

GENDER EQUALITY AND ACCESS TO JUSTICE IN AZERBAIJAN AFTER 100 YEARS

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In 1918, Azerbaijan granted women equal political rights with men. Almost a century later and with legislation passed to prevent domestic violence and address gender-based discrimination, gender equality and access to justice remain elusive societal goals for women. This issue of *Governance Notes* looks at today's challenges, the circumstances women face, the related systems of government, and initiatives for improvement supported by the World Bank-financed Judicial Services and Smart Infrastructure Project (JSSIP).

A SNAPSHOT

Poverty rates declined sharply in Azerbaijan during the last decade, yet other major social targets remain elusive. Women continue to face inequalities in accessing public services, labor markets, business sectors, and political representation. Azerbaijan shows more deviation from gender parity than its neighbors Georgia and Kazakhstan, based on the Gender Development Index¹ (see Figure 1). It also lags behind other transition countries with a ranking of 78 out of 189 countries in the 2016 Gender Inequality Index² of the United Nations Development Programme.

Women's difficulty in accessing courts and other legal services hinders the protection and enforcement of their rights. Equal rights for women and effective means to protect them are crucial for development and stability and for reducing the impact of inequality as a driver of conflict. Addressing key obstacles to women's access to justice is an essential component for tackling discrimination, domestic violence, and gender-based violence.

Traditional social and cultural norms influence life in Azerbaijan. Large parts of the population believe in the traditional role of women as homemakers and caregivers for children and the family. Domestic violence is often considered an internal family affair and, as a result,

many cases aren't reported to the police or investigated by them if reported. Victims usually reveal incidents only when there are life-threatening consequences (UNDP 2007). Particularly in rural areas, the sense of belonging, the fear of being exiled, and the entrenched social, psychological, and financial dependence on men discourage women from reporting violence against them. Lack of family support, social dishonor, and strong pressures to keep families together also contribute to the high number of uninvestigated cases.

CONSEQUENCES OF VIOLENCE

The economic effects of domestic and gender-based violence limit women's contribution to social and economic development and overall economic productivity. Direct costs are generated by all acts of physical, sexual, psychological, and economic harm and include medical expenses, crisis services, and legal assistance. Indirect costs include loss of productivity from days out of the workforce or job loss, lower earnings, and reduced tax revenues. Other costs come from counseling and support for victims and family members who suffer or witness violence, relocation, loss of land or other property, and incarceration of abusers.

Health effects are also significant. Domestic and gender-based violence are major causes of illness among women and young girls and may have severe consequences for reproductive health. Domestic violence may also lead to intergenerational transmission of violence. Children exposed to violence also tend to have stress problems, growth disorders, and are more likely to engage in violent and delinquent behaviors (Child Trends 2016).

LEGAL FRAMEWORKS

Article 25 of the Constitution of Azerbaijan guarantees

¹ The Gender Development Index accounts for the human development impact of existing gender gaps in income, health, and education.

² The Gender Inequality Index measures gender disparity, capturing loss of achievement within a country as the result of gender inequality in health, empowerment, and labor market participation.

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equality for men and women before the law. In practice, however, women are frequently denied a voice in decision-making, protection from violence, and control over their bodies.

The *Handbook for Legislation on Violence against Women* (UN 2009) is intended to help states and other stakeholders enhance existing laws or develop new ones to protect women. It recommends that states adopt legislation criminalizing all types of domestic violence. In 2010, Azerbaijan adopted the Law on the Prevention of Domestic Violence. However, the law does not specify which acts should be subject to criminal prosecution and which should be addressed through administrative procedures. Other types of gender-based violence are left indeterminate, including incidents outside the family structure. In addition, the Criminal Procedure Code has no specific provision to address the particular rights and needs of victims, such as psychosocial support.

Protective orders also are weakly employed. Although the 2010 law authorized Azerbaijan's judges to issue protective orders, few orders have been issued, while official statistics indicate that the number of domestic violence cases has increased since 2010. The UN Handbook recommends criminalization of protective order violations. Azerbaijan has not yet taken steps in this direction.

Reconciliation is a common practice used to resolve domestic and gender-based violence complaints; however, it weakens the legal and judicial protection of women's rights. The 2010 law identifies the state's duty to "assist in normalization of relations between parties and resumption of family affairs" which can be interpreted as privileging reconciliation over protection of women's rights. In contrast, the UN Handbook recommends that legislation should "explicitly prohibit mediation in all cases of violence against women, both before and during legal proceedings." Lastly, international treaties which Azerbaijan is a party to are considered a part of its domestic legislation (Article 148 of the Constitution), and such international provisions would prevail in case of discrepancy (Article 151 of the Constitution). However, Azerbaijan has yet to ratify the Rome Statute of the International Court, which provides the broadest statutory recognition of violence against women as a crime under international criminal law.

ACCESS TO JUSTICE

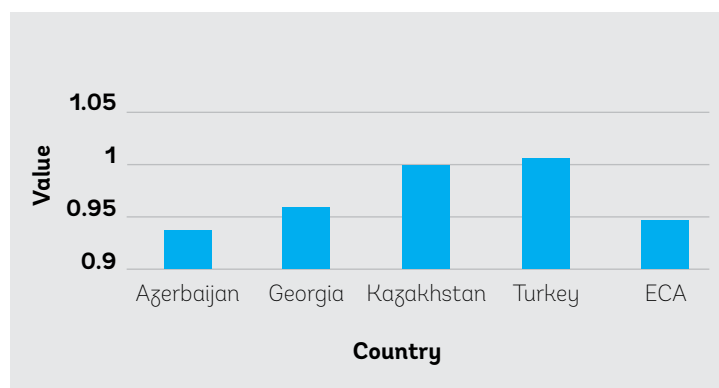
Obstacles impeding women's ability to access justice include low levels of legal literacy, ineffective and underfunded legal aid services, low trust in courts, pressure on women to avoid formal complaint and

dispute resolution processes, high levels of perceived corruption, and social stigma. Corruption and distrust of courts also affect male court users, but women trying to access justice services face more obstacles, especially in rural areas. Challenges include lack of physical access in remote areas and the unfulfilled demand for legal aid, exacerbated by the limited number of advocates in smaller towns and rural areas and few incentives for lawyers to accept legal aid cases given low fee rates.

Higher presence and visibility of women in justice-related professions and a more gender-balanced employment profile is the first step toward a system more responsive to, and trusted by, women. Professions such as the police, prosecution and the judiciary need more women among their ranks. In Azerbaijan, women account for 11 percent of all judges and lawyers, and 5 percent of prosecutors, compared with other similar countries where percentages can vary between 30 and 50 percent.

Women professionals' deployment in the justice system is also skewed. Women make up 15 percent of judges in Baku but only 6 percent of regional court judges. There is also a glass ceiling. For example, none of Azerbaijan's 104 first-instance courts has a woman court president and only 1 out of 10 judges is female. These professions need the widest pools of talent, male and female, to ensure diversity of experience and perspective. Research shows that a higher ratio of women holding high government positions leads to more robust decisions, enriches the diversity of voices, and helps create a more inclusive, equal, and dynamic society (World Bank 2012).

Figure 1. Gender Development Index 2016



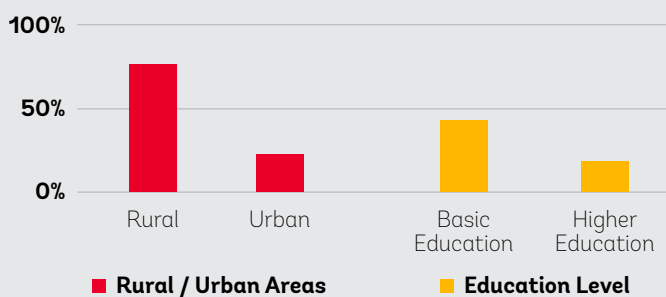
Note: To determine the GDI, the HDI is calculated separately for females and for males using the same methodology as in the HDI. The same goalposts as in the HDI are used for transforming the indicators into a scale lying between zero and one. ECA = Europe and Central Asia; GDI = Gender Development Index; HDI = Human Development Index.

Source: Gender Development Index, 2016 database.

Education, Equality, and Gender-Based Violence

According to UN Women, 14 percent of Azerbaijani women reported having experienced physical violence at least once in their lives and 10 percent within the last 12 months of the survey. Women in rural areas have a higher risk (77 percent) of becoming victims of gender-based violence compared to urban women (20 percent) because of limited access to information and strong traditional norms. Women with only the mandatory minimum secondary education level are more likely to become victims (46 percent) compared to those with higher levels of education (18 percent). Increasing levels of education contribute to reducing gender-based violence and internalizing egalitarian values.

Figure 2. Gender Inequality Index 2016



Source: UN Women (2016).

INTERNALLY DISPLACED WOMEN

Azerbaijan has one of the highest rates per capita of internally displaced persons in the world. The government continues to assume primary responsibility for the care and protection of the country's 597,000 internally displaced persons who fled their homes in the early 1990s as a result of the conflict with Armenia over the disputed territory of Nagorno-Karabakh. Today, 6.4 percent of the population is displaced because of the conflict and 53 percent of them are women. Women and girls are often targets of social and moral discrimination related to both gender and displaced status. During a conflict and after it ends, when challenges to the rule of law are greatest, it is crucial to ensure women's access to justice, to effective participation, and to decision-making.

POTENTIAL INITIATIVES

To take steps toward greater equality and access to justice services for women, policy makers in Azerbaijan could consider several initiatives for implementation by

administrative and judicial branches of government, with support from the World Bank-financed JSSIP.

Support ways to generate accurate, credible, and easily retrievable data on violence against women and girls.

Data are limited, and where available, they mostly focus on domestic violence incidents. Data collection, including through appropriate gender indicators, for official statistics and dissemination tools could be improved to strengthen tracking, reporting, and impact evaluation of government interventions on gender issues; better align Azerbaijan's public spending with its gender policies; and facilitate evidence-based decision-making. Goals to aim for could include improved quality and timeliness of statistics and their publication for greater transparency and access by government agencies, nongovernmental organisations, other statistical agencies, development partners, and researchers.

Develop a girl-friendly legal framework for juvenile justice, aligned with international best practice.

Juvenile corrections and special education facilities are operated only for boys. Girls given custodial sentences are detained in women's prisons, where they are not separated from adults. Goals to aim for could include adapting facilities to separate female juveniles from adults, assigning a court-appointed guardian to represent the child's interests, and prohibiting administrative detention of girls under the age of 14.

Strengthen the application and implementation of protective orders by resolving institutional and legal issues.

There is a gap in Azerbaijan's legal framework regarding domestic violence incidents involving noncriminal injuries. Protective orders, such as those in member states of the European Union (EU) and the Organisation for Economic Co-operation and Development (OECD), are not available for Azerbaijani women. This gap can be addressed through clarifications and guidance for judges in applying appropriate legal instruments to domestic violence cases, which would align Azerbaijan with EU and OECD good practice. Goals could include faster and simplified processes for issuance of protective orders; closure of a critical legal gap for women who are at risk of, or have suffered, physical violence or injuries; and inclusion of gender-based violence as an eligible reason for the issuance of protective orders under the Domestic Violence Law.

Establish a 24/7 national helpline for women who could be at risk or who are victims of domestic or gender-based violence.

A national helpline can provide services to support and care for females of all ages who are at risk for or experiencing domestic or gender-based violence. Sensitivity training for police officers, helpline operators, and other professionals working in this field can help ensure quality of care and referral to appropriate services.

REFERENCES

Child Trends DATABANK. 2016. *Children's Exposure to Violence*. Washington, DC: Child Trends.

UN (United Nations). 2009. *Handbook for Legislation on Violence against Women*. New York: United Nations.

UNDP (United Nations Development Programme). 2007. *Gender Attitudes in Azerbaijan: Trends and Challenges*. Baku: United Nations Development Programme.

UN Women (United Nations Entity for Gender Equality and the Empowerment of Women). 2016. *Global Database on Violence against Women*. New York: UN Women.

World Bank. 2012. *World Development Report: Gender Equality and Development*. Washington, DC: World Bank.

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