



## PARALLEL REPORT

# AGENDA 2030 and AZERBAIJAN

2019

**Is Azerbaijan's development policy meets the needs of people, those are historically left behind?**

The global initiatives for transforming the world have been instrumental for the development agenda of Azerbaijan since 2000. Azerbaijan was actively engaged in the implementation of the Millennium Development Goals (MDGs). Having joined the Millennium Declaration in 2000, crafted its national development strategy, which was reflected in state programs. International comparisons show that Azerbaijan is doing well on many indicators.

UN's Agenda 2030 for Sustainable Development requires all countries to take ambitious measures to improve social justice, the state of the environment and economic sustainability—nationally and internationally. An extensive international program for ensuring conditions where all life can thrive is a great achievement in itself. The program includes 17 goals, which makes it the most comprehensive endeavor of its kind in history. The 2030 Agenda offers an opportunity to change society and achieve significant progress that also requires inclusion of LGBTI persons to the implementation of the global goals as well as to broader development activities, to gain fully, fairly and equally contribution of everyone to sustainable growth.

This parallel report drafted by Nafas LGBT Azerbaijan Alliance aims to highlight *whether improvement of the social security and health-care system, improvement of legislation, the development of civil society addresses address unique needs and challenges faced by LGBTI population.*



PUBLISHER

Nafas LGBT Azerbaijan Alliance

PUBLISHED

July of 2019

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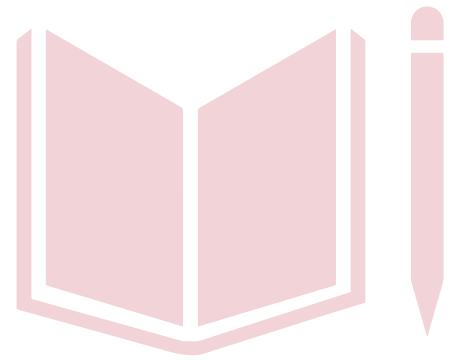
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Recommendations to achieve peace, ensure justice and build strong institutions

# 4 QUALITY EDUCATION



Discrimination against people on the basis of SOGIESC in learning environments contributes to premature exits from schools and universities. In a study based on monitoring of the education system has been found that hegemonic discourses of heterosexuality in schools being promoted by threatening, or using, violence. It follows, then, LGBTI persons who were 'out' in their schools suffered the most severe forms of physical violence and discrimination. Being repeatedly and continuously in such circumstances they also represented the highest number of students who reported considering suicide.

## School factor

Students are constantly bullied at school because of sexual orientation, gender identity and self-expression by other students, and often times, by faculty and other school staff. The lack of policies or programs at schools to prevent bullying, mobbing and other forms of discrimination for sure affects their academic performance, therefore access to higher education institutions.

## Curriculum factor

The reason behind stigmatization and bullying at schools is the curriculum itself. When fundamentals of human rights, gender equality, peace and non-violence and human diversity, it not only makes bullying look normal and natural but also creates a new path for new cases. The lack of knowledge and information holds grounds for bullying, oppression, and mobbing against LGBTI students at schools and in other learning environments.

The government has been developing the new curriculum for three years, and it will be the first comprehensive sex-ed curriculum in Azerbaijan. The success of the program will rely on its implementation by teachers who are often poorly qualified and have a "biased" attitude against sex education. The new curriculum also fails to appropriately address a variety of sexual orientations, gender identities, behaviors and experiences.

### Testimony case #1

"I was being bullied because of my sexual orientation at middle school by one classmate. When teachers found out about this, I was made to stand beside that one guy in front of the entire class and present my facts to "protect myself" while others sat there and watched the process and evaluated my reasons "to prove that I was not, in fact, gay". It very much reminded me a courtroom with the judge and the jury."

### Factual case #1

A while ago, mistakes that are groundless on medical terms were found by our organization in textbooks of "Family Psychology" taught in the Faculty of Psychology of Azerbaijan Teachers Institute. The "Family Psychology" textbook, published in 2015 and approved by the Ministry of Education that being used as curriculum material in Azerbaijan Teachers Institute, homosexuality is described as abnormal sexual orientation disorder, pathology and listed as pathology like pedophilia, and necrophilia. Also, it is mentioned that it occurs mainly in psychopaths. There is also a sentence about homosexuals being sick people.

## Mental health factor

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One direct outcome of bullying at schools is its effects on students' mental health. It not only keeps LGBTI persons from learning but also damages their psychology. When counselors and faculty are not trained to deal with vulnerable groups and situations like bullying based on perceived sex characteristics and/or self-expression, it affects students negatively. There're also no tools offered by schools for students to protect themselves from prejudice, violence or stigmatization. Students with damaged self-esteem and psychology don't seem to succeed in future job markets; therefore it results in their digression from economic activity.

### Testimony case #2

When I was going to college, other students would hint at some of my feminine behavior. I was sick and tired of some girls making fun of my clothing and manner, hearing words like "let's get him naked and see if it is a boy or a girl", "would learn if he was beaten up", "it's a psychological illness". It was affecting me negatively. I was getting depressive and distanced. I could feel from some teachers' attitude that they were being strict with me just because of my orientation. I couldn't even complain to them. One feels terrible, I was usually alone, wasn't leaving the classroom. I felt depressive and frenzy.

## Disaggregated data and access to information

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Getting the appropriate acknowledgment from relevant government and private bodies and entities itself is another problem that affects the inclusivity and quality of education for LGBTI persons. It's a problem when SOGIESC isn't considered as one of the indicators when getting statistics on bullying and oppression at learning environments. There's no data collected from schools by their employees to record the bullying and discrimination cases against their students. And LGBTI organizations are neglected for cooperation and consultation when developing workshops, curricula, and support and empowerment programs for youth, parents, and teachers. In this regard to collect appropriate information regarding the actions taken by the state, on 9th of January in 2019 we appointed list of questions to 2 ministries that are members of National Coordination Council for Sustainable Development and has "Development Strategy of Azerbaijani youth in 2015-2025" based obligations: Ministry of Youth and Ministry of Education. Within this info requests, we aimed to find out what kind of specific measures were taken in regard to providing psychologi-

cal aid for LGBTI people, programs to prevent bullying or programs to educate educational staff and teachers and to understand if they consulted with relevant organizations within the implementation of the state's youth strategy. No response was made by state entities.

# Azerbaijan Tomorrow

## Agenda 2030 is calling



Ensuring inclusive and equitable quality education and promoting lifelong learning opportunities for all is a fundamental right as well as a key factor for sustainable development.

*Through elimination gender disparities in education and ensuring equal access to all levels of education and vocational training for the vulnerable [...] (Target 4.5) and providing safe, non-violent, inclusive and effective learning environment for all (Target 4.a) state will coherently end all forms of discrimination [...] (Target 5.1) and significantly reduce all forms of violence [...] everywhere (Target 16.1) that LGBTI persons do face in learning environments.*

*By protecting fundamental freedoms (Target 16.10) and enhancing policy coherence for sustainable development (Target 17.14) all learners will acquire knowledge and skills to promote sustainable development, human rights, gender equality, promotion of a culture of peace and non-violence [...] (Target 4.7)*

Taking into account the close relationship between academic performance, qualifications and lifetime earnings, achieving the Target 4a will ensure the equal opportunity [...] for all (Target 10.3) and will substantially reduce the proportion of youth, including LGBTI not in employment, education or training (Target 8.6). As a logical finite, this will reflect on their equal contribution and full achievement of economic growth and will eradicate extreme poverty for all people everywhere (Target 1.1).

## How to guarantee inclusive and quality education at all levels without leaving anyone behind?

- ✓ Adopt anti-bullying policy to promote gender equality, peace and non-violence in learning environments;
- ✓ Implement a developmentally appropriate bullying prevention program for teachers and counselors on how to deal sensitively with LGBTI students who are being subject of bullying, mobbing and any other forms of discrimination;
- ✓ Integrate human rights education into the national school curriculum, provide sufficient resources for human rights education and training of teachers and ensure that they receive training in topics such as sexual diversity and gender equality;
- ✓ Include age-appropriate LGBTI-related content in the sex-ed curriculum to ensure that curricula teach respect, positive approach to LGBTI issues and do not discriminate against or negatively stereotype them;
- ✓ Conduct research surveys by considering sexual orientation, gender identity and expression, and sex characteristics as one of the indicators, for a better understanding of how LGBTI persons are discriminated in learning environments;
- ✓ Encourage key actors, such as employers of educational institutions, to collect data on homophobic and transphobic discrimination and harassment;
- ✓ Consult and cooperate with organizations working with or for LGBTI community to develop curriculum and human rights training for teachers, parents or support programs for LGBTI youth;



# 8 DECENT WORK AND ECONOMIC GROWTH



Discrimination against LGBTI people is more widespread and socially accepted than virtually any other kind of discrimination in Azerbaijan. The Williams Institute's "Global Acceptance Index (GAI)" shows that Azerbaijan has the lowest score on social acceptance of LGBTI people among the 141 countries around the world – 0.96 of 10. Because of the oppressive social construction of gender and related norms, the potential of LGBTI people is also being limited in forms of exclusion from the workplace and economic advantages.

The negative cycle of limited opportunities in education and the reflection of oppressive and tolerated norms of society to work climate and the absence of legal support leads to limited opportunities in employment. Of course, together these result in weaker capacities and poverty.

Discrimination against LGBTI people also has clear impacts on their families, such as when entire households suffer due to the presence of a single family member who is seen as part of a sexual or gender minority.

## Education factor

In today's education settings many LGBTI teenagers and youths are being subjected of harassment, bullying, mobbing and other forms of discrimination. This is in turn associated with poorer academic performance and higher drop-out rates. Taking into account the close relationship between academic performance, qualifications and lifetime earnings, these phenomena almost certainly contribute to lower average earnings. Consecutively, there occurs to be this cyclical dynamic where

gay, lesbian, bisexual, transgender and intersex people with lower socioeconomic status and educational levels are more vulnerable to social stigma and discrimination. In turn, they are less able to access economic opportunities.

## Work climate factor

LGBTI people face two kinds of discrimination: exclusion when seeking to enter into the workplace (1), once on the job, LGBTI people face harassment and few opportunities for advancement (2). On average, LGBTI people earn less than heterosexual, cisgender people and are more likely to be living in poverty. The earnings penalty is greater for gay men than for lesbians and by far the most severe for transgender people. According to the results of the survey conducted in 2013 by Nafas LGBT Azerbaijan Alliance and encompassed such fields, as tourism, bank, trade malls, and included 500 respondents, we can infer that the climate of business in Azerbaijan is not LGBTI friendly. 64% of respondents don't want to work with LGBTI person together and overall, 60% has a negative attitude towards them, 60% of respondents wouldn't hire an LGBTI person if he/she was an employer. This research found out that most participants were not 'out' at their workplace because they feared verbal abuse or violence. Those who were 'out' often faced severe discrimination as well as actual job termination, threats of violence, homophobic jokes and reported being described as 'perverts'.

LGBTI people may disguise their true orientation and identity and pass as heterosexuals in order to avoid discrimination or harassment. Disclosure of sexual orientation is not a matter of 'once and for

all’ but is rather a continuous process. It is important to note that the indicators of perceived discrimination would be much higher, and the number of incidents with discrimination in the workplace (unlawful dismissals, refusals to promote) would be significantly greater if many employees did not hide their sexual orientation or gender identity. This fear, as well as the obsession with silence about their sexual orientation and gender identity, is often stressful and may have a negative impact on the individual’s productivity, self-esteem, depth of friendships, and ability to work as part of a team. stressful and may have a negative impact on the individual’s productivity, self-esteem, depth of friendships, and ability to work as part of a team.

## Military factor

Based on the evidence, another main problem occurs during the conscription military process that has a huge influence on having access to economic opportunities. Every male homosexual, who was outed about his sexual orientation, is directed to psychological dispensary with diagnosing 18B (affective retentions, mid-level personality disorders easily caused reactive phases, appearing as signs of instability of vegetative nerve system, psychopathy, pathological development of identity). Later this occurs in their certificate of military service that makes their access to the legal labor market impossible. In practice every male citizen being asked for that certificate by employers.

### Testimony case

I was not able to serve in the military because of the 18B description. This created an odd situation for me, I have been denied by every employer because of my “mental health” condition. Later it became for me difficult literally to pay my bills, I had no job, no income and I had to move to Turkey where I could work in the shadow market.

## Legislation factor

Article 16 of Labor Code prohibits discrimination on several grounds; however, no explicit prohibition of the discrimination on the grounds of SOGIESC has hitherto been added to the Labor Code.

The absence of legal gender recognition is a barrier to transgender and intersex persons having effective access to the labor market. The resulting mismatch between the gender identity and expression is different to the sex/gender marker on their identity documents can create mistrust among potential employers, as well as focusing attention on the candidate’s gender identity and expression rather than their suitability for a job.

Found evidences indicate that hiding one’s sexual orientation at work appears to be linked to a number of negative working life outcomes. If discriminated against or harassed, many LGBTI people do not dare to take action, often out of the fear of being disclosed or because they do not believe that authorities and legal procedures would offer help. This contributes to the apparent invisibility of the LGBTI community and its problems in the workplace.

### Testimony case

I would never imagine that one day I will do sex work. But at one point I had to do this. I graduated from university with a red diploma, but I couldn’t work. Because of my appearance, all applications were rejected. I cannot every day stand in front of the mirror and see that look which never was my true-self. I refused to dress what employers, society wanted from me. But I also need to pay my bills and cover the transition expenses. Health insurance doesn’t cover such expensive expenses. By doing this I’m trying to save some money and finally one day to be able to finish my transition. Everyone in society blames us for what we are doing. But they never consider that they are the exact reason by pushing us to have such life...

## Disaggregated data and access to information

There continues to be a lack of robust disaggregated data across a number of indicators. Limited data relating to the LGBTI community makes it difficult to assess the extent whether any progress has been made and what the continuing gaps/issues are. We believe that data collection disaggregated by sexual orientation, gender identity and expression, and sex characteristics can reveal deprivations and inequalities that may not be fully reflected in aggregated data. In this regard to collect appropriate information to above mentioned issues and actions taken by state, on 9th of January in 2019 we appointed list of questions to 3 ministries that are member of National Coordination Council for Sustainable Development: Ministry of Justice,

Ministry of Healthcare and Ministry of Education. Within this info requests, we aimed to find out what kind of specific measures and policies in place were taken in regard to exclusion from the workplace and economic advantages, discrimination that LGBTI population face, and to understand if they consulted with relevant organizations within the implementation of the state's policy. Up today no response was made by state entities.

## Azerbaijan Tomorrow

### *Agenda 2030 is calling!*



We believe that if one of them is not met, the other SDGs cannot be reached. All the other SDGs contribute to the achievement of SDG 1 but the particular relevance of SDG 8 is prominent for LGBTI people.

By enhancing policy coherence (Target 17.14) and enforcing non-discriminatory laws and policies for sustainable development (Target 16.B) Azerbaijan will achieve sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all (SDG 8) and will eradicate extreme poverty for all people in Azerbaijan (Target 1.1).

All [...], in particular, the poor and the vulnerable, will have equal rights to economic resources, [...] (Target 1.4), by 2030 ends the hunger [...] (Target 2.1), ends all forms of discrimination [...] that LGBTI people do face (Target 5.1). In result, everyone, including LGBTI population will have needed access to

Along with these, *safe, non-violent, inclusive and effective learning environments for all* (Target 4a) will reflect on full achievement Azerbaijan's economic grow, especially *full and productive employment and decent work for all* (Target 8.5) and will *substantially reduce the proportion of LGBTI youth not in employment, education or training* (Target 8.6).

*Adopting policies, especially [...] social protection policies to achieve greater equality progressively* (Target 10.4) will guarantee *te protection of labour rights and the promotion safe and secure working environments for all workers* (Target 8.8) in Azerbaijan.



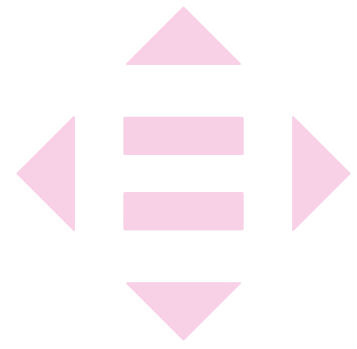


## How to guarantee decent work for all without leaving anyone behind?

State's economic development policies will be more effective if they are inclusive for LGBTI people. Elimination of such factors that contribute to exclusion removes barriers to full participation in the economy and gives LGBTI people the opportunity to realize their full potential and become a contributor to economic growth. How to achieve progress and full-productive employment without leaving anyone behind? The most effective ways to accelerate the progress toward SDG 8:

- ✓ Ensure an adequate budget to conduct awareness-raising programs for broader society to prevent discrimination and societal stigma against all disadvantaged or marginalized individuals or groups, including LGBTI citizens in relation to employment;
- ✓ Take the necessary legislative and administrative measures toward gender recognition in line with international best practice, to ensure that transgender and intersex persons have effective access to employment;
- ✓ Build effective strategies, policies that apply broadly to all areas and dimensions of employment to ensure that LGBTI people are not being discriminated against when it comes to hiring, retaining and promoting employees in both,
- ✓ Improve data collection disaggregated by sexual orientation, gender identity and expression, and sex characteristics related to income, existence, and utilization of workplace protections against discrimination and its associations with economic growth;
- ✓ Consult and cooperate with civil society organizations that working with or for the involvement of LGBTI people into the process, to make sure that their needs are accounted;

# 10 REDUCED INEQUALITIES



The tenth sustainable development goal to “reduce inequality within and among countries” in its second target calls the states to “empower and promote the social, economic and political inclusion of all” by 2030. No society can truly prosper if elements of it are excluded or subjected to discrimination and violence. Inequality, exclusion, discrimination, and violence cost states in lost GDP, in increased expenses, and in lost human potential.

LGBTI people face some of the most significant levels of discrimination and inequality, whether this is in the form of violence and bullying at school, lack of equal employment opportunities, non-consensual medical interventions, inability to access necessary health care or non-recognition of their families. Therefore the absence of protection policies plays a significant role in increasing LGBTI people’s likelihood of struggling with inequality. This inequality not only matters in and of itself, but it also exacerbates poverty, contributes to poor health and education outcomes, undermines gender equality, rationalizes violence and undermines SDG progress overall.

## Healthcare

The mainstream health care system in Azerbaijan reflects the prejudices prevalent in society in general and contributes to the further marginalization of LGBTI people. Under the claim of neutrality (that they “treat everyone the same”), medical professionals treat every patient as heterosexual and deny the existence of LGBTI people, rendering them invisible in the health care system.

The taboo related to being a member of the LGBTI community and stigmatization has a huge impact on the statistical numbers available on the HIV/AIDS infected in Azerbaijan.

In the case of transgender patients, there is enormous inequality to have access to healthcare due to past negative encounters with health care providers, fear of being treated poorly, a lack of providers who know about transgender health care, or lack of health insurance that will cover their needed services.

Still, state or licensed private medical institutions are carrying out “normalization” practice, homosexual and transgender individuals being diagnosed as sick, forced into treatment. In the practice children and infants born with intersex variations are subject to nonconsensual surgery or other medical interventions that seek to alter their sex characteristics- Intersex Genital Mutilations.

### Factual case #1:

In September 2016, the Ministry of Health commented on an operation carried out on a 12-year-old intersex child. The operation took place at a private clinic in Baku and the clinic authorities stated in media reports that they “... received the relevant documents from the Ministry of Health, which allow us to do this operation. This operation is carried out lawfully. Even a little bit too late. This operation should be carried out before the child is aware of their gender.”

## Displacement – Poverty

Considering the multiple and interlocking dimensions of inequality, we should highlight the relationship between internal or external displacement and housing affordability. Case studies are pointing out that displacement was often the result of widespread violence due to socioeconomic instability

caused by inequality, and that displacement had greater detrimental effects on LGBTI people. Because they were more likely to be socially stigmatized, the individuals were less likely to complete their education and were more likely to hold a lower socioeconomic status. The combination of poverty with displacement and social stigma resulted in higher levels of bias-motivated discrimination against LGBT people and lack of policy, legal frameworks that avoid it.

Testimonies of several victims of arbitrary arrests that conducted in 2017 and affected more than 86 of gay and transgender people in Azerbaijan are clarifying the discrimination in the rental housing market or evictions of people due to their sexual orientation, gender identity and expression. They and their friends have been evicted by their renters as a result of information about their identities given by local police officers. It is known that there are dozens of lesbian, gay and transgender victims who experienced this kind of evictions.

## Education policy

Sustainable Development Goal 10 and its targets 10.2 and 10.3 are highly connected with inequality in education. All people, irrespective of sex, age, race, ethnicity, and persons with disabilities, migrants, indigenous peoples, children and youth, especially those in vulnerable situations, should have access to life-long learning opportunities that help them acquire the knowledge and skills needed to exploit opportunities and to participate fully in society. Consequently, a large number of LGBTI people can feel isolated, vulnerable or completely invisible within the school system. The climate of fear and intimidation severely impacts their mental health, leading to underachievement, an increased risk of dropping out, low self-esteem or even suicidal tendencies.

LGBTI issues are not reflected in educational settings, curriculum and homophobia or transphobia are not adequately challenged. A general lack of sensitivity and staff training

on SOGIESC leads to school bullying, which has a devastating impact on LGBTI youth.

The lack of policies and action in this regard such as the national anti-bullying plan leads to discrimination, which isolates LGBTI people in school environments.

## Family union

The lack of normative legal act to lawfully regulate the equal marriage or registration of civil unions for all is limiting the equal access to any family-related social and economic rights that granted only for heterosexual unions. This gap increases inequality in so many fundamental spheres of lifetime such as taxes, ownership over common property, usage and order rights and property distribution, joint adoption, succession to a tenancy, health insurance and access to medical care, domestic violence, alimony, as regards death and inheritance, extend access to survivor's pensions and etc.

## Legal framework

The lack of LGBTI-sensitive approach to law and policies makes it impossible to ensure that development policies reach all population groups, including marginalized groups such as LGBTI. Even though the general principle of equality, human rights and freedoms are embodied in the Constitution there is no specific legislation to protect and reduce inequality faced by LGBTI people. Legislations such as Law on Provision of Gender Equality, Criminal Code, Labor Code, and Civil Procedure Code don't include SOGIESC specifically and hate crime, hate speech laws don't exist. Indeed, the general description of 'other status' in all those policies that apply to everyone has been open always for interpretation in a way of exclusion.

## Disaggregated data and access to information

There continues to be a lack of robust disaggregated data across a number of indicators. Limited data relating to the LGBTI community makes it difficult to assess the extent whether any progress has been made and what the continuing gaps/issues are. We believe that data collection disaggregated by sexual orientation, gender identity and expression, and sex characteristics can reveal deprivations and inequalities that may not be fully reflected in aggregated data.

In this regard to collect appropriate information to above mentioned issues and actions taken by state, on 9th of January in 2019 we appointed list of questions to 5 ministries that are member of National Coordination Council for Sustainable Development: Ministry of Justice, Ministry of Youth, Ministry of Healthcare and Ministry of Education, State Committee for Family, Women and Children Affairs. Within this info requests, we aimed to find out what kind of specific measures were taken in regard to reduce inequality that LGBTI population face, and to understand if they consulted with relevant organizations within the implementation of the state's policy. Up today no response was made by state entities.

## Azerbaijan of Tomorrow

### Agenda 2030 is calling!



We emphasize that intolerance that may exist in society towards LGBTI people can never be used as a justification for inequality. The state must work vigorously to empower and promote the social, economic and political inclusion of all, in order to fulfill its responsibility to achieve

sustainable development. We believe that reducing inequality is not just an obligation based on a single goal, indeed it has a significant coherence with other global goals of sustainable development.

*In result of empowerment and promotion the social, economic and political inclusion of all (Target 10.2) and eliminating discriminatory laws, policies and practices and promotions appropriate legislation, policies and action in this regard (Target 10.3) Azerbaijan will eradicate extreme poverty for all people (Target 1.1), where all [...], in particular, the poor and the vulnerable, have equal rights to economic resources (Target 1.4).*

*People of Azerbaijan will have equal access to quality essential health-care services (Target 3.8) and to all levels of education and vocational training [...] (Target 4.5).*

*By adopting policies, especially [...] social protection policies (Target 10.4) state will be the guarantee for protection of labour rights of all workers (Target 8.8).*

*Azerbaijan will be the country, where by 2030 everyone has access to adequate, safe and affordable housing and basic services (Target 11.1) without discrimination.*

*In result of policy coherence (Target 17.14) and enforced non-discriminatory laws and policies for sustainable development (Target 16.B) state will ensure the equal opportunity for everyone and equalities of outcome will increase (Target 10.3).*

## How to reduce inequalities without leaving anyone behind?

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- ✓ Taking the necessary legislative and administrative measures toward gender recognition in line with international best practice to increase access to official identity documents that correspond to personal gender identity;
- ✓ Adopting appropriate legislation, policy to lawfully regulate the equal marriage or registration of civil unions for all to ensure that everyone has equal access to any family-related social and economic rights;
- ✓ Consulting and cooperating with civil society organizations that working with or for the involvement of LGBTI people into the policy framing process, to make sure that their needs are accounted on states' social protection policies;
- ✓ Supporting campaigns led by LGBTI groups that are promoting the social, economic and political inclusion of all;
- ✓ Redoubling its efforts to eliminate persistent discrimination against LGBTI people including by carrying out awareness-raising campaigns and other actions in this regard, with a view to reduce inequality, particularly to address the access to employment, social security, health care, and education;
- ✓ Improving multidimensional measurement data collection by including SOGIESC;



# 16 PEACE, JUSTICE AND STRONG INSTITUTIONS



How much SDG 16 is relevant to those people who, because of their sexual orientation, gender identity and expression, and sex characteristics have historically been excluded from the benefits of development policies and programs?

Everyone has the right to live free without discrimination regardless of their sexual orientation, gender identity or expression and sex characteristics. If the global commitment to eradicate inequality for all people is truly unequivocal, the state has to take into account the voices and needs of LGBTI persons. By excluding LGBTI persons from the implementation of the global goals as well as from broader development activities, the state loses the human potential, resources and, simply, contribution to the economy.

Article 25 of the Constitution of Azerbaijan guarantees to everyone equality of rights and freedoms regardless of his or her “country, race, nationality, religion, language, sex, origin, property and official status, conviction, affiliation with political parties, trade unions, and other social organizations”.

Corresponding provisions are embodied in various fields of legislation, including civil, criminal, criminal procedure, labor, and family law. While equality is, in theory, guaranteed to everyone, however in practice the grounds of SOGIESC remain invisible and legislation does not directly touch on the issue of non-discrimination on this basis. But in this paragraph listed issues and evidence show that for what reasons LGBTI persons are facing injustice, violence and discrimination in a society that negatively affects their

## Family Code

Considering that homosexual relationships are decriminalized in Azerbaijan, still, the legal framework doesn't allow homosexual citizens to enjoy their family rights. Article 34.1 of the Constitution of Azerbaijan and the Family Code family guarantees that everyone has the right to marry on reaching the age specified by law. But later Article 34.4 of the Constitution and Article 2.2 – 2.3 identifies this union between men and women. The lack of normative legal acts to lawfully regulate homosexual individuals officially getting married or registering these relationships limits their access to any family-related social and economic rights that granted only for heterosexual couples such as taxes, ownership over common property, usage and order rights and property distribution, joint adoption, succession to a tenancy, health insurance and access to medical care, residence permit and citizenship, domestic violence, alimony, as regards death and inheritance, extend access to survivor's pensions and etc.

## Labor Code

Although sexual orientation, gender identity and expression, and sex characteristics have no relationship to workplace performance, research conducted by Nafas LGBT Azerbaijan shows the high levels of discrimination against LGBTI persons at work. Moreover, it is becoming evident that like all forms of discriminatory behaviors, prejudice based on SOGIESC can result in loss of one's job and the labour code does fail to stand

against such situations. Article 16 of Labor Code prohibits discrimination on several grounds including “others”; however, no explicit prohibition of the discrimination on the grounds of SOGIESC has hitherto been added to the Labor Code.

## Law on Provision of Gender Equality

The only law in force remains to be Law on Provision of Gender Equality. However, this law contains no single provision for the prohibition of discrimination on the ground of SOGIESC. Obviously, for the purpose of the law, the term ‘gender’ is still restricted to male and female and the social aspect of relationships between them. Because of this restriction the law fails to protect lesbian, bisexual and transgender women from domestic violence and abuse or discrimination in other phases of daily life.

The same wording has been used in anti-discrimination provisions of [Civil Procedure Code](#) (Article 8), [Criminal Procedure Code](#) (Article 11), [Code of Administrative Offences](#) (Article 7) and following of [Migration Code](#) of the Republic of Azerbaijan which does not comprise explicit prohibition of discrimination on the grounds of SOGIESC. This absence and general language in the existing domestic legal framework creates a possibility for interpretations that most of the time LGBTI persons are affected and this limits their access to justice.

## Hate speech and hate crime

LGBTI persons frequently face hate speech in public, school environment, health care institutions, labor market, in media and other social – economical environments of society that in so many cases leads to hate attacks. There are, however, many accounted cases, where individuals are subjected to violence (verbal and physical)

because of their real or perceived SOGIESC. Hate speech and mobbing that occurs in school and other educational environments affects especially LGBTI teenagers and youth.

Article 283 of the Criminal Code of the Republic of Azerbaijan criminalizes hate speech but only in the context of nationalist, racist, socialist and religious hate speech, including when such acts are committed using mass media. However hate crimes and hate speech are not recognized as legal concepts by the criminal law, and Azerbaijan has reported to OSCE/ODIHR that no data on hate crimes are collected.

While homophobia and transphobia are not part of public policy, the competent individuals and deputies of different government agencies have occasionally been putting forward discriminatory positions.

### Factual case #1

*Aynur Sofiyeva, deputy chair of the State Committee for Family, Women and Children Affairs / 2019:*

“They want to impose on us different family models. They want to impose same-sex marriages as a family model. When we have a look at this, we see that the family model has collapsed in the West. This leads to demographic problems in the world. In fact, instead of addressing these problems the West aims to transmit it to other societies. Our main purpose must be to protect our national values. We will change the vector of state’s family policy.”

### Factual case #2

*Fazil Mustafa, member of the National Assembly (Milli Madjlis) / 2017:*

“Homosexuality is a threat to Islam. There are attacks against the moral values of society. Therefore, it is inevitable to take measures against such people. This is why society must take a tough stance against it.”

### Factual case #3

Araz Alizade, *member of the National Assembly (Milli Madjlis) / During the TV Debate as a candidate for presidential elections in 2018:*

“At the moment you can see how the number of sexual minorities is increased. Western countries demand from Russia to give freedom to such people. And they demand the same from us. Thank God (Allah), our president Ilham Aliyev gave a decisively answer by saying that it’s absolutely against our moral values and as long as I’m here in this position, it won’t be possible.”

## Freedom of assembly

It is important to recognize the link between the implementation of sustainable development goals and civil society organizations that working with and for the involvement of their target groups into this process. Without being limited to the right to freedom of expression and peaceful assembly, the LGBTI community in Azerbaijan is still hindered to enjoy their right to freedom of association that no registered LGBTI non-governmental organization (NGO) exists today in Azerbaijan.

The applications submitted by the Nafas LGBT Azerbaijan Alliance in order to get an official registration from the Ministry of Justice have been denied twice. As far as unregistered activities of NGOs are considered illegal and even a crime under Article 192 of the Criminal Code of the Republic of Azerbaijan. Nafas LGBT Azerbaijan Alliance stopped its activities in Azerbaijan in 2015 and left the country. The only organization in this respect is the organization “Gender and Development” which works on the health of sexual minorities and provide medical assistance; but speaking about the protection of the rights of LGBTI persons, this NGO has to be excluded as well.

## Legal recognition of identity

Each individual has equal and inalienable rights as a member of the Human community. Legal recognition has fundamental bearings on one’s identity, social standing, and the quality of life that one can enjoy.

In order for transgender persons to change the documents in Azerbaijan, laws require gender affirmation surgery, sterilization as a prerequisite to legal gender recognition and one must acquire and submit a doctor's certificate stating that the person has completed the full process.

This also presents a problematic view or assumption for intersex people. In Azerbaijan, the national identity card, educational and other official documents are among the struggle areas for intersex persons, as they bear only female and male gender binaries. It is a site for discrimination and inequality, as intersex persons struggle to have an appropriate gender allocated for them and it is therefore disconnected to the reality of those in the gender margins. It is also known that intersex born children are subjected to genital surgeries and consequences of it are emotional, physically, mentally and health wise fatal.

Such absence of legal recognition of the identity is a barrier for transgender and intersex persons to have effective access to the labour market, adequate, quality and effective access to health services.

## Violence and rule of law

Though there are no laws criminalizing consensual same-sex acts, there are accounts of numerous incidents of police brutality against individuals due to their SOGIESC. Persons who are arrested on the basis of suspicion carrying LGBTI identity are not usually given a fair trial, instead, they are usually physically, verbally, even sexually abused in jails and in other spaces by members of the

judiciary system. A few cases set forth below illustrate (a) the scale of hate crime and are concerning examples of the illegitimate use of force by the police in the form of arrests, blackmail, beatings, torture, and sexual abuse; (b) that creates the untrusted climate to law enforcement institutions and sense of non-protection:

### Factual cases #3

- UN Human Rights Committee in respect of the International Covenant on Civil and Political Rights (ICCPR) reports the case involved the murder of a transgender man called Samir in August 2007 by a member of a Wahabi religious group. The lawyer of the accused stated in court openly, in his client's defense, that such people as Samir need to be killed. The lawyer did not receive any admonition from the judge."
- The Bureau of Democracy, Human Rights, and Labor, US State Department reports that during 2009, police raided gay bars on four occasions and arrested almost 50 persons. Police reportedly held the individuals and threatened to expose their identity publicly unless paid a bribe.
- In 2017 86 gay and transgender persons were, apprehended, and were sentenced. They were arrested in public places based on "their gay behavior", private apartments, working place. In detention, they were beaten, tortured with electric shocks, forced to undergo traumatic medical examinations, head shaving, sexual abuse, and were forced to reveal their friends and sign fake statements. PACE adopted a resolution, a group of UN experts urged Azerbaijan to act after receiving reports of human rights abuses against gay and trans people, including arbitrary arrests and ill-treatment, torture and forced medical examinations in detention.

## Disaggregated data and access to information

There continues to be a lack of robust disaggregated data across a number of indicators. Limited data relating to the LGBTI community makes it difficult to assess the extent to which their rights are being realized, whether any progress has been made and what the continuing gaps/issues are.

In this regard to collect appropriate information to above mentioned issues and actions taken by state, on 9th of January in 2019 we appointed list of questions to 5 ministries that are member of National Coordination Council for Sustainable Development: Ministry of Justice, Ministry of Youth, Ministry of Healthcare and Ministry of Education, State Committee for Family, Women and Children Affairs.

Within this info requests, we aimed to find out what kind of specific measures were taken in regard above mentioned factors to ensure peace, justice and strong institutions, and to understand if they consulted with relevant organizations within the implementation of the state's youth strategy. Up today no response was made by state entities.

## Azerbaijan of Tomorrow

### Agenda 2030 is calling!



Agenda 2030 recognizes the need to build peaceful and inclusive societies that provide equal access to justice and that are based on respect for human rights, an effective rule of law and good governance at all levels and on transparent, effective and accountable institutions.

By end of 2030 Azerbaijan will *enhance policy coherence for sustainable development* (Target 17.14).

Through *eliminating gender disparities in education and ensuring equal access to all levels of education and vocational training for the vulnerable [...]* (Target 4.5) and *[...] providing safe, non-violent, inclusive and effective learning environment for all* (Target 4.a) *all forms of violence will significantly reduced [...]* (Target 16.1) that LGBTI persons in Azerbaijan do face in learning environments.

In result of *promoting rule of law* (Target 16.3) and *enforcing non-discriminatory laws and policies* (Target 16.B) Azerbaijan will *eradicate extreme poverty for all people* (Target 1.1) and bring an *end to all forms of discrimination [...]* (Target 5.1).

*Fundamental freedoms* (Target 16.10), *equal opportunity for all* (Target 10.3), especially *universal access to sexual and reproductive health and reproductive rights* (Target 5.6) will be guaranteed and protected by state.

Azerbaijan will become that country where *universal health coverage [...]* for all (Target 3.8), including for LGBTI people, will be achieved.

Azerbaijan will be the one of those countries to share its best legal practises with full confident in regard such as *full and productive employment and decent work* (Target 8.5), *access to adequate, safe and affordable housing and basic services [...]* (Target 11.1) that LGBTI persons do not face discrimination anymore.

## How to achieve peace, ensure justice and build strong institutions without leaving anyone behind?

- ✓ Review domestic legislation regarding non-discrimination with the objective to harmonize with the implementation of sustainable development goals;
- ✓ Make sure that the National Human Rights Institution (Ombudswoman) includes SOGIESC within its mandate;
- ✓ Adopt hate crime and hate speech law that protects all individuals from violence, including LGBTI persons and strengthen legislation to incorporate mechanisms for monitoring and reporting hate-motivated acts;
- ✓ Set policies and ensure an adequate budget to provide specific education and training programs on sensitivity and effective response to SOGIESC based discrimination and hate crime for police and other law enforcement agencies;
- ✓ Prioritize policies that grant access to justice, housing, employment, healthcare, education and legal recognition (i.e., official documentation) for LGBTI citizens and their unions;
- ✓ Put in place a quick, transparent and accessible procedure for legal gender recognition and ensure that legal recognition of gender is not dependent on gender reassignment surgery;
- ✓ Ensure that all data is also appropriately disaggregated by sexual orientation, gender identity and expression, and sex characteristics;
- ✓ Ensure the participation of representatives of all civil society in consultation processes, including organizations that are working for or with the LGBTI community;





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