

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	341
Land:	Aserbajdsjan
Kilde:	Nafas LGBTI Azerbaijan Alliance og Eurasian Coalition for Health, Rights, Gender and Sexual Diversity (ECOM)
Titel:	Universal Periodic Review Azerbaijan Report
Udgivet:	5. april 2023
Optaget på baggrundsmaterialet:	23. maj 2024

**UNIVERSAL PERIODIC REVIEW
FOURTH CYCLE AZERBAIJAN**

Joint Stakeholders Submission to the 44th session of the
Human Rights Council's Universal Periodic Review Working Group
6-17 November 2023, Geneva, Switzerland

Report submitted on 5 April 2023
by *Nafas LGBTI Azerbaijan Alliance*

in collaboration with

ECOM - Eurasian Coalition for Health, Rights, Gender and Sexual Diversity



Introduction

The present report highlights several areas of concern regarding Azerbaijan's compliance with its international human rights obligations, in relation to violence and discrimination against lesbian, gay, bisexual, transgender, intersex, queer (LGBTIQ) community, including bias-motivated speeches and crimes, as well as threats and attacks against LGBTIQ human rights defenders and activists, with respect to rights to non-discrimination, freedom of expression, freedom of peaceful assembly and privacy.

The issues raised in the report were selected due to their importance, urgency, and widespread nature. The cases used in the paper are mainly based on the data collected by Nafas and can be acknowledged as first-hand and reliable information.

As an advocacy organization aiming to create a safe and supportive environment for LGBTIQ community in Azerbaijan, Nafas is committed to promoting the diversity and integration of marginalized communities into social and political life. The organization strives to advance the discourse on human rights in line with the principles of justice and equality.

www.nafaslbti.org

Eurasian Coalition for Health, Rights, Gender and Sexual Diversity is an international non-governmental association based in Tallinn, Estonia. We are a membership association open to non-profit organizations and activists working in the field of rights and health of LGBT communities in the Eastern Europe and Central Asia (EECA) region.

www.ecom.ngo

Acknowledgment

The present report is drafted by the International Advocacy Team of Nafas LGBTI Azerbaijan Alliance, Azad Bakhti and Nijat Guliyev, led by Cavid Nabiyev, in assistance with Nadira Masiumova, Human Rights Coordinator of ECOM.

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Overall Situation

1. The situation of the LGBTIQ community in Azerbaijan can only be described as alarming since there is no legal protection against hate crimes or hate speech of any kind. Traditional gender roles and values remain deeply rooted within Azerbaijani society and families. Furthermore, Islamic groups, which are often influenced by the clergy of the neighboring country Iran, fuel the hatred against the community. International Lesbian, Gay, Bisexual, Trans and Intersex Association's Rainbow Europe Index shows Azerbaijan as having the worst deficit in legislation and policy aimed at protecting LGBTIQs, ranking it the worst among all Council of Europe countries since 2014.¹ In its resolution passed on 15 March of 2023, in respect to EU-Azerbaijan Relations, EU Parliament urged the Azerbaijani authorities to adopt anti-discrimination legislation that specifically prohibits discrimination on the basis of sexual orientation, gender identity and expression, sex characteristics (SOGIESC) and to reform criminal legislation by adding the aforementioned grounds as aggravating circumstances.²
2. The fear and intimidation resulting from hate crimes and hate speech prevent LGBTIQs from participating fully in society. Throughout the reporting period, widespread discrimination and violence continue to shape LGBTIQs' lives in both subtle and significant ways, exacerbating the human rights situation of LGBTIQs further and pushing the community, and trans people in particular, out of public life, making it more challenging for them to access key services, use public places, or simply go to stores or restaurants without fearing discrimination. LGBTIQs in general, and the trans community in particular, remain vulnerable to intimidation, discrimination, and violence by the police, educational and other public institutions, the local job market, and healthcare providers. In most cases, many incidents, including discrimination, hate speech and hate crime, often go unreported. This is partly because victims feel uncomfortable revealing their sexuality to law enforcement authorities, fearing reprisals and potential privacy violations.
3. In response, the Azerbaijani government still fails to take necessary policy measures. During the last cycle of UPR, Azerbaijan received **eight** recommendations urging the government to take necessary legal and policy measures to protect and promote the human rights of LGBTIQs, explicitly sanctioning violence and discrimination on the grounds of SOGIESC in both law and practice. Recalling these recommendations, amongst others, the government:
 - **failed** to adopt comprehensive anti-discrimination law to eliminate and combat discrimination based on any ground, including SOGIESC;
 - **failed** to investigate and sanction hate speech and hate crimes committed against the LGBTIQ+ community;

¹ ILGA-Europe (2022), 'Rainbow Europe Map and Index' <https://www.ilga-europe.org/report/rainbow-europe-2022/>

² European Parliament (2023), 'European Parliament resolution on EU-Azerbaijan relations (2021/2231(INI))' https://www.europarl.europa.eu/doceo/document/TA-9-2023-0082_EN.html

- **failed** to refrain from arbitrary arrests and ill-treatment of LGBTIQs, activists in particular;
- **nor** hate speech against LGBTIQs is not specifically defined as a criminal offense, **neither** is the general notion of hate crimes recognized in the law (homophobic and transphobic motives of the crime are not taken as an aggravating factor).

4. Instead, hate speech targeting the community is even supported and propagated by state officials, state-financed institutions, and mass media. For instance, towards the end of 2021, the State Committee For Family, Women and Children and Social Research Center, **both established by Presidential Decrees**, published a joint report named “Current family relations in Azerbaijan: Socio-psychological analysis”.³

The report allegedly concludes that ‘the Azerbaijani family values are in decline, the countermeasures are lacking, or the necessary scale and intensity are not provided, and the regulatory mechanisms of the State in the field of family stability, demography and generation growth are destroyed’. Amongst factors, the report makes references such as ‘expansion of radical social-gender and anarcho-feminist movements’, ‘large-scale propaganda of sexual minorities, the LGBTIQ movement’, and ‘centers directed from Western countries allocating millions of funds to this cause.’⁴

5. The overall sentiment and actions of the government, including violence perpetrated by state actors, are cruel and demeaning and constitute major human rights violations of LGBTIQs. In the example of the biggest police raids targeting the community, where at least 83 people were detained,⁵ and 25 of them later were appealed to the European Court of Human Rights,⁶ the community continued to be the target of police arbitrariness throughout the reporting period and being subjected to torture or to cruel, inhuman or degrading treatment or punishment in detention facilities. In 2018, the Israeli newspaper Haaretz reported the Azerbaijan government was using Israel’s Verint Systems surveillance equipment and software to identify citizens’ sexual

³ Social Research Center (2021), *Current family relations in Azerbaijan: Socio-psychological analysis*
<http://scfwca.gov.az/store/media/Sosial-Psixoloji%204.pdf>

⁴ Acknowledging the political reality of Azerbaijan, Nafas sees this as an attempt by the government itself to form a public opinion that ‘society is worried about LGBTI+ and feminists, who are backed by Western circles and tasked with disrupting our moral, cultural, religious values and traditions’ and ‘people expect the State do something against them’. Nafas is alarmed that followed by hate speech by parliament members, such developments may lead to the adoption of Russia’s alike ‘gay propaganda law’ in Azerbaijan.

⁵ OHCHR (2017), *UN rights experts alarmed by reports of persecution of people perceived to be gay or trans*
<https://www.ohchr.org/en/press-releases/2017/10/azerbaijan-un-rights-experts-alarmed-reports-persecution-people-perceived-be>

⁶ ECtHR (2018), *A against Azerbaijan and 24 other (Application no. 17184/18)*
<https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22A.%20against%20Azerbaijan%20and%2024%20other%20applications%22%5D,%22kdate%22:%5B%222018-11-13T00:00:00.0Z%22,%222019-11-13T00:00:00.0Z%22%5D,%22itemid%22:%5B%22001-192028%22%5D%7D>

orientation through Facebook.⁷

6. Furthermore, the government continuously limits the rights of human rights defenders, independent civil society, and the media in general. Harassment, psychological threats, and surveillance of human rights defenders by security and intelligence personnel persist, in particular targeting women and LGBTIQ activists. As a consequence of their work, operating in such an environment leaves many critical voices in situations where they simply have to combat both violence against their beneficiaries and violence, defamation, and hate speeches against themselves as defenders.
7. As the physical spaces for civil society continues to shrink more and more, LGBTIQ organizations are especially at risk and oftentimes need to keep a low profile, fearing being exposed to the government's arbitrariness. The 'illegal' status not only results in financial straits but also in a lack of access to information. The latter occurs as the state authorities have no duty of disclosure towards these organizations, for instance, in regard to criminal investigations that may or may not qualify as a hate crime. Ultimately, it is not possible for LGBTIQ organizations, for instance, to produce reliable statistics about hate crimes committed on the grounds of SOGIESC in Azerbaijan.
8. The COVID-19 crisis has put more pressure on the community already facing alarming challenges. The quarantine imposed due to the coronavirus crisis caused LGBTIQs, particularly trans sex workers, to face financial struggles for several months. The majority of the community was not able to cover their basic daily needs, including housing and medical care. The registration-licensing system of the state in various economic, medical, and other public and social spheres does not have LGBTIQ sensitivity (the concept of the third gender, or the distribution of specialized services, a fully inclusive view of personal and public activities). Thus, during the pandemic, particular groups working in various fields were able to practice maximum freedom of movement, continue their economic labor, and receive financial and medical assistance from the state, whereas LGBTIQs did not have access to any of these advantages. For instance, a community survey on well-being during the 2020 lockdowns found that many were impacted by a loss of income and housing, had to move back to unsafe family homes, lost their employment, or had difficulty accessing social benefits.⁸ The report highlights that trans people have been particularly at risk of discrimination and violence since the COVID-19 pandemic started and that the police did not provide any effective support in these cases.
9. The absence of an inclusive curriculum and policies to promote equality, peace and non-violence in learning environments and tackle pervasive social and cultural patterns on

⁷ Haaretz (2018), 'Revealed: Israel's Cyber-spy Industry Helps World Dictators Hunt Dissidents and Gays' <https://www.haaretz.com/israel-news/2018-10-20/ty-article-magazine/.premium/israels-cyber-spy-industry-aids-dictators-hunt-dissidents-and-gays/0000017f-e9a9-dc91-a17f-fdadde240000>

⁸ Queeradar (2021), 'How was the pandemic year for LGBTIQ+? (Original: Pandemiya ili LGBTİQ+lar üçün necə keçdi?)' <https://queeradar.com/pandemiya-ili-lgbtiql%C9%99r-ucun-nec%C9%99-kecdi/>

sexuality and gender continues to make LGBTIQ students vulnerable to intersecting forms of violence, both within and outside of educational settings. They face teasing, name calling and public ridicule, rumors, intimidation, pushing and hitting, stealing or damaging belongings, obscene notes, social isolation, cyberbullying, physical and sexual assault, and even death threats. Implicit violence also takes place through discriminatory education policies, regulations, curricula, teaching materials and teaching practices. Bullying and discrimination in schools adversely affect LGBTIQ students' physical and psychological health. Reported effects include depression, anxiety, fear, stress, loss of confidence, low self-esteem, withdrawal, social isolation, loneliness, guilt, sleep disturbance, alcohol and drug abuse, homelessness, self-harm, and even suicide. Additionally, these unwelcome environments affect LGBTIQs' overall education and employment prospects.

10. The absence of necessary legislative and administrative measures toward legal recognition of gender identity is a huge problem for transgender persons. In some individual cases transgender people were able to change their ID, but only through court proceedings. In all of these cases, gender reassignment surgery (GRS) and sterilization were required by courts, and the applicants also had to acquire and submit a doctor's certificate stating that the person had completed the full transition process. Furthermore, the domestic legislation neither prohibits nor regulates GRS. This creates a special gap in the legislation, leading to many problems also in practice. Transgender individuals are also denied access to free-of-charge hormone treatment and psychological support.
11. According to the Constitution of Azerbaijan, "everybody shall have the right to marriage upon reaching the age specified by law".⁹ However, the "husband and wife have equal rights (original: Ər ilə arvadın hüquqları bərabərdir.)" wording stated in the Constitution makes it clear that only cisgender heterosexual man and woman can enjoy their right to enter marriage union.¹⁰ The Family Code reiterates the same clarification.¹¹ No other form of legal recognition of same-sex couples, such as civil union or registered partnership, is provided by the legislation of Azerbaijan. As a result, same-sex couples are deprived of access to any family-related rights and benefits stemming from such unions. This includes taxes, ownership over the common property, usage and order rights and property distribution, joint adoption, succession to a tenancy, health insurance and access to healthcare, alimony, rights related to death and inheritance, extended access to survivor's pensions, etc.

Issue: Hate crime

⁹ The Constitution of the Republic of Azerbaijan, Article 34. I, <http://e-qanun.az/framework/897>

¹⁰ Ibid. Article 34.IV

¹¹ The Family Code of the Republic of Azerbaijan, Article 2.3, <http://www.e-qanun.az/code/10>

Little data is available on hate crimes committed against the LGBTIQ community in Azerbaijan. Article 109 of the Criminal Code sets forth penal sanctions for persecuting groups or organizations on political, racial, national, ethnic, cultural, religious, sex or other grounds established by international human rights standards. Crimes against LGBTIQs do not qualify as persecution under this provision.

There is no single case known to Nafas where police or judiciary apply domestic criminal-law mechanisms to elucidate the possible hate motive with homophobic/transphobic overtones behind the violent incident and adequately punish those responsibly, even when there are prima facie indications of violence motivated or at least influenced by the victim's SOGIESC.

In practice, those cases are most likely to be treated on an equal footing with ordinary cases where violence occurs in cases with no such overtones, thus turning a blind eye to the specific nature of acts that are particularly destructive of fundamental rights. The most prominent case is the horrific murder of LGBTIQ activist and journalist Avaz Hafizli and the circumstances surrounding that case, which came on the foot of protests against hateful social media posts by the local social media phenomena, Sevinj Huseynova.

On July 7, 2021, Huseynova shared a video on her Instagram account, openly inciting her followers into committing violence against LGBTIQ persons, and trans women in particular, even encouraging police to stay silent when such attacks occur. Shortly after, her videos got viral. Nafas documented 7 attacks targeting the community throughout July and August only in the capital. The most terrifying case is the murder of trans woman Nuray. She was amongst those whom Huseynova targeted in particular. On August 23, 2021, the burned body of Nuray was found in the Buta settlement of Garadagh district, Baku.¹²

Following this transphobic murder, a group of trans women and activists first gathered in front of the Garadagh District Police Department, urging police to thoroughly investigate the case and bring all to justice, including Huseynova. Later, a dozen activists and trans women gathered outside the Office of the Ombudsperson,¹³ demanding a meeting with the Ombudsman Sabina Aliyeva, but nobody responded to their calls.¹⁴

Avaz Hafizli was one of the organizers of the very same protest but he was also very vocal in criticizing the police and held numerous one-person protests, expressing his dissatisfaction with the failure of state agencies to respond to Huseynova's threatening calls and hate speeches. For instance, on September 8, 2021, Avaz chained himself to the fences of the Prosecutor General's as a protest against Huseynova for insulting him and his family, putting him on target, and openly threatening him. When talking to the media, Avaz Hafizli added that "Sevinj Huseynova

¹² Pink News (2021), *'Trans woman brutally stabbed and burned alive in Azerbaijan'* <https://www.thepinknews.com/2021/08/30/trans-azerbaijan-nurray/>

¹³ Meydan TV (2021), *'LGBTQ+ persons protest in front of the Office of the Ombudsman (Original: LGBTQ+ üzvləri Ombudsman Aparatının önündə aksiya keçiriblər)'* <https://www.youtube.com/watch?v=lxhtFTpQQQs>

¹⁴ JAMnews (2021), *'Burning of transgender woman in Azerbaijan sparks protests, hate speech'* <https://jam-news.net/burning-of-transgender-woman-in-azerbaijan-sparks-protests-hate-speech/>

and the Prosecutor's Office are responsible for any incident that could happen to him.”¹⁵ Despite Avaz Hafizli's official appeal to the Prosecutor's Office, no action was taken.

On February 22, 2022, Avaz Hafizli was brutally murdered by his cousin, 24-year-old Amrulla Gulaliyev.¹⁶ The murder was conducted in a gruesome fashion, followed by mutilations of Avaz's body after his death. Gulaliyev was subsequently arrested and was charged only with the Article 120.1 of the Criminal Code Deliberate murder. He told investigators that the reason behind the decision to organize this murder was the moral ethics of society, adding that "Avaz ruined their family's reputation as I could not walk on the streets in our neighborhood" and he had planned this murder three months before the event itself.

On July 29, 2022, Ali Mammadov, judge of the Baku Court of Grave Crimes, sentenced Gulaliyev to nine years and six months. As in other cases, additional details of the murder were not considered in this case too, which would have carried with it double the length of the sentence. During the murder trial, Gulaliyev confirmed that he had killed Hafizli for his sexual orientation.¹⁷ However, the sentence omitted any mention of a hate crime and overlooked the perpetrator's targeted cruelty, including abusing the body after committing the crime, beheading Hafizli, and committing genital mutilation. Activists and independent journalists were also barred from the court.¹⁸

This case shows how both the state and the family as institutions fail the LGBTIQ community. While activists and NGOs have gained sufficient legal knowledge and formed partnerships to offer legal support, they cannot intervene in cases where the family are both the perpetrators and the legal representatives of the victim at the same time. The example of the government's efforts to silence the truth about this anti-LGBTIQ honor killing by not allowing the activists to access court hearings also adds to the impunity for such grave acts against LGBTIQ citizens.

Examples of other bias-motivated attacks and crimes documented by Nafas throughout the reporting period

¹⁵ Minority Azerbaijan (2021), *Avaz Hafizli chained himself to the Prosecutor General's Office*
<https://minorityaze.org/en/720-journalist-chained-himself-to-the-prosecutors-office>

¹⁶ Advocate, *Gay Activist and Journalist Allegedly Stabbed to Death by Cousin*
<https://www.advocate.com/crime/2022/2/24/gay-activist-and-journalist-allegedly-stabbed-death-cousin>

¹⁷ Minority Azerbaijan (2021), *Verdict on the murder of Avaz Hafizli will be read today*
<https://minorityaze.org/en/935-verdict-on-the-murder-of-avaz-hafizli-will-be-read-today>

¹⁸ ILGA Europe, *The timeline leading from anti-LGBTI+ instagram posts to the "honour killing" of Avaz Hafizli*
<https://www.ilga-europe.org/blog/the-timeline-leading-from-anti-lgbti-instagram-posts-to-the-honour-killing-of-an-lgbti-activist-in-azerbaijan/>

- On June 2019, five trans women were physically assaulted by a group of 15 on a beach in Mardakan. Four of the attackers have been arrested.¹⁹
- On September 2019, a gay man was beaten, harassed, and expelled from his village by his family for “dishonoring” them.²⁰ Perpetrators took photos of the brutal act, which surfaced later on social media platforms.
- On May 2020, two gay men were physically attacked in Baku by a bypasser, condemning them for being too close to each other (hugging) in a public space. After the attack, the victims filed a police complaint. Instead of protecting the violated rights of the victims, the police officer blamed them and sarcastically commented: “Why is your body girl-like soft? It turns red as soon as you softly scratch it”.²¹
- On June 2020, Aysu Mammadli, a trans woman and sex worker, was stabbed to death in Baku. A criminal case was opened under Article 120.1 of the Criminal Code on premeditated murder.²² One day later, another trans woman was stabbed in Baku, but she managed to escape.²³
- On July 2020, a trans woman was the target of a transphobic attack, being stabbed with a knife. Later on, she also was denied appropriate medical help by doctors,²⁴ and had to leave the hospital while still bleeding.²⁵
- On October 2020, Ayan, a 21-year-old trans woman, passed away due to a lack of appropriate medical treatment for her TB, Hepatitis C, and related health issues.²⁶ It is known to community organizations, Ayan was rejected by her family as a teenager, and had worked as a sex worker since she was 13. Over the years, she faced arbitrary arrests, discrimination, and homelessness because of her gender identity.
- On August 2021, a trans woman was brutally murdered - stabbed and burned alive in Baku.²⁷ Police identified the killer as 36-year-old Mirshahid Mehdiyev who was arrested along with another man on the grounds of complicity in a committed crime. They have

¹⁹ Minority Azerbaijan (2019), ‘Attack on transgender people in Mardakan’ <https://minorityaze.org/en/280-attack-on-transgender-people-in-mardakan>

²⁰ Baku WS (2019), ‘A young gay man from Sabirabad was raped and then expelled from the village (Original: *Молодого гея из Сабирабата изнасиловали, а после изгнали из села*)’ <https://ru.baku.ws/obschestvo/110167>

²¹ Minority Azerbaijan (2019), ‘Homophobic attack in Baku, Azerbaijan’ <https://minorityaze.org/en/387-homophobic-attack-in-baku-azerbaijan>

²² Minority Azerbaijan (2020), ‘A trans woman stabbed to death in Baku’ <https://minorityaze.org/en/408-a-trans-woman-stabbed-to-death-in-baku>

²³ OC Media (2020), ‘One dead and another injured in attacks on transgender women in Baku’ <https://oc-media.org/one-dead-and-another-injured-in-attacks-on-transgender-women-in-baku/>

²⁴ OC Media (2020), ‘Transgender woman turned away from hospital after being stabbed in Baku’ <https://oc-media.org/transgender-woman-turned-away-from-hospital-after-being-stabbed-in-baku/>

²⁵ Meydan TV (2020), ‘They wanted to send the stabbed trans woman home from the hospital with injuries’ <https://youtu.be/jq5zddhKKMO>

²⁶ All Out, ‘Save Aylin - Transgender sex worker’ <https://action.allout.org/en/m/90a7dd03/>

²⁷ Pink News (2021), ‘Trans woman brutally stabbed and burned alive in Azerbaijan’ <https://www.thepinknews.com/2021/08/30/trans-azerbaijan-nurray/>

been charged with deliberate murder under article 120.1 of the Criminal Code. The fate of the case is unknown.

Issue: Hate speech / State-sponsored LGBTI+phobia

*"We are building our state on traditional values [...] Some countries are not paying attention to this now. No distinctions are being made between men and women any longer. But we live and must live in a traditional society."*²⁸

Excerpt from the speech by Ilham Aliyev, President of the Republic of Azerbaijan - November 26th, 2019.

Existing legislation does not protect hate speech on the grounds of SOGIESC. Article 283 of the Criminal Code sets forth penal sanctions for actions - committed openly, including by using mass media - aimed at inciting national, racial, social, religious hatred and enmity. Despite ample evidence of hate speech, by public figures and government officials in particular, there is no single case known where those speeches are sanctioned. Even the opposite, in various examples, the state refrained from opening an investigation when such cases were reported. For instance, in response to Sevinc Huseynova's call on the mass killing of LGBTIQs, a group of activists made a collective appeal to the State Security Service (SSS) and Gulnara Mehdiyeva, a feminist activist, was among them. Upon this petition, Mehdiyeva was invited to SSS and was told that "nor the concept of social groups is clearly defined in the legislation, neither laws of Azerbaijan does define the LGBTIQs as part of the social group; therefore, they (SSS) cannot take any measures".²⁹

Hate speech by state officials, in particular, is nothing new, and invoked rhetoric can be perceived as manifestations of personal views backed with harmful moral-cultural-religious arguments. However, if their addressee before 2022 was a society in general, since then, they do not only crave for the exclusion of LGBTIQs from society, but they go further and propose more instrumental 'solutions', calling for policy reforms that actually aim to make Azerbaijan an LGBTIQ-FreeZone. Interestingly, that worrying shift in rhetoric also coincides also with the launch of the above-mentioned joint report by the Social Research Center³⁰ and the State Committee For Family, Women and Children.

As to the examples of hate speeches by the parliamentarians in particular, in an interview on May 30, 2022. parliament member from the ruling party Javid Osmanov, names LGBTIQs (and

²⁸ President's official webpage (2019), 'Speech by Ilham Aliyev at the ceremony to mark the 100th anniversary of Baku State University' <https://president.az/en/articles/view/34985>

²⁹ Abzas Media (2021), 'People are killed, how can this not concern SSS? (Original: İnsanlar öldürülür, bu necə DTX-nı narahat etməyə bilər?)' <https://www.facebook.com/AbzasMedia/videos/200669732203448/>

³⁰ Worth to note that, chair of Social Research center is Zahid Oruc, who himself is a parliament member too, appointed by the president Ilham Aliyev. Zahid Oruc is also known for his anti-LGBTI+s rhetoric.

feminists) as “worthless and of no utility to the society”, while urging to “fight back”.³¹ In response to a journalist’s question on how ‘this fight’ be so that there is no conflict, for instance, with Constitutional rights, Osmanov proposes complete isolation and disintegration, adding that “the society should completely isolate LGBT representatives and feminists, they should not have any integration into the society”.

Just two weeks before Osmanov, Eldar Guliyev, another parliament member from the ruling party, makes similar remarks in an interview, stating that “they must be either disciplined (referring to conversion therapy), or expelled from the country”, further adding that “as a parliament member, as a senior, I firmly say that it is necessary to fight against them.”³²

Months after, on October 28, another parliament member Tahir Karimli, also known for his anti-LGBT and anti-feminist sentiment, in an interview with the same media platform above, states that “propaganda about LGBT must be banned in Azerbaijan.”³³ He raised this issue when commenting on the draft law prepared by the Russian State Duma on banning the ‘propaganda’ of LGBTIQs in the mass media, internet, literature and cinema, adding that “I have talked about this many times with my fellow deputies. I wish we could achieve this too. Propaganda of LGBT is a danger for Azerbaijan, it is necessary to urgently implement a draft law on it.”

Issue: Access to justice and effective remedies

For many who face discrimination and violence, there is little recourse through the police or any official judicial channels. LGBTIQ community lacks a safe environment to file complaints when their rights are violated. Knowing the police's poor track record, they decide not to file an official complaint, fearing reprisals and potential privacy violations. The most brazen example of the state's unwillingness to help the queer community was when blogger Sevinc Huseynova made open calls to violence against the LGBTIQ community on social media platforms - 'physical removal of sexual minorities and trans people from Azerbaijan' - leading to two horrific murder one after another. She was never reprimanded for her actions despite ample evidence of her encouraging people to commit violent crimes targeting the community.

Moreover, the perpetrators oftentimes are law enforcement officers themselves, who often times nullify the possibility of addressing human rights violations against the community. There are cases where the police used their knowledge of an individual’s SOGIESC to blackmail and extort money from them. Extortion and violence by the police, including abuse by non-state

³¹ Oxu (2022), ‘MP: “Society should completely isolate LGBTI+s and feministst” - INTERVIEW (Original: Deputat: “Cəmiyyət LGBT nümayəndələrini, feministləri tamamilə təcrid etməlidir” – MÜSAHİBƏ)’ https://oxu-az.translate.google/politics/608322?_x_tr_sl=auto&_x_tr_tl=en&_x_tr_hl=fr

³² Pravda (2022), ‘They must be either disciplined (referring to conversion therapy), or expelled from the country’ (Original - Deputat: “Üzdənirəq”ları ya tərbiyə etmək, ya da ölkədən çıxarmaq lazımdır)’ <https://pravda.az/news/81705>

³³ Pravda (2022), ‘Tahir Karimli: Immorality is widely spreading, LGBT propaganda must be banned in Azerbaijan’ (Original: “Tahir Karimli: Azərbaycan da LGBT-nin təbliği qadağan olunmalıdır, əxlaqsızlıq baş alıb gedir”) <https://pravda.az/news/95885>

actors, take place with almost complete impunity, resulting in constant fear of being detained and tortured by the police. LGBTIQ organizations have also documented cases of people being framed by police and forced to confess to crimes they didn't commit.

Being the most vulnerable in the community, transgender folk is regularly subjected to human rights violations by police enforcement authorities, including deprivation of liberty and arbitrary detention in police departments, accompanied by derogatory and violent treatment. According to the Article 308 of the Code of Administrative Offences of Azerbaijan, sex work is illegal. This law is often instrumentalized by authorities to oppress and persecute trans and gays who are engaged in sex work. In addition, the Law on the Fight Against Illness Caused by HIV is also frequently used to justify arbitrary arrests and forced medical examinations of community members. As seen in the anti-community crackdown in 2017, this strategy allowed the authorities to gain wider public support to continue prosecuting, intimidating, physically or sexually abusing, and arbitrarily detaining gay men and transgender women periodically.

Other Examples

- On April 2019, at least eight gay men and trans sex workers were detained by the police in Baku, signaling a new wave of arrests.³⁴ Most were lured to a meeting by undercover police, who took them into custody. A few days later at least seven more were detained, some in their home. Many were forcibly subjected to STI testing. Some were fined under Article 510 of the Code on Administrative Offenses (minor hooliganism) and others were sentenced to 10-30 days of prison under Article 535.1 (disobedience to a lawful order by police officers).³⁵
- On October 2019, several gay and trans sex workers reported that they had been contacted by police and were asked to protest against political opposition parties in exchange for monetary remuneration (100 - 300 USD).³⁶
- On March 2020, the Baku Head Police Department shared that it detained a number of sex workers and “sexual minorities” in Sabunchu. They were subjected to forced medical examinations.³⁷
- On July 2020, the police detained a group of trans in Baku, alleging that they were promoting drug use on their TikTok. The police filmed their testimony, which was then streamed on state media, in an attempt to discredit the LGBTIQ community and create a

³⁴ Eurasianet (2019), 'New wave of detentions among LGBT in Azerbaijan' <https://eurasianet.org/new-wave-of-detentions-among-lgbt-in-azerbaijan>

³⁵ Minority Azerbaijan (2019), 'BREAKING NEWS: LGBTQ hunting in Baku' https://minorityaze.org/en/198-breaking-news-lgbtq-hunting-in-baku?fbclid=IwAR2DlcRO6nJdLcXR829rYL0y5nxuf8fzRSW0OqiH28PjvaBaD_zhd7ei8

³⁶ Minority Azerbaijan (2019), 'URGENT: Statement of Azerbaijani LGBTQ organizations' <https://minorityaze.org/en/312-urgent-statement-of-azerbaijani-lgbtq-organizations>

³⁷ Oxu Azerbaijan (2020), 'Women engaged in prostitution and representatives of sexual minorities were arrested in Baku (Original: Bakıda fahişəliklə məşğul olan qadınlar və cinsi azlıq nümayəndələri tutuldu)' <https://oxu.az/criminal/374836>

negative public image.³⁸

Issue: Freedom of peaceful assembly; Freedom of opinion and expression - Safety of LGBTI+ rights defenders and government critics

Azerbaijan's Constitution guarantees the right to freedom of peaceful assembly and freedom of expression.³⁹ Azerbaijan is also a party to a number of human rights treaties, including the European Convention on Human Rights,⁴⁰ which obliges the government respect and refrain from violating the right to assembly, freedom of expression and privacy. However, in many instances throughout the reporting period, we have seen not only inactivity but the active involvement of government bodies in violating those rights.

Examples

- On March 2020, the Facebook pages of Nafas LGBTI Azerbaijan Alliance and Minority Magazine, Azerbaijan's first digital magazine focusing on LGBT+ rights, were compromised.⁴¹ Both organizations managed to regain access to their account. However, all Facebook postings since 2012 and up to 10.000 followers were removed.

The same year, some of their members were also targeted before or after participating in International Women's Day in Baku.⁴² This attack happened in the wake of the organized cyber attack on the social media accounts of Gulnara Mehdiyeva, a prominent women's and LGBTIQs' rights activist. Her Telegram and Facebook accounts were compromised and taken conversations were shared widely. She received countless death threats.⁴³ Mehdiyeva reported the cases to the police, who failed to launch an investigation. In May 2022, her legal representatives applied to the European Court of Human Rights, which argues that the police's failure to intervene led to violations of Mehdiyeva's rights to

³⁸ Azertag, 'People who registered on the social network "Tik-tok" under the names "Maya" and "Banu" and distributed videos promoting the use of drugs were detained (Original: "Tik-tok" sosial şəbəkəsində "Maya" və "Banu" adları ilə qeydiyyatdan keçərək narkotik vasitələrin qəbulunu təbliğ edən videolar yayan şəxslər saxlanılıblar)'

<https://video.azertag.az/video/98901>

³⁹ Article 49 of the Constitution of Azerbaijan

⁴⁰ Article 21 of the International Covenant on Civil and Political Rights; Article 11 of the European Convention on Human Rights

⁴¹ Freedom House (2021), 'Freedom on the net: Azerbaijan'

<https://freedomhouse.org/country/azerbaijan/freedom-net/2021>

⁴² Qurium (2020), '"Sandman" attacks again – targets Azeri feminist activist'

<https://www.qurium.org/alerts/azerbaijan/sandman-attacks-again-targets-azeri-feminist-activist/>

⁴³ OC Media (2021), 'Leak targets prominent Azerbaijani feminist in run-up to Women's Day' <https://oc-media.org/leak-targets-prominent-azerbaijani-feminist-in-run-up-to-womens-day/>

private life and freedom of expression. Mehdiyeva's lawyers also argued that state actors were involved in that cyber attack targeting Mehdiyeva.⁴⁴ The act was condemned by various local and international human rights organizations and groups, calling the act part of the ongoing smear campaign against activists and urging the government to guarantee in all circumstances that all human rights defenders in Azerbaijan are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions, including cyber-attacks.⁴⁵

Since 2019, International Women's Day in Baku has become the focal point where the LGBTIQ and feminist groups come together in solidarity to peacefully protest against gender-based violence, including femicide, demanding from the government to ensure equal rights for all without discrimination on any grounds, including SOGIESC. However, each year the government failed to respect the right to assembly, and the right to freedom of expression/

- For instance, in 2020, police detained at least 10 people during the rally. They were afterward taken to the Gobustan region and released in the desert.⁴⁶ Notably, hate speech was rampant after that rally. Dozens of state-sponsored digital media platforms presented the rally as an 'attack on national and religious values and the institution of the family', saying it was 'prostitution and LGBT rights in the name of feminism', and naming the participants as 'immoral AIDS viruses in the streets of Baku'.⁴⁷
- In 2021, before the event began, police raided a café and detained two activists involved with the group organizing the march. Police ultimately detained at least 20 demonstrators, with a report of excessive use of force and police brutality against demonstrators. The authorities also shut down Baku's public transportation, citing coronavirus restrictions, even though such shutdowns had not occurred during any previous holiday during the pandemic.⁴⁸
- Although the march in 2022 took place with no critical incident, there have been critical police interventions, which violated the right to freedom of expression of rally participants in particular. For instance, police forced Cavid Nabiyev, an LGBTIQ activist, to change his mask, with rainbow colors on it, as the meaning it represented "was not found appropriate". In response to Nabiyev's demand for an explanation, the police threatened Nabiyev by saying: "You know why, but if you insist, we can provide an answer at the Police

⁴⁴ Media Defence (2021), *'Gulnara Mehdiyeva: Championing LGBTQIA+ and Women's Rights in Azerbaijan'* <https://www.mediadefence.org/news/gulnara-mehdiyeva/>

⁴⁵ Frontline Defenders (2021), *'Azerbaijan: Smear campaign against woman human rights defender Gulnara Mehdiyeva'* https://www.frontlinedefenders.org/sites/default/files/azerbaijan_-_ua_-_gulnara_mehdiyeva_-_5_mar_2021_en.pdf

⁴⁶ Caucasus Watch (2020), *'8 March protests in the South Caucasus'* <https://caucasuswatch.de/news/2482.html>

⁴⁷ Publika Azerbaijan (2020), *'Legitimation of LGBT under the umbrella of feminism...(Original: LGBT-nin legitimləşdirilməsi feminizm çətiri altında...)'* https://publika.az/news/nida_tehlil/307355.html

⁴⁸ Freedom House (2021), *'Azerbaijan: Authorities Detain Peaceful Activists on International Women's Day'*

Station No 9."⁴⁹ In another example, activist Ali Malikov attempted to unfurl the rainbow flag during the march, which was immediately removed by police. The police also confiscated and tore apart a trans flag and a poster saying "Petukhs (f*ggots) are against dictatorship" immediately after they were raised.

- On May 2022, a group of civil society activists held a rally in Baku, demanding an end to brutality against government critics and journalists. Police at first surrounded the demonstrators with two police walls, preventing them from moving forward. Police detained 26 protesters. Activists Cavid Nabyev and Ali Malikov were amongst them, reporting police brutality and violence against them. For instance, in an interview to Voice of America, Nabyev reported injuries such as his lip being blown off, scars on various parts of his body, including his face, also police deliberately hitting his genitals.⁵⁰ In the case of Ali Malikov, even though Malikov's friends pointed out to the police that he was a minor, the police still beat him. "They grabbed my hair and threw me to the ground. They kicked me in the leg, laughed and threw rainbow flag in my face. All of this violence was carried out on camera-free angles to hide it from the press," he said when talking to IntelliNews.⁵¹
- On February 20, 2023, several civil activists organized a protest near the Baku Court of Appeal, demanding the release of human rights activist Bakhtiyar Hajiyev. The police detained several protesters and Ali Malikov was also one of them.⁵² After being released, Malikov told Turan Agency that the police threatened him with sexual violence.⁵³ Allegedly, after being brought to the 27th police station in the Yasamal district, seeing the dyed hair on Melikov's head, the police officers in the room threatened him with sexual violence. According to Malikov, police officers were playing with their genitals in front of him, and interacting with him using obscene language. Malikov adds that the same police officers also joked about Bakhtiyar Hajiyev vomiting bile outside the courthouse because sexual pressure was applied to him.

Recommendations

1. Anti-discrimination law: *#SOGIESC as protected ground*
 - Adopt a broadly applicable anti-discrimination law, including a comprehensive definition of discrimination in accordance with international human rights standards, with a view to ensuring the prohibition of all forms of direct and indirect discrimination

⁴⁹ Minority Azerbaijan (2022), *Homophobic acts by the police during the "8 March"* <https://minorityaze.org/en/864-homophobic-acts-by-police-during-the-8-march>

⁵⁰ The Voice of America (2022), *'The participant of the protest describes the moment of detention (Original: Aksiya iştirakçısı saxlanılma anını təsvir edir)'* <https://www.facebook.com/watch/?v=996476787903330>

⁵¹ IntelliNews (2022), *Azerbaijani activists protest against police brutality in Baku* <https://www.bne.eu/azerbaijani-activists-protest-against-police-brutality-in-baku-244385/?source=azerbaijan>

⁵² Jam News (2023), *Two more activists arrested in Azerbaijan* <https://jam-news.net/two-more-activists-arrested-in-azerbaijan/>

⁵³ Turan Agency (2023), *The protester says the police threatened him with sexual violence* <https://www.turan.az/ext/news/2023/2/free/Social/en/1858.htm>

in public and private life, specifically in the areas of employment, education, health care, housing, encompassing all the prohibited grounds of discrimination, including SOGIESC.

2. Hate crimes: *#criminal code; #SOGIESC as aggravating factor*

- Amend Criminal Code by inserting a direct indication that hate crimes motivated by SOGIESC will be an aggravating circumstance and punishable by law.
- Establish a hate crime investigation unit within the Public Prosecution Service, with a view to effectively prevent, investigate and prosecute hate crimes based on SOGIESC.

3. Hate speech: *#criminal code; #SOGIESC as protected ground*

- Develop a comprehensive strategy for preventing and combating hate speech towards LGBTI+ individuals, including through the establishment of a monitoring mechanism, improvement of sanctioning mechanisms, and greater cooperation between law enforcement bodies to facilitate the prosecution of hate speech.
- Take the necessary legal and administrative reforms, in particular, amending Article 283 of the Criminal Code by inserting direct indication that SOGIESC are among explicit grounds of protection, with a view to ensure that hate speech targeting the LGBTI+ community are effectively investigated and the perpetrators prosecuted and adequately sanctioned.

4. Judicial and police apparatus: *#capacity building; #dissagragated data on hate speech and hate crimes*

- Integrate sensitization training into the national police curriculum, establish permanent educational and awareness-raising campaigns, and conduct training for the judicial and police apparatus in particular, with a view to improving their capacity for better responding to hate speech and hate crimes on the grounds of SOGIESC.
- Incorporate within the Public Prosecution Service's criminality observatory and in the statistical yearbook of the national police detailed data on acts of violence and discrimination against LGBTIQ citizens.

5. Healthcare: *#Conversion therapy; #corrective surgeries on intersex; #HIV/AIDS*

- Develop scientifically-based contemporary regulations for healthcare professionals to ensure that rights-based healthcare protocols prohibit public hospitals and private healthcare practitioners from conducting so-called conversion procedures on LGBTIQ beneficiaries.
- Adopt legislative provisions, with a view taking into account the best interests of the child, explicitly prohibiting the performance of unnecessary surgical or other medical

treatment on intersex infants and children until they have reached an age at which they can provide appropriate consent.

- Adopt measures to eliminate all forms of discrimination in healthcare settings, including in the context of HIV/AIDS, while paying particular attention to the specific needs of key populations, including LGBTIQs.

6. Legal recognition: *#gender; #marriage/civil union*

- Implement legal and administrative reforms, in particular, adopt Gender Recognition Law to ensure a quick, transparent and accessible mechanism for legal gender recognition based on self-definition, regardless of whether the trans person had undergone gender reassignment surgery.
- Take the necessary constitutional and administrative reforms, in particular, amending Family Code by inserting a direct indication that all forms of families, including same-sex couples, are fully encompassed in the notion of the family.

7. LGBTIQ human rights defenders: *#illtreatment and persecution; #freedom of assembly; #freedom of expression; #privacy*

- Prevent misuse of provisions concerning public order, public health and public morals to guarantee in practice the effective enjoyment of the rights to freedom of expression, association and peaceful assembly for all citizens, including lesbian, gay, bisexual, transgender and intersex persons and to defenders of those rights.
- Ensure effective protection of all human rights defenders, including LGBTIQ defenders and women human rights defenders from threats and attacks, including cyber attacks, and end impunity by ensuring that human rights violations and abuses against them are promptly, thoroughly and impartially investigated.