to make such statistics is practically impossible. Only the circumstances which results in the criminal prosecution are recorded. And this does not allow the determination of the scale, number and character of domestic violence.

The followings are given in this regard in the report about "The results of the monitoring of the acts of domestic violence in the electronic media of Azerbaijan Republic" prepared by "Clean World" Aid to Women Social Union:

Names of newspapers and the sites that are referred during 2010: Lent az, Day az, Olaylar İA, Modern az, New Musavat, Azadlig, Khalg Jabhasi, Sharg, Adalat, Caspy, Zerkalo, Ayna, Hafta ichi, Bizim Asr, Markaz, Uch Nogta, Iki sahil.

Newspapers and the sites that provide regular information about the criminal cases were: Lent az, Day az, Olaylar İA, Modern az, New Musavat, Zerkalo, Ayna, Hafta ichi.

Indicators on the facts determined according to the results of the monitoring of 11 electronic newspapers and 4 sites are as follows.

Table 1. General information

By sex	Number of events	Casualty	Conspiracy for death
women	173	106	67
Men	80	39	41
Children	7	5	2
TOTAL	260	150	110

According to the results of monitoring of one year e-newspapers, violence in the family has resulted in death of 173 women, 80 men and 7 children.

But there is not any exact statistics on country.

3.2.3. Lack of unit state activity in the field of application of legislation on the struggle against the violence

The activities carried out by state authorities aimed at the prevention of violence in order to ensure the law "On the fight against domestic violence" and its application cannot be considered effective and coordinated actions despite the adoption of a number of legislative acts.

The only event applied in combating against domestic violence is the prosecution of criminal cases occurred in domestic ground. Excluding educational and informational campaigns held by State Committee for Family, Women and Children Affairs and some civil society organizations no effective preventive measures are implemented.

Awareness of the employees of Law-enforcement agencies about the domestic violence was carried out only once at 20th District Police Department by Azerbaijan Lawyers Confederation.

And one of the weakest aspects of the law is connected with the lack of effectiveness of its application mechanisms.

Some positive examples can be given on national educational measures.

The event was held on the results of the project "say "no" to the violence against women" within the framework of 16 days activity campaign on November 30, 2012. The event was organized jointly by State Committee for Family, Women and Children Affairs, United Nations Population Fund (UNFPA), United Nations High Commissioner for Refugees (UNHCR), United Nations Development Fund (UNDP) and Women's Association for Rational Development¹⁵.

State Committee for Family, Women and Children Affairs held training together with the European Union within the framework of TAIEX project with the participation of experts on the theme of "Elimination of expose of children to the violence in the family" on the date of November 28-29, 2012. Experts on that field from Great Britain, Italy and Poland and representatives of relevant agencies, ministries have participated in the training.¹⁶

The State Committee for Family, Women and Children Affairs held an event together with the U.S. Agency for International Development, Counterpart International organization on the theme

¹⁵Source: <http://scfwca.gov.az/news/a-447.html>

¹⁶Source: <http://scfwca.gov.az/news/a-444.html>

of Female leadership in Badamdar Kempinski hotel on November 27, 2012. Among the issues discussed in the event there were the issues the fight against domestic violence.

Among the effective practices aimed at the prevention of violence against women there are projects held with the partnership of Counterpart International, an international program with the State Committee for Family, Women and Children Affairs within the framework of "Women's Participation Program" funded by the U.S. Agency for International Development. There was produced a social roller against domestic violence within the framework of the project of "The use of awareness, education and defense mechanisms in the elimination of discrimination against women" held by "Clean World" Social Union Aid to Women and Citizens' Labor Rights Protection League which are corporate organizations and was demonstrated for a long time in TV channels, especially in public television.

Seminars were organized in the boarding-schools; educational publications were prepared within the framework of the same project. There was organized a seminar on the theme of domestic violence and early marriages for female leaders in the eastern part of the country in Bilasuvar region together with the State Committee for Family, Women and Children Affairs.

"Clean World" Social Union Aid to Women has organized "Hotline" service within the framework of support program to the law on the prevention of domestic violence beginning from 2011 with the financial support of Baku Office of OSCE.

In 2011, the statistics of the calls incoming to the hotline was 970 and in 2012 the statistics of the incoming calls to the hotline was near 3000.

3.2.4. Situation of the legislation related to the punishment and sanctions for the prevention of violence

Adoption of the law "On struggle against Domestic violence", made it necessary to make some amendments and additions to legislative acts. In this regard, additions and amendments to the Criminal and Administrative Codes were planned.

Particularly, proceeding from the requirements of the law on the fight against domestic violence, the application of short-term and long-term protection orders made the determination of some a number of new liability types in the Code of Administrative Offences.

Although there is no stipulated direct punishment in the Criminal Code in connection with the domestic violence, there are Articles such as Intentional infliction of not serious bodily harm (Article 127), Intentional infliction of light bodily harm (Article 128), to make suffer (133) etc. stipulated in the Code and these are also applied relevantly in the domestic violence.

Besides, adoption of the law requires the consideration of relevant sanctions in the Code of Administrative Offences. There are a number of provisions in the Code of Administrative Offences for the prevention of the violence that is not considered a criminal offence.

38-1 Article of the Code of Administrative Offences is called beating, and the Article 38-2 is called "Violation of legislation on the prevention of domestic violence".

According to these articles, if the committed crime does not impose criminal liability, then various monetary penalties are applied.

But after the application of short-term and long-term protection warrant prescribed by law, no concrete articles were included in the Code on the persons violating the law about the violations of limitations for the beginning of 2013.

One other negative consequence of the lack of application of an effective fight against domestic violence is the collapse of families. The women who require divorce indicate the existence of various violence's committed against them in the majority of cases reviewed in the courts of the country.

Lawyers for Human Rights indicated in the report prepared within the framework of the project of the Committee on "the monitoring of women rights in the courts" that, the reasons of divorces are consisting of the followings.

"The main causes of breach of marriage were exposure of domestic violence by women, interventions by family relatives, betrayal, having harmful habits by the husband, physical problems (having no children), inaccuracies of the character of parties etc.

Violence inside the family –it was determined by monitoring that, cases of domestic violence in the majority of divorces is one of the main reasons. Observations showed that, in many cases, the woman after divorce have to endure long term violence's committed by their husbands for the sake of preserving their family in exchange for the risk of rejection by their close relatives.

It was determined that, domestic violence was more in young families living with their close relatives.

In more than half of the 153 monitored court proceedings (approximately 53%) domestic violence was noted as the main reasons for the breach of the marriages.

It was determined by the investigations that, among the factors that contributed to the occurrence of domestic violence there are cases such as intervention of close relatives to the families (mostly young families), unemployment of husband, having harmful habits by the husband (alcoholism or drug addiction) etc.

Outside interventions - most of the interventions are expected to be by the husband's mother and sister. In this case, it was determined by the investigation conducted in observed divorces that, there are no problems between the parties themselves and even there is no interest in their divorce. Observations have shown that, in most cases, power of influence of external interventions in family breakdown has mainly arisen from unemployment, financial dependence, and personal weakness of will. Thus, as new made families have difficulties in meeting the financial needs of the family themselves, they have to have financial support from their parents and this case make the latter be the owner of the word.

Having harmful habits by the husband –by taking alcohol and drugs, the husband comes home later and under the influence of these substances he does not behave normal with his wife and children. In addition to this, such husbands do not work, cannot meet the financial demands of the family and as the result of these disagreements arise between the parties.

The role of the husband's bad habits was approximately 12% as the result in observed divorce.

Childlessness (not having a baby) – suffer from the endlessness by one of the parties. This case is lead to divorce by external interferences. The role of the endlessness was approximately 4% as the result of the observed divorces.

Character discrepancy – this expression is the cliché usually used by the parties in cases when they are shamed of something, don't want to say the main reason and want to hide something. But sometimes the parties really have discrepancies in the characters. In the observed divorces the role of character discrepancy is approximately 24% as the main reason.

Betrayal - In the observed divorces the role of betrayal was approximately 3% as the main reason.

Unemployment - In the observed divorces the role of unemployment was approximately 4 % as the main reason.¹⁷

The cases of repeated violence during the period after the official divorce according to the decision of the court when the woman resides at the house of husband (uninvestigated field)

¹⁷Lawyers Committee for Human Rights: Final report on the project of "Monitoring of women's rights in court": source: <http://www.legalforum.az/?cat=reports&id=402>

3.3. Trafficking

23. While welcoming the broad range of measures introduced by the State party to combat human trafficking, including the 2008 order requiring all law enforcement personnel to refer trafficking cases to the anti-trafficking unit, the Committee is concerned about the growth of this phenomenon and the fact that there are insufficient measures to address the main causes of trafficking, especially in the context of the conflict with the neighbouring country. Furthermore, the Committee remains concerned about the lack of shelters for the victims, as well as the stigma these women often face, which may hamper their reintegration into society.

24. The Committee calls upon the State party to continue its efforts to ensure that legislation on trafficking is fully enforced and that the action plan and other measures to combat human trafficking are fully implemented and that their impact is regularly monitored and evaluated. The Committee urges the State party to systematically investigate, prosecute and punish traffickers. Furthermore, it recommends that the State party continue its efforts to ensure the rehabilitation and social integration of victims of trafficking, including through the establishment of additional shelters. In line with its previous recommendation, the Committee calls upon the State party to address the root causes of trafficking, thereby eliminating the vulnerability to exploitation by traffickers.

Exploitation of prostitution

25. The Committee regrets the limited data on the scope of exploitation of prostitution of women, including with regard to efforts addressing the social and economic factors leading to prostitution and the measures to support women who wish to leave prostitution.

26. The Committee urges the State party to conduct research on the exploitation of prostitution of women to serve as the basis for comprehensive and targeted intervention. It requests the State party to strengthen measures aimed at addressing the factors driving women and girls into prostitution, to put services in place for the rehabilitation and reintegration into society of women and girls involved in prostitution and to support women who wish to leave prostitution.

3.3.1. Legislation the field of combating against human trafficking

According to the definition given in Article 1.0.1 of the Law of the Republic of Azerbaijan "On the struggle against Trafficking in Human Beings", human trafficking was identified as the involvement, acquisition, deter, harboring, transportation, presentation and acceptance of people for the purpose of exploitation by using force or threatening to use force, by intimidation or other means of forcing, by abduction, fraud, deception, through abuse of influence and weakness.

The following discrepancies were found between these concepts as a result of analysis:

Although the definition of human trafficking in the law is recognized as the human trafficking offence committed with the purpose of the mentioned acts the above said means and methods, as the purpose of committing those offences were given by the definition given on the Code, methods of its commitment were not reflected and thus it was resulted in lack of legal importance. However, there are three questions and three elements which are necessary for the assessment of criminal offence that, one of those methods is associated with the perpetration of human trafficking. Thus, human trafficking can take place by using at least one of the above mentioned crimes, for the purpose of exploitation and by implementing one or more of the above mentioned actions. Here it becomes clear that, trafficking in human beings consist of three questions which are necessary to find answers on the criminal case: how? (In which way?), why? (For which purpose?), what? (Which behavior?).

While the victim of human trafficking is the potential victim for his future exploitation, the methods of its involvement to the operation is carried out by determining the absolute form by human trafficker. Because nobody can be satisfied with the case of transmission to the

“property” of the human trafficker and being exploited by limiting his/her rights. For this reason, involvement of the victim of human trafficking is carried out by human trafficker through using force or threatening, by intimidation, coercion or other means, by abduction, fraud, deception, by using force or threatening to use force, abuse of influence opportunities or weakness, for the above mentioned purposes. Analysis on the actions exposed human trafficking show up to date that, victims are exposed to exploitation as a result of the abuse of their confidence and are commonly subject to diction by the human traffickers.

In the definition given in the law, the exact scope of human trafficking is defined and as indicated in that definition, the actions such as the sale and purchase of the person or conclusion of agreements on the ownership were not reflected.

As an example of this we can show that mother give her daughter to another person without the purposes of exploitation instead of certain privileges, benefits, and so on. This action should be identified as human trafficking in the law according to the definition given for the human trafficking. But in fact, criminal offense of trafficking in persons is connected with the exploitation of the person by being against the freedom of that person. Besides, child's inability to participate in the decision-making process gives grounds for him to become a victim of human trafficking.

It is very difficult to state the occurrence of any act of human trafficking in the above-mentioned example. Because the commission of given offence violate a person's right to freedom under no circumstances and is not committed for the purpose of its exploitation. Although such cases are encountered in the practice, commission of that offence was in no way confirmed.

There are many features for proving that there is no need to add the actions of the sale and purchase of persons, and conclusion of other relevant agreements to the definition of human trafficking that, one of them is that, the mentioned actions are included despite of its commitment for the purpose of exploitation. In any case, it is clear that, any person participating in commitment of such a crime has the intention in any way. These intentions can be given as greed, revenge, or to obtain benefits and other privileges etc. Besides if this socially dangerous case is systemized with the closure of the transaction, in this case the practice of concluding an agreement in connection with the private ownership is implemented.

Victims are entitled to get free legal aid. The victims shall get information about the organizations providing free legal advice and assistance from special police unit and non-governmental organizations.¹⁸ Free medical assistance to the victims is organized by the Ministry of Health of the Republic of Azerbaijan. It should be noted that, any health treatment of victims is carried out according to their own consent except as provided by the law. During the medical assistance necessary medical needs of the patients should be paid, and each of them should be treated politely.¹⁹ Needs for psychological assistance is provided to victims.²⁰

Implementation of vocational rehabilitation aimed at the restoration of professional skills of victims of human trafficking, provision of their professional training, re-training and employment, provide assistance for them on the continuation of their education are the main directions of the social rehabilitation of the victims of human trafficking.²¹

In accordance with Article 13 of the Convention of the European Council “On Action against Trafficking in Human Beings”, if there is a ground on saying that somebody is really the victim of human trafficking, then, each of the parties should give 30 days for his formation with their own internal rules, and to think about them. This period is enough for the person to come to himself and to have partnership with the competent authorities by getting out of the influence of the persons that have stolen him. During this period, forced expulsions of the country against him cannot be implemented. This condition is not related to the actions in the procedures of authorized state agencies, specially the actions carried out during the investigation of the

¹⁸ Rules of the National Referral Mechanism on the victims of human trafficking, item 3.1

¹⁹ Rules of the National Referral Mechanism on the victims of human trafficking, item 3.3

²⁰ Rules of the National Referral Mechanism on the victims of human trafficking, item 3.4

²¹ Rules of the National Referral Mechanism on the victims of human trafficking, items 6.4-6.6

violence of the law. During this period the Parties should take control over the stay of the related persons in their territories.

In the previous edition of the Law on Combating Trafficking in Human Beings, it was not stipulated to give time to the victims of human trafficking to think. National Assembly made additions and amendments to the Law of the Republic of Azerbaijan about making amendments to the Law of the Republic of Azerbaijan “On Combating Trafficking in Human Beings” on April 19, 2013 and in the current edition, provision is expected to be about the restoration and contemplation. For this 30-day period shall be determined by law.

Although there is given no time in Azerbaijan Republic for the victims of human trafficking for coming to themselves and clear thinking, it was reflected in the Convention and other international documents that, deportation of the victims of human trafficking should not be allowed during the period of their social rehabilitation and reintegration. However, a package of proposals related to the changes and amendments to the law in this respect has been submitted to the Parliament.

Thus, according to the law of the Republic of Azerbaijan “On fight against Trafficking in Human Beings”, if foreigner or a stateless person is considered a victim of human trafficking, then administrative deportation is not applied about him to leave the Republic of Azerbaijan within 1 year.²²

3.3.2. New normative legal acts related to the fight against human trafficking

It is indicated in the annual report of the National Coordinator to the Parliament of the country on the fight against human trafficking for the year of 2012, there was adopted a law “On the social service” regulating legal, economic and organizational basis of state care for the persons living under the hard conditions and for the victim of forced labor.. By the Cabinet of Ministers – the procedures and conditions of the transplantation of human organs and tissues, the list of specialized medical institutions that these operations are held, procedures for taking, preparing and storing human organs and tissues for the transplantation²³.

3.3.3. Action against Trafficking in Human Beings

Action against Trafficking in Human Beings mainly consists of crime prevention, criminal prosecution and awareness events. Specialized police agency created by the state implement a comprehensive anti-corruption measures against human trafficking in connection with the victims of human trafficking within the framework of the National Referral Mechanism. National Coordinator for Combating Trafficking in Human Beings submits annual report to the parliament-National Assembly “On combating against human trafficking in the Republic of Azerbaijan”. It was stated in the report of National Coordinator for the year of 2012 that, “85 facts of human trafficking have been discovered in the operational and preventive measures carried out in 10 months of 2012, 2 organized groups and 6 criminal groups rendered harmless. 20 people of this type for offenses against the law were arrested that, 10 of them have been deprived of their liberty for a period of 5 to 10 years by the court.

19 out of 53 identified victims were brought to Turkey, 12 to Iran, 2 to the United Arab Emirates, 14 were brought to the Russian Federation, and 6 were involved in the operation across the country. The necessary assistance was provided to each of the 43 Victims that were placed in shelter²⁴.

²² Law of the Republic of Azerbaijan on Combating Trafficking in Human Beings, Article 20.1

²³The report of National Coordinator for Combating Trafficking in Human Beings, deputy of the minister of internal affairs Vilayat Eyvazov on the fight against human trafficking in Azerbaijan Republic on 2012

²⁴The report of National Coordinator for Combating Trafficking in Human Beings, deputy of the minister of internal affairs Vilayat Eyvazov on the fight against human trafficking in Azerbaijan Republic on 2012

35 people among the victims got single benefit and 18 of them were given relevant benefits from the Assistance Fund. During the period of investigation and court proceedings all of the victims were provided with the defenders.

Within the framework of the prevention of human trafficking 115 crimes were detected which were against the public morality and 85 people were brought to justice. Each of 450 women involved in the inquiry on the basis of relevant indicators in connection with this violence of law, but it was not proved that they are the victims of human trafficking²⁵.

It should be mentioned that, the actions in the field of fight against the involvement to the forced labor, in the background of relatively effective action towards the elimination of sexual exploitation which is one of the forms of human trafficking is not effective enough. The report of National Coordinator for 2012 indicates in accordance with the involvement to the forced labor that: “2 criminal cases were recorded in connection with the involvement of people to the forced labor. Monitorings were continued in various construction companies, industrial enterprises and stone quarries together with the Confederation of Entrepreneurs of Azerbaijan and non-governmental organizations.

As the result of 5.022 inspections held in conjunction with the State Labor Inspectorate Service, the employees were paid 305.880 manat benefit and compensations on overdue wages, 27.722 for the damages, and 22.155 manat social allowances. Labor contract was provided for 10.845 employees working in the various construction sites.

With the inspections conducted by the State Migration Service in 484 facilities, employment of foreigners and stateless persons more than two thousand has violated the law, appropriate measures have been taken against 235 individuals and legal entities violating the law²⁶.

However, these violations were recorded as administrative violations. Prosecutions of these cases have not been implemented. However, in many cases, foreign workers were deprived Of their passports and relative restrictions were applied to them.

3.3.4. Assistance to the victims of trafficking

According to the decision No. 203 of the Cabinet of Ministers of Azerbaijan Republic dated 09.11.2005, there was organized a special enterprise – shelter for temporary residence of the victims of human trafficking. 3-storey building in Baku city was allocated for this purpose. 50 beds were placed here. The building is fully repaired and has been equipped with modern facilities that meet international standards. Kitchen and dining room, 22 bedrooms, sanitary and shower rooms on each floor, rooms for the workers of the shelter, warehouse, laundry, play room for the psychological help, reading room for the children, room for the psychological help, interview room, meeting room (with family and relatives), gym, halls for the rest equipped with TV-video apparatus in the shelter is in the use of the victims of human traffickers. The shelter has the opportunity to place more 50 persons at the same time.²⁷.

The following services are provided by the shelter to the victims of human trafficking:

Consultation with the specialist

One of the services submitted for the rehabilitation of the victims of human trafficking in the shelter is the consultation of specialist. Consultations may be personal or in the form of group.

The purpose of the group consultations is creation of a safe and enabling environment in order the victims of human trafficking could express their opinion clearly. During these consultations, the victims of human trafficking get acquainted with the history of other victims. The

²⁵The report of National Coordinator for Combating Trafficking in Human Beings, deputy of the minister of internal affairs Vilayat Eyvazov on the fight against human trafficking in Azerbaijan Republic on 2012

²⁶The report of National Coordinator for Combating Trafficking in Human Beings, deputy of the minister of internal affairs Vilayat Eyvazov on the fight against human trafficking in Azerbaijan Republic on 2012

²⁷ "Clean World" Public Union Aid to Women. The analysis of the legal and practical structure of national measures in the field of rehabilitation and reintegration of the victims of human trafficking. Baku city 2010

participation of the victims in these consultations is carried out only on the basis of their own consent. The themes of the consultation are family relations, self-respect, depression, anxiety, reduction of stress, nutrition, hygiene, and so on.

Medical assistance

Physical and mental well-being of the victim of human trafficking is the main factor for his recovery. In the shelter, a medical assistance is provided to the victims of human trafficking on their own consent. Medical assistance may be either ambulatory or by the notification. In any case, confidentiality agreement is concluded with the doctor showing medical assistance. Medical Services are offered to the victims of human trafficking since their first day in the shelter. The victim is informed about the medical service, medical examination and treatment, and about the implementation of treatment. All of the information is submitted to him in the language which is understood by human trafficking.

During the period of shelter, the victims of human trafficking have the initial medical examination. They give analysis (general analysis of blood and urine, HIV virus, analysis of hepatitis B and C etc.) and undergo diagnostic procedures (Ultrasound examination in the abdominal area USM etc.); they shall be examined by a gynecologist doctor. If there is found any disease in human trafficking victims, then they are appointed treatment courses. For examination and treatment of various diseases with victims of human trafficking, the shelter gives instructions to the specialized medical institutions. Services in the shelter are carried out according to the consent of the victims of human trafficking.

Psychological aid

For the rehabilitation of victims of human trafficking, they are provided with the consultations and psychological assistance in the shelter. Psychological assistance is implemented by means of psycho-preventive, psycho-diagnostic, psycho-correction measures and psychological counseling. Information is obtained through psychological assistance about the situation of the victim, victim's traumas, injuries, and their degree. Later, the results of psychological counseling is used in the preparation of victim's personal and social plan. In the personal social plan, there is noted the needs of each victim for their personal rehabilitation.

Psychiatric and other assistances.

When needed, and if the victims are volunteers, they are sent to the reception of psychiatrists, neurologist, neurologist and other specialists. Here, the need for this kind of treatment by the victims of human trafficking is determined. These types of services are implemented only far away from the shelters, in the specialized institutions, on the basis of consent of the victims and on the basis of confidential agreement.

Legal assistance.

- Legal assistance is provided in form of legal consultation, by a lawyer (attorney), or by a public defender for the explanation of the rights of victims of human trafficking and for the proposal of a package of legal services. Legal assistance is conducted on the basis of volunteer consent of the victims and obtained information is used in her personal and social plan for the rehabilitation and reintegration of the victim. During the consultation, a need for initial and later legal assistance is learned. The needs of the victims of human trafficking can be as follows;
- Recovery of lost or damaged documents of the victims;
- Preparation of applications and documents for the acquisition of targeted social assistance to victims of human trafficking;
- Representation and agency in investigation, prosecution and courts in criminal proceedings conducted with the participation of victims of human trafficking.
- Preparation of civil lawsuit by the lawyer or public defendant in connection with the payment of financial and material damages during the criminal case committed against the victims of human trafficking and its defense in the court by the same lawyer or public defendant.

Other measures.

During their stay in the shelter, the victims of human trafficking are offered various events for their rehabilitation and reintegration. For example, victims' participation in seminars, sending them

vocational courses, having physical education and sports classes in the shelter, cookery courses in shelters, support for victims of human trafficking who are talented and have manual skills, school programs for children who are victims of human trafficking, organization of children's games, education programs, elimination of illiteracy, personal training etc. educational rehabilitation measures are applied.

During the period held in shelter, each of the victims of human trafficking shall be paid benefits during the reintegration period in the amount determined by the law.

Rehabilitation and reintegration of victims of human trafficking is continued in the center of assistance to the victims of human trafficking operating within Ministry of Labor and Social Protection of Population of Azerbaijan Republic²⁸.

3.3.5. Informing and awareness-raising activities aimed at the prevention of trafficking in human beings

“**Hotline**” system is being operating in specialized police body, Office to Combating Human Trafficking since 2007. Main appointment of “hotline” system which operates within 24 hours consists of fight against the human trafficking and to provide information services to the persons suffering from this type of crime.

"Hotline" service functions

To prevent human trafficking and related threats, assist persons suffered from human trafficking, to employ in foreign countries, to get education, to have rest, to give the necessary advice to those who seek to marry foreigners, to provide psychological support to citizens on time and by telephone regardless of their place of residence and social status, ensure a reliable dialogue with any person who applied for help and advice, direct the subscribers on the determination for specialized responding of appeals and their solutions.

International Organization for Migration, American Lawyers Association, U.S. Embassy and the OSCE Office in Baku takes the informing and awareness-raising actions the field of combating against human trafficking. Judges, prosecutors, body of specialized police officers, educational workers, immigration service officers, and specialized NGO representatives are invited to attend educational events.

When The Council of State Support to NGOs under the President of the Republic of Azerbaijan declares annual grant competition, events on the fight against the human trafficking comes among the priorities.

State Committee for Family, Women and Children Affairs cooperates with the international organizations and civil society bodies in the events on the fight against human trafficking.

Such measures are regularly organized with the organization of the committee.

In his report for 2012, National Coordinator for Combating Trafficking in Human Beings states on the awareness and informing measures that:

There were held training courses for representatives of 15 tourism companies of non-governmental organizations, the Ministry of Labor and Social Protection of Population, Migration and the State Border Service located in Baku in order to improve the professionalism in the field of identification of victims of trafficking in human beings and forced labor. A special police department officers have participated in the seminars organized by OSCE Office in Baku, the International Organization for Migration, the American Bar Association, and the Red Crescent Society and in TV discussions dedicated to the different themes in a number of TV channels of the country.

²⁸Clean World” Public Union Aid to Women. Analysis of practical structure and legislation in the field of Rehabilitation and reintegration of victims of trafficking in human beings. Baku city 2010 .

Social advertisements dealing with consequences of human trafficking were broadcasted through regional TV channels by being sent to the administrations of all the cities and regions of the country.

In March of current year – there were held seminars in 28 police departments of the Republic on the theme of the investigation of human trafficking crime with the participation of Members of Parliament, U.S. Justice Department legal advisers, the representatives of American Lawyers Association and the experts of Azerbaijan Lawyers Confederation²⁹.

3.3.6. Measures aimed at the prevention of prostitution

Measures aimed at the prevention of prostitution cannot be considered effective. Articles such as Coercion into prostitution (Article 243), Coercion into prostitution or immoral acts the persons under age (Article 171) are designed in the Criminal Code. At the same time, as it was mentioned, if coercion to prostitution causes of human trafficking, this shall be considered as heavy and especially heavy criminal case stipulated in Article 144 of the Criminal Code.

Fines are expected to be for the prostitution in the Code of Administrative Offences.

In practice, there are cases where the application of the relevant provisions of both the Criminal Code and the Code of Administrative Offences are carried out. However, practical activities aimed at the prevention of prostitution are weak. There are no serious studies about the study of the causes, the effects of socio-economic conditions. Persons involved in prostitution are the potential victims of human trafficking and in most cases the human traffickers choose these people as victims.

At the same time, when the persons involved in prostitution become victims of human trafficking, sometimes prosecution authorities do not recognize them as the victims of human trafficking. Concrete examples are referred to in the investigations of "Clean World" Social Union Aid to Women in this direction. For example:

“A.C is brought to Baku from Gusar city when she is 13 and is forced to be in the relationship with a foreigner within the country. Her aunt is continuing to sell her to another person. Later A.C is being used by M.R. who is older than her. He makes A.C to steal things beginning from the early ages. A.C, is arrested for theft of customer complaints when she is 17. Later, she is released with the help of NGO which is combating against human trafficking. But M.R, who is now married, takes A.C from her temporary address by using force in front of the neighbors. By threatening, he marries with A.C. And the body investigating the fact, relying on the fact that A.C. was involved in the prostitution decided that the fact does not constitute a crime and adopted a decision to terminate the criminal case”.

In this case, those who are engaged in human trafficking relatively receive light punishment. Thus, not the Article 144-1 but the Article 171.1 of the Criminal Code should be applied to these persons.

3.4. RECOMMENDATIONS

3.4.1. On the clearance of family relations and early marriages

1. There is stipulated punishment in the Criminal Code for the persons forcing women to have early marriage (Article 176-1). The punishment consists of fine beginning from two thousand manats up to three thousand manats or imprisonment for a term up to two years. If the same acts are committed on a person under the age of marriage, then the fine shall be from three thousand manats up to four thousand manats or imprisonment for the term up to four years.

²⁹ Report of Deputy Interior Minister, National Coordinator for Combating Trafficking in Human Beings Vilayat Eyvazov for 2012 on the fight against Human trafficking in Azerbaijan Republic

Taking into account traditions established in Azerbaijan, these punishments are light and are not adequate with the committed crimes. In this regard, criminal prosecution should be strengthened.

2. According to the Family Code (Article 1.5.) “Having a religious marriage (religious marriage) has no legal significance”. Religious marriage can be carried out only after the conclusion of formal marriage. But in practice, religious figures continue to make religious marriages by violating the requirements of the legislation. Most of them are the religious marriages for persons not having enough age for the official marriage. Legislation provides neither administrative, nor criminal liability for this.

Both administrative and criminal responsibility should be envisaged for those who have religious marriage without the official marriage. There should be more severe punishment for those who marry to the persons under age.

3.4.2. About the elimination of violence against the women

Creation of special shelters is especially actual among the measures aimed at the prevention of domestic violence. Shelters should be organized not only in Baku but also in the regions. The shelters created by the fund the state budget, should be given to the administration of non-governmental organizations and other non-governmental legal entities according to the Law “On Social Services”.

Special educational program should be prepared for the prevention of domestic violence for the preparation of social workers, social servants, sociologists, psychologists and trained professional staff should be prepared within this program;

The creation of specialized police departments is appropriate for the prevention of domestic violence which is not a criminal offense;

Taking into account the lack of experience in the application of Long-term and short-term protective order, there should be implemented activities aimed at the improvement of skills and abilities of non-organizational activities, study of leading practice in this field;

Responsibility provisions which should be included in the Code of Administrative Offences for failure to comply with the long-term and short term protection order. Courts have an important role in the prevention of domestic violence. However, there is no practice of the courts in relation to domestic violence. Courts carry out proceedings only associated acts of violence of a criminal nature on the basis of studies of investigating authorities. There should be implemented actions towards the prevention of domestic violence, and in the direction of teaching judicial practice of other countries to the judges of the court of Azerbaijan.

The role of Human Rights Commissioner (Ombudsman) is increasing in the prevention of domestic violence;

3.4.3. On the increase effectiveness of the fight against human trafficking

To establish additional shelters and centers by the state in the regions of Azerbaijan Republic for increasing the efficiency of social rehabilitation and reintegration of victims of trafficking in human beings is appropriate. At the same time, support should be increased by The Ministry of Labor and Social Protection of Population for the role of The Council of State Support to Non-Governmental Organizations under the President of the Republic of Azerbaijan,

All forms of human trafficking informational and educational measures aimed at preventing human trafficking should be further strengthened.