Azerbaijan

1. Discriminatory family code

Following an amendment to the Family Code in November 2011, the minimum age for marriage is now 18 for women and men. At the same time, amendments were also made to the Criminal Code to criminalise early marriage.  

Marriage is governed solely by civil law, and only marriages that have been registered at a state register office are legally recognised. Marriages officiated in a religious ceremony have no legal standing. Legally, a Muslim cleric cannot perform a marriage unless the couple produce their civil marriage certificate. 

According to information provided in the Food and Agricultural Organization (FAO) Gender and Land Rights database, more couples are marrying under Islamic law, especially in rural areas, and not registering their marriages with the state. Such marriages have no legal recognition, and women’s rights are poorly protected within them. 

Various sources point to the increasing prevalence of early marriage in Azerbaijan, with girls being forced to marry against their will in many cases. One article published by Eurasianet notes that such marriages are most common in rural parts of southern Azerbaijan Republic, where Muslim clerics will often agree to perform a wedding ceremony without first ascertaining if the girl has agreed to the marriage or asking for the couple’s civil marriage certificate. According to the report, a survey carried out by the State Statistics Committee found that 63% of women questioned who had married before the age of 18 said that they had been married against their will. In December 2013, the UN Special Rapporteur on Violence against Women expressed concerns about the increasing number of early, forced and unregistered marriages in Azerbaijan, citing a State Committee report showing that more than 5,000 girls were victims of early marriages in 2013.

1 CEDAW (2013), p. 3
3 The Criminal Code of the Republic of Azerbaijan (Law No 256-IVQD), Article 176
5 CEDAW (2013), p. 41, 42
6 FAO (n.d.)
7 UNDP (2007), p. 51
8 Isakova, Gunel (2012)
9 CEDAW (2009, p. 9
10 Ibrahimova, Sitara and Abbasov, Shahin (2011)
11 OHCHR (2013)
Parental authority is covered by Articles 56 to 61 of the Family Code, which stipulate that both parents have the same rights and responsibilities in caring for and educating their children.\(^\text{12}\)

Women and men can both be the head of the household under Azerbaijani law.\(^\text{13}\)

Women and men have equal decision-making authority over children following divorce, under Article 61 of the Family Code.\(^\text{14}\)

Parental authority and authority over other decision-making within the household are governed solely by civil law; customary and religious law have no legal standing under the Constitution.\(^\text{15, 16}\) However, customary attitudes regarding gender roles within the household appear to be very strong, affecting how laws on parental authority are implemented in practice. Men are seen as the ‘head of the household’ and women are expected to obey them.\(^\text{17}\) A 2007 United Nations Development Programme (UNDP) report based on data from a wide scale survey on attitudes towards gender issues in Azerbaijan found that in general, men are considered the head of the family and control most aspects of family life, and this is accepted by both men and women. By contrast, women are expected to seek agreement from their husbands before making important decisions, which is a situation accepted by most women.\(^\text{18}\)

However, in cases of divorce, custody is almost always given to the mother, according to the 2005 official Convention on the Elimination of all forms of Discrimination against Women (CEDAW) report.\(^\text{19}\)

Under Azerbaijani law, women and men enjoy equal inheritance rights as wives and husbands and as sons and daughters.\(^\text{20}\) The law on inheritance reflects legislation granting spouses equal property rights. It ensures the inheritance rights of the surviving spouse, thereby ensuring that the spouse receives shares equal to that of the children and parents of the deceased.\(^\text{21}\)

Legally, inheritance is governed solely by civil law; customary and religious laws are not considered valid sources of law under the Constitution, in regard to inheritance or any other matters.\(^\text{22}\)

Data included in a 2007 UNDP report on attitudes to gender issues in Azerbaijan found that just 0.1% of men and 1.1% of women said that they intended to will their property to their daughters. By contrast, 36.9% of men and 41.9% of women said they felt that property should be left to the youngest (male) sibling in the family.\(^\text{23}\)

Under customary practices, the youngest son in the family is expected to stay in the parental home, and look after his parents; as a result, parents usually leave property to the youngest son, meaning that

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\(^{12}\) CEDAW (2005), p. 85

\(^{13}\) International Bank for Reconstruction and Development / World Bank (2011), p. 58

\(^{14}\) CEDAW (2005), p. 21

\(^{15}\) CEDAW (2005), p. 85

\(^{16}\) International Bank for Reconstruction and Development / World Bank (2011), p. 58

\(^{17}\) Isakova, Gunel (2012)

\(^{18}\) UNDP (2007), p. 53-54

\(^{19}\) CEDAW (2005), p. 21

\(^{20}\) Civil Code of the Republic of Azerbaijan, Articles 1159.1, 1162 to 1164, 1166, 1193 and 1194

\(^{21}\) FAO (n.d)

\(^{22}\) Civil Code of the Republic of Azerbaijan, Articles 1159.1, 1162 to 1164, 1166, 1193 and 1194

\(^{23}\) UNDP (2007), p. 29
daughters have little opportunity to inherit property from their parents. In addition, when a man dies, his authority as head of the family passes not to his widow, but to his eldest son.  

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Women and men have the same rights to initiate divorce in Azerbaijan. Some 54% of people questioned in a 2008 poll said they felt that divorced women faced discrimination in Azerbaijan, relative to other women. The FAO noted that in cases where a marriage has not been registered with the authorities, women have very little protection if the marriage ends; for instance, they cannot claim joint ownership of any property purchased during the marriage.

A 2008 poll found that 45% of people questioned felt that widows were poorly treated in their society.

2. Restricted physical integrity

In late 2010, the Law on Prevention of Domestic Violence was passed by the Azerbaijani parliament. This is a civil law, but Article 7 states that in cases of domestic violence, a criminal investigation (and prosecution, if appropriate) is to be conducted in parallel to the implementation of the provisions included in the Law to support and protect victims.

The Law provides a comprehensive definition of domestic violence that covers physical, psychological, and sexual violence.

Under the Law ‘On prevention of domestic violence’, victims can apply to the court for short term and long term protection orders, which ban the perpetrator from any contact with the victim. Non-compliance with a protection order can result in criminal prosecution, although the criminal penalties in such cases are not defined.

The 2010 Law includes a comprehensive mechanism to oversee the implementation of the law, laying out the responsibilities of police, the courts, and other official bodies. However, the 2012 European Commission Neighbourhood Policy report on Azerbaijan notes that in fact, mechanisms are not in place for the effective implementation of the law.

According to a 2007 report by United Nations Development Programme (UNDP), a large scale survey on attitudes to gender issues in Azerbaijan found that throughout Azerbaijani society, many consider domestic violence to be a private matter that should be resolved within the family. A more recent article published by the Åland Islands Peace Institute indicates that such attitudes are still prevalent,
with the effect that women rarely report cases of domestic violence, and are even reluctant to discuss what has happened to them with their own family and close friends. Under-reporting is exacerbated, the article’s author notes, by the lack of support services available to women who want to leave abusive relationships, particularly in rural areas.\textsuperscript{37} Radio Free Europe / Radio Liberty report that domestic violence is an ignored social problem in Azerbaijan, and that overall, gender-based violence remains a taboo issue, while in its Concluding Observations, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) Committee expressed its concern that domestic violence and other forms of gender-based abuse appear ‘at times to be socially legitimized by a culture of silence and impunity’.\textsuperscript{38, 39}

At present, no data on conviction rates appears to be available. However, a 2012 media report notes that the Azerbaijani State Committee for Family, Women and Children has begun collecting data on cases of domestic violence, which will include information on: applications to state authorities in cases involving domestic violence; cases investigated; the number of persons held liable in connection with domestic violence cases, and; court decisions. This information will be held in a national-level electronic database.\textsuperscript{40}

According to a recent article on gender-based violence in Azerbaijan, police are rarely sympathetic towards women who are trying to register cases of domestic violence, often blaming them for bringing the violence on themselves.\textsuperscript{41}

**Rape** is a criminal offence under Azerbaijan’s 2000 Criminal Code.\textsuperscript{42} The law specifically mentions rape and sexual assault during conflict as being criminal offences.\textsuperscript{43}

The Criminal Code makes no specific reference to spousal rape.\textsuperscript{44} A 2012 article on gender-based violence in Azerbaijan published by the Åland Islands Peace Institute states that few people in Azerbaijan recognise spousal rape as a crime, and that talking about sexual violence between spouses is considered to be very shameful.\textsuperscript{45}

There are no clauses in the Criminal Code to allow a rapist to escape prosecution by marrying his victim.\textsuperscript{46}

Rape is punishable by between four and fifteen years’ imprisonment, depending on the age of the victim and the level of violence involved in the attack.\textsuperscript{47}

\textsuperscript{37} Isakova, Gunel (2012)
\textsuperscript{38} Powley Hayden, Jessica (2009)
\textsuperscript{39} CEDAW (2009), p. 5
\textsuperscript{40} Zarbalieyeva, K. (2012)
\textsuperscript{41} Isakova, Gunel (2012)
\textsuperscript{44} Criminal Code of the Azerbaijan Republic, 2000
\textsuperscript{45} Isakova, Gunel (2012)
\textsuperscript{46} Criminal Code of the Azerbaijan Republic, 2000
The article published by the Åland Islands Peace Institute states that prosecutions in rape cases are rare, due to gender norms that stigmatise rape victims, as well as high levels of corruption within the police force.48

The US Department of State Human Rights report for Azerbaijan notes that in 2012, the Ministry of Internal Affairs reported that 19 people were convicted of rape.49

There appears to be considerable social stigma attached to rape, with the perception that they are ‘soiled’ or ‘dishonoured’.50 Therefore, very few victims are willing to report the crime.51

The Åland Islands Peace Institute reports that women often have little faith that law enforcement bodies will offer them protection and adequate assistance in cases of rape and sexual violence. Indeed, the article notes that few police officers have received any training in how to deal with cases of rape sensitively, and that there are no specialised departments within the police service to deal with cases of sexual violence.52

While there is no specific law addressing sexual harassment in Azerbaijan,53 according to the official CEDAW report, the issue is addressed under amendments to the country’s Labour Code.54

The provisions in the Labour Code only cover sexual harassment in the workplace.55

It appears that sexual harassment is not widely reported. The 2007 UNDP report on attitudes to gender issues found that research participants were reluctant to talk about sexual harassment, and also, that many felt that any women reporting sexual harassment would be at risk of losing her job.56

In a 2007 UNDP survey of attitudes around gender issues, most respondents stated that in the case of sexual harassment, the woman was partly – if not wholly – to blame.57

According to the 2013 Amnesty International annual report, sexual harassment appears to have been used as a tool to discourage dissent. The report notes that in 2012, a well-known female Azerbaijani reporter working for Radio Free Europe received a threatening letter containing intimate photographs of her. The letter threatened to ‘shame’ her if she did not discontinue her work. When the journalist publicly exposed this attempt to threaten her, a video showing her in an intimate relationship was posted on the internet.58 Human Rights Watch notes that it is unknown who attempted to blackmail the journalist, but the threats seemed to have been in retaliation for her investigation into the business holdings of the president’s family and close associates.59

There is no evidence to indicate that female genital mutilation is practised in Azerbaijan.

48 Isakova, Gunel (2012)
49 US Department of State (2013)
50 Isakova, Gunel (2012)
51 Isakova, Gunel (2012)
52 Isakova, Gunel (2012)
53 Isakova, Gunel (2012)
54 CEDAW (2008), p. 27
55 CEDAW (2008), p. 27
56 UNDP (2007), p. 71
57 UNDP (2007), p. 71
58 Amnesty International (2013), p. 29
59 Human Rights Watch (2013), p. 399
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The 2007 United Nations Development Programme (UNDP) report on attitudes to gender issues also points to the fact that women who were victims of sexual violence during the conflict with Armenia over Nagorno Karabakh continue to suffer physical and psychological trauma.60

There have also been documented cases of abduction for forced marriage in Azerbaijan.61

In 2013, the UN Special Rapporteur on Violence against Women expressed concern about the trafficking of women, for the purposes of commercial sexual exploitation and forced labour.62

Abortion is available on demand in Azerbaijan.63

3. Son bias

The male/female sex ratio for the working age population in 2014 is 0.96 while the sex ratio at birth is 1.13.64 Based on this data, there is evidence to suggest that Azerbaijan is a country of concern in relation to missing women due to high sex ratios in young age groups.

In 2012, the ratio of female to male primary education enrolment was 98% and 99% for secondary education. Moreover, there was virtually no gender gap in terms of primary and secondary school gross enrolment.65

According to 2005 data provided by UNICEF’s Understanding Children Work, girls participate more in household chores than boys.66 Additionally, according to 2002-2012 data, child labour affected boys slightly more than girls.67

In a December 2013 statement, the UN Special Rapporteur on Violence against Women condemned the increase in the number of sex-selective abortions, noting that Azerbaijan is reported to rank second among the countries where the practice is prevalent. She asserted that this statistic is “a reflection of patriarchal notions relating to the value attached to women and girl-children in society.”68

4. Restricted resources and assets

Under Azerbaijani law, access to land is a guaranteed right for all Azerbaijani citizens, regardless of gender.69

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60 UNDP (2007), p. 51
61 Thomas, Cheryl (2009), p.7
62 OHCHR (2013)
63 United Nations Department of Economic and Social Affairs, Population Division (2013)
64 CIA, World Factbook
65 World Bank Development Indicators Database
66 Understanding Children’s Work
67 UNICEF
68 OHCHR (2013)
69 Constitution of the Republic of Azerbaijan, Article 29
Ownership and access to land are governed exclusively by civil law in Azerbaijan; customary and religious law have no legal standing under the Constitution, in regard to land rights or any other matters.\(^{70, 71}\)

In practice, access to and ownership of land is partly determined by gender. Following the collapse of the Soviet Union, land plots previously administered by collective farms were allocated to men and women collective farm workers equally; when women then married, this land remained with the natal family and they did not acquire a new plot of land upon entering their husband’s family.\(^{72}\) In addition, the increasing number women living in unregistered marriages effectively have no legal protection in regard to rights over land purchased during the course of their marriages.\(^{73}\)

Women’s equal right to own and access to **non-land assets** is protected by the Constitution.\(^{74}\)

Unmarried men and women, and married men and women, have the same property rights.\(^{75}\) Any property purchased by a woman before marriage remains hers once she is married. In addition, spouses have equal rights regarding the ownership, enjoyment and disposition of joint property, regardless of whether it was acquired from the earnings or income of the husband or the wife, and all property purchased during the marriage is their joint property, even if it is registered in just one spouse’s name.\(^{76}\)

Access to and ownership of property is governed solely by civil law, which does not discriminate against women.\(^{77}\)

Information included in the Food and Agricultural Organisation (FAO) Gender and Land Rights database indicates that over 90% of property in Azerbaijan is owned by men.\(^{78}\) In cases of divorce, it is very rare for women to claim property acquired by the husband prior to marriage. Following Independence, citizens of Azerbaijan were entitled to ‘privatisation vouchers’ representing a share of privatised state property.\(^{79}\) United Nations Development Programme (UNDP) reports that most women sold their vouchers for very little profit, or simply gave them to their husbands or families.\(^{80}\) As with land ownership, the FAO Gender and Land Rights database observes that the increasing number of women living in unregistered marriages have very little protection in regard to property rights.\(^{81}\)

The principle of equality enshrined in the Constitution extends to access to credit, and women and men enjoy the same legal rights to access to **financial services**, including to obtain credit and bank loans.\(^{82}\)

According to a 2007 UNDP report on attitudes to gender issues, women in Azerbaijan face discrimination in access to credit, particularly in rural areas. This is mainly due to their lack of land ownership, meaning

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\(^{70}\) FAO (n.d)

\(^{71}\) International Bank for Reconstruction and Development / The World Bank (2011), p. 58

\(^{72}\) UNDP (2007), p. 29

\(^{73}\) FAO (n.d)

\(^{74}\) Constitution of the Republic of Azerbaijan, Article 29

\(^{75}\) International Bank for Reconstruction and Development / The World Bank (2011), p. 58

\(^{76}\) Family Code of the Republic of Azerbaijan, Articles 32, 33, 37

\(^{77}\) FAO (n.d)

\(^{78}\) FAO (n.d)

\(^{79}\) FAO (n.d)

\(^{80}\) UNDP (2007), p. 29

\(^{81}\) FAO (n.d)

\(^{82}\) CEDAW (2005), p. 70
they are not able to provide collateral to secure loans, as well as gender stereotypical views that women are not able to manage money.\textsuperscript{83}

According to the World Bank, in 2011, 15% of adult women in Azerbaijan had a bank account, as did 16% of men. In the same year, 18% of adults took out a loan with a financial institution (defined as a bank, credit union, microfinance institution, or another financial institution such as a cooperative); these data were not disaggregated by gender.\textsuperscript{84} According to the Microfinance Information Exchange, women made up 29.39% of recipients of microfinance loans in 2012.\textsuperscript{85}

5. Restricted civil liberties

There are no laws in place restricting women’s free \textbf{access to public space}, or or freedom of movement. Women can apply for a passport, and travel within and outside of Azerbaijan in the same way that men can.\textsuperscript{86}

The 2007 United Nations Development Programme (UNDP) report on attitudes to gender issues in Azerbaijan notes that attitudes towards young women travelling abroad for education and work were mixed; while most focus group respondents agreed that a young women should have the right to travel abroad to continue her education, most felt that a young woman proposing to migrate for work should be dissuaded, because this could be seen as ‘immoral’ and could damage her marriage prospects. The report also notes that many research participants felt that once a woman is married, she should restrict her social circle to her relatives, her husband’s relatives, and neighbours. In particular, 62.2% of men did not approve of women socializing with their male friends.\textsuperscript{87}

Women and men have the same rights to choose where to live under Azerbaijani law.\textsuperscript{88} However, in practice, it would appear from UNDP’s research that women are expected to move to their husband’s home on marriage.\textsuperscript{89}

No evidence was found to indicate that \textbf{quotas} are in place to promote women’s political participation, either at national or sub-national level.

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According to the official 2013 Convention on the Elimination of all forms of Discrimination against Women (CEDAW) report, the \textbf{media} in Azerbaijan tend to reinforce rather than challenge traditional stereotypes regarding gender roles.\textsuperscript{90} The United Nations Population Fund (UNFPA) notes that the Azerbaijani media is dominated by men, particularly at editor and owner levels, and that gender issues are underrepresented.\textsuperscript{91}

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83 UNDP (2007), p. 31, 85 & 84 World Bank (n.d.) \\
91 UNFPA (n.d.) & \\
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Discrimination in employment on the basis of gender is illegal under Azerbaijan’s Labour Code.\textsuperscript{92}

Under the Labour Code, pregnant women are entitled to up to 126 days of paid maternity leave.\textsuperscript{93} Women on maternity leave receive 100\% of their salary.\textsuperscript{94} Maternity leave is financed through the social security system.

According to Amnesty International, just 14\% of women in Azerbaijan have used the internet, compared to 70\% of men. One reason cited was that husbands were not allowing their wives to access the internet at home, in case they accessed inappropriate sexual content.\textsuperscript{95}

\textsuperscript{93} Labour Code of the Republic of Azerbaijan, 1999, Article 125
\textsuperscript{94} ILO (2011)
\textsuperscript{95} Amnesty International (2013), p. 12
Sources


