



THE POLITICIZATION OF DOMESTIC VIOLENCE IN AZERBAIJAN

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Culture Wars Papers, no. 5, April 2022

Since Azerbaijan's independence in 1991, the issue of domestic violence has been a recurring subject of debate. Until recently, this topic was mostly discussed among government agencies, international organizations, and recognized NGOs as a social problem rather than a political one. But the emergence of feminist movements in recent years has made the issue more political. The reason for this is that despite the comprehensiveness of the legislation on this subject, there are still many procedural gaps. Moreover, it is evident that the laws are not being properly applied in practice and that government agencies are not complying with their own legislation.

A Patriarchal Society: Bride Kidnapping and Sex-Selective Abortions

The Criminal Code of Azerbaijan was adopted in 1999, replacing the Criminal Code of the Azerbaijani Soviet Socialist Republic from 1960. The new code decriminalized several acts that were considered criminal in the Soviet era, added new crimes, and increased the criminal liability for some offenses.

For example, bride kidnapping, or abducting a woman for marriage, is now classified as a more serious crime than it was during Soviet times. The Criminal Code of Soviet Azerbaijan did not have any provision on general kidnapping but only for deprivation of human freedom, which included an amendment of [taking hostage](#) as a more severe crime than [kidnapping of women for marriage](#). However, the previous codes of [1922](#) and [1927](#) allowed for more serious criminal liability for bride kidnapping than for deprivation of human freedom, and were also more serious than the code of 1960. The current criminal code has a [provision](#) on general kidnapping, which includes bride kidnapping and raises the liability for this offense to the same level as for [hostage-taking](#). Despite increasing criminal liability, this has not solved the country's bride-kidnapping problem in practice.

In some cases when a woman is kidnapped for marriage, instead of reporting the incident to the police, the woman's family tries to reconcile with the perpetrator and his family to reach an agreement—often sanctioning of the marriage—that protects their family's name and their daughter's honor. Unfortunately, Azerbaijan's statistics committee does not have exact numbers for bride-kidnapping cases. But information collected through the media reveals that during the four years from 2017 through 2020, there were 63 registered cases of bride kidnapping, including some cases with victims under 17 years of age. According to the Family Code, “the age of consent in the Azerbaijan Republic is established in 18 years”; however, “in the presence of reasonable excuses,” the age of consent may be reduced by up to a maximum of 1 year upon the request of minors who wish to marry. Thus, when accounting even for such exceptional cases, the [minimum age of marriage](#) stands at 17 years.



In addition, in Azerbaijan's patriarchal society a preference for sons over daughters has led to sex-selective abortions. Soviet legislation was liberal in terms of abortion, seeing it as a family-planning alternative to make up for the lack of contraception. Abortion remained legal in independent Azerbaijan: women have the right to terminate their pregnancies for any reason from 0 to 12 weeks of pregnancy, for socio-economic reasons at 12 to 22 weeks, and for medical and health reasons after 22 weeks.¹

[Registered abortion cases](#) numbered 37,300 in 2019 and 34,700 in 2020. While it is impossible to know precisely which of these abortions were sex-selective, general demographic data offers some insights: the ratio of male to female births has increased almost every year since 1994. In 2019 there were 114 boys born for every 100 girls. This same wide disparity was observed previously only in 1998. The [highest observed ratio](#) was in 2009, with 118 male births for every 100 female births. In comparison, the [natural ratio](#) should be about 105 to 107 boys born for every 100 girls. Since 2019, the Parliament has started the discussion of a [bill on Reproductive Health](#), which is intended to prohibit sex-selective abortions and even to forbid doctors from reporting the sex of a fetus, except in cases where there is a risk of hereditary disease. The bill has not been passed yet, and so doctors continue to inform parents about the sex of a fetus and thereby contribute to sex-selective abortions.

Selective abortion is one of the few topics the government allows civil society groups to address, likely because it is not associated with problems of state incompetency. The government itself has organized various campaigns to prevent selective abortions. In 2020, it approved the "[Action Plan for the Elimination of the Selection of Children by Sex before Birth for 2020-2025](#)," an initiative designed to encourage the birth of daughters, educate citizens about the advantages of having girls, tighten control over selective abortion, and investigate the extent of this phenomenon.

Domestic Violence

More controversial has been the issue of domestic violence, as further government action would imply that state agencies have so far been ineffective in their practices, and this would go against the dominance of patriarchal norms. In 2019, [1,308 cases of domestic violence](#) were registered, followed by another [1,260 cases](#) in 2020. However, due to low rates of reporting, these numbers do not represent the actual size and prevalence of the problem.

The adoption of the 2010 Law on Prevention of Domestic Violence was an important step taken by the Azerbaijani government to protect women's rights and prevent sex-based violence and discrimination. This law provides the basic principles for the prevention of domestic violence, sets out procedures for handling complaints, and outlines mechanisms for protecting survivors of domestic violence. The law defines domestic violence as violence against close relatives and/or current or former partners. It seeks to provide "[legal assistance and social protection](#)" for victims and take steps to eliminate the conditions that give rise to domestic violence.

The Code of Criminal Procedure's lack of special provisions

According to a 2013 Organization for Security and Co-operation in Europe (OSCE) [report on domestic violence and justice in Azerbaijan](#), "the Criminal Procedural Code ... has no provisions that specifically deal with the needs, rights, or special situation of victims of domestic violence." Human rights activist and feminist Vafa Rustam, interviewed by the author for this paper, explained that survivors are often being sent for medical examination too late, when the marks from the beatings have disappeared. Once, Rustam was involved in a



case wherein a female victim was told by police that she would need to pay for the medical examination herself. She could not afford it and, consequently, the case was closed by the police.

Lack of resources

Although the 2010 Law on Prevention of Domestic Violence provides for legal and psychological assistance for victims of domestic violence, the available human resources, such as police, judges, lawyers, psychologists, and social workers, are not trained to do it properly. According to [Sophia Wilson](#), who studies human rights in post-Soviet countries and provided field research on women's rights in Azerbaijan, "Police blatantly violate the law by rejecting applications or purposefully postponing depositions, forcing the victims (who are often under additional pressure from their husband and/or other relatives) to abandon their application."

Moreover, the lack of shelters to provide accommodation for domestic-violence survivors fleeing abuse is another big issue. According to the coordinator of the NGO "For Woman," Aygul Jafarova, interviewed by the author for this paper, there are only four operating shelters in Azerbaijan, all with small capacities. And one shelter mostly provides accommodation for homeless children while another mostly works with survivors of human trafficking. Consequently, survivors of domestic violence have few places to seek refuge.

The domestic violence law also emphasizes the need to provide protection for survivors and determines the procedure for obtaining a restraining order. Short-term restraining orders are issued by relevant executive bodies and long-term protection orders are issued by the courts.² However, violation of a restraining order does not create an aggravating circumstance for domestic-violence cases in court.

The Code of Administrative Offenses states that individuals who fail "to comply with the lawful requirements of the bailiff in connection with the execution of court and other bodies' decisions ... shall be fined 500 to 1,000 Azerbaijani manat [about \$294 to \$588 US], or be placed in administrative detention from ten days to one month, depending on the circumstances of the offense."³ Zibeyda Sadigova, a member of the Bar Association of the Republic of Azerbaijan, stated to the author of this paper that she has never witnessed a case in which this article has been applied for violation of a restraining order.

Moreover, in practice, obtaining this protection is difficult. Elgun Safarov, the head of the research department for the State Committee for Family, Women, and Children, has [said](#) that only seven people in the country received restraining orders for domestic violence in 2016; three were short-term orders and four were long-term. [In 2018](#), twelve short-term and seven long-term orders were issued. And according to another member of the Bar Association of the Republic of Azerbaijan, Rovshana Rahimli, executive authorities are supposed to issue restraining orders within five days, but they often take several months. Failure to issue short-term orders [deprives survivors](#) of the right to appeal to the court for long-term orders.

Reconciliation problems

As defined in the Law on Prevention of Domestic Violence, one of the duties of the state is to "assist in the normalization of relations between parties and resumption of family affairs."⁴ This allows police officers, local government officials, and judges to justify their attempts to reconcile domestic-violence survivors with their abusers.

This reconciliation strategy has been reinforced in the 2019 Law on Mediation. According to [the law](#), opposing parties must participate in an initial mediation session before petitioning the court on economic disputes and disputes arising from family and labor relations. This law also covers divorce disputes, regardless of whether



they arise from domestic violence issues or not. Safarov, during a discussion about the new law, [said](#) mediation can reduce the number of divorces in low-income families exposed to domestic violence.

Subhi Kazimov, deputy chief of the Justice Ministry's Organization and Control Department, stated that "one of the ways to prevent domestic violence is to resolve the conflict peacefully and protect the family."⁵ However, according to Rahimli, forcing a family suffering from domestic violence into mediation does not comply with international standards.⁶ A [2008 UN report](#), *Good Practices in Legislation on Violence against Women*, recommends that laws should "explicitly prohibit mediation in all cases of violence against women, both before and during legal proceedings." According to [the report](#), mediation "removes cases from judicial scrutiny, presumes that both parties have equal bargaining power, reflects an assumption that both parties are equally at fault for violence, and reduces offender accountability."

Even without any specific provision for domestic violence, the [Criminal Code](#) contains articles on torture and death threats, and on the deliberate causing of grievous bodily harm, less-grievous bodily harm, and minor bodily harm, which could be applied to domestic-violence cases. However, according to the [Criminal Code](#), "the person, who has committed a crime, not representing great public danger, can be released from criminal liability if he has reconciled with the victim and has compensated cause to him or has removed caused harm," and for several criminal acts including minor serious and less-serious harm to health, "shall be released from criminal liability if he has reconciled with the victim and fully reimbursed the damage incurred by him." Consequently, this stipulation creates a basis in the judicial system for trying to reconcile a perpetrator with a survivor to release the former from criminal prosecution. In cases of domestic violence, this is particularly harmful because an abuser usually is a family member, who can continue to oppress the victim.

From Private to Public: The Structuring of the Azerbaijani Feminist Movement

Public discussions on women's rights have recently regained visibility mostly thanks to the feminist movement, which began organizing various rallies on the issue of violence against women in 2019. In 2019, 2020, and 2021, rallies were held on March 8—International Women's Day—under the banner of stopping domestic violence. In addition, media reports about femicides have sparked several protests over the last few years. These protests are sometimes small, carried out by several activists, and sometimes larger.

One large protest happened on October 20, 2019, in response to a series of murders of women. Protesters demanded the adoption and ratification of the Istanbul Convention (the Council of Europe Convention on preventing and combating violence against women and domestic violence). And thanks to their action, just two days later, the question of adopting the Istanbul Convention was [raised in parliament](#) by MP Asim Mollazada. However, the proposal once again failed. Government officials often reference public opinion to defend their refusal to vote for the bill. For example, Safarov said in a [2019 interview](#) that the population of Azerbaijan was not ready for the adoption of the Convention. And the head of media and public relations at the Ministry of Internal Affairs, Elshad Hajiyev, [explained](#) that the Convention does not comport with the traditions of the Azerbaijani people.

However, human-rights activists and feminists see these statements as a pure political construction. In addition, Russian and Turkish media spread confusing and manipulative rumors about the Istanbul Convention, claiming that it "[aims](#) to destroy family institutions and values," "[obliges](#) the legalization of same-sex marriage," and "[declares](#) men a priori criminal." These ideas have [found a foothold](#) in Azerbaijan as well. However, it could also be supposed that the main reason for refusing to adopt the Convention is a lack of government financial and human resources needed to meet its obligations.



Another key moment in the public's growing recognition of the issue of domestic violence happened in February 2021 when, after a series of femicides, several activists [staged a rally](#) in Freedom Square in front of the Government House (a government building housing several state ministries) with a poster stating that “femicide is political.” This action and its slogan occupied social media sites such as Facebook and Twitter for several days. Although many people reacted with incomprehension, participation on Facebook and Twitter grew under the hashtag #femicideispolitical (#qadınqətlərisiyasıdır). Thus, the protest in Freedom Square was the first step in moving the problem out of the family and private sphere and into the political arena, and in bringing attention to the lack of political will in solving the problem of domestic violence.

Conclusion

Women in Azerbaijan will still have to fight for a long time before the government is likely to adhere to its own legislation and follow other advanced countries in gender equality issues. It is obvious that in order to reduce domestic violence, stronger political will is needed. The lack of administrative resources devoted to fighting against bride kidnapping, sex-selective abortion, and domestic violence confirm the lack of commitment state structures have to these issues. In addition, the detention, arrest, and persecution of feminist protesters; the hacking of activist Facebook accounts and public sharing of their personal information; and the government's denial of the scope of the problem, shows the state does not want to accept its own responsibility for the issue.

To make any meaningful change, it would be necessary to deliver gender and sexual education in primary schools to change the mindset of the next generation and to provide long-term sustainable development. At the same time, immediate steps need to be taken to allocate financial and social resources to increase the number of social workers, psychologists, and shelters; to raise awareness among public servants, law-enforcement agencies, and journalists; and to develop adequate legislation, particularly adopting the Istanbul Convention. The government should also reform its laws and regulations on NGOs and start to cooperate with civil society to build a mechanism for monitoring the services provided by public and law-enforcement agencies.

¹ Law on Public Health Care, Art. 30 (1997).

² Law on Prevention of Domestic Violence, Art. 10-12.

³ Code of Administrative Offenses of the Republic of Azerbaijan, Art. 528.1 (2015).

⁴ Law on Prevention of Domestic Violence, Art. 8.0.8 (2010).

⁵ Aytən Zəhra, “87 min qadın məişət zorakılığı zəminində öldürülüb”.

⁶ Əkinçi, *Məişət Zorakılığı: Qanunvericilik və Reallıq | Rəşad Rəhimli*.