



Forced Out: LGBT People in Azerbaijan

Report on ILGA-Europe/COC fact-finding mission

Written by Dennis van der Veur





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Table of content

Introduction	6
Chapter 1	8
Country profile	8
1.1 Introduction	8
1.2 Political Situation	9
1.3 Economic Situation	11
1.4 Human Rights Situation	12
1.5 Civil Society in Azerbaijan	13
Chapter 2	16
Situation for LGBT Community in Azerbaijan	16
2.1 Introduction	16
2.2 The 'Community' of LGBT in Azerbaijan	18
2.3 Psychological Aspects	19
2.4 Coming Out	20
2.5 Lesbian and Bisexual Women	20
2.6 The 'Gays on Tbilisi Avenue'	21
2.7 The Legal Position of LGBT People in Azerbaijan	24
2.8 Political Discourse	30
2.9 Media	30
2.10 Law Enforcement and Authorities	32
2.11 Initiative Groups/LGBT Organisations/ Freedom of Association and Assembly	34
2.12 Response of International Organisations	35
2.13 Prison and Army	36
2.14 Health Aspects (including HIV/ AIDS)	36
Chapter 3	42
Concluding Remarks and Recommendations	42
Annex 1 – Newspaper and Academic Articles (English translations)	48
Annex 2 – Websites	70
Annex 3 – Bibliography	71



Report of a Fact-Finding Mission to the Republic of Azerbaijan

Introduction

This report focuses on the situation of lesbians, gays, bisexuals and transgender (LGBT) people in Azerbaijan. The report is based on information gathered before, during and after a fact-finding mission in January 2006. The mission was conducted by COC Netherlands and ILGA-Europe jointly. It is the first time that systematic research on the situation of LGBT people in Azerbaijan has been carried out.

During the mission several working methods were used. In addition to interviews, meetings and analysis of available literature, a legal expert was contracted and a questionnaire was developed. Responses to the latter were too limited to provide statistically representative information.¹

It is important to be aware of some linguistic and conceptual issues before reading this report. 'Gay' or 'homosexual' is often referred to in Azerbaijani language as 'blue' ('mavi' in Azerbaijani language or 'goluboy' in Russian). The term 'Blue man' is thus a pejorative term for 'gay'. There are also other, more offensive terms like the Russian word 'petuh' meaning 'cock'. During the mission it turned out that our respondents used a variety of words and characteristics to describe themselves, which did not always match the terminology used nowadays by LGBT people in Europe and Northern America. For example the term 'transgender' was completely unknown (and untranslatable in Azerbaijani language). The same applied to the concept of 'gender identity' – a term that created confusion.

The English word 'gay' was mostly used by respondents to describe 'anything other than heterosexuality'. Some of the respondents we met described themselves as 'gay' while expressing the wish to be a woman. This group of respondents works, dressed up in women's clothes, on the street. Others (including the media) would refer to this specific group as 'people standing at Tbilisi Avenue selling their body'. The opposite of this group would then be 'the non prostitute' gays/ 'gays that do not wear women's clothes and don't go out on the street to sell their body'. It should also be kept in mind that the group of Men who have Sex with Men (MSM) and Women who have Sex with Women is probably bigger than those who identify as 'gay' or 'lesbian'. In order to report accurately we will try to stay as close as possible to the terms used by respondents to identify themselves.

¹ 22 persons, 16 who identified as men, 6 as women, filled in the questionnaire. The average age of respondents was 29



The stigma surrounding homosexuality in Azerbaijan as well as the fear of repercussions against those who participated in this research, have led us to exclude from the report the names of the interpreter and legal adviser. For the same reason initials or nicknames are sometimes used.

Although every effort has been made to achieve as complete a picture as possible, the relatively brief country visit – one week – has inevitably imposed constraints.

We would like to express special thanks to the many people without whom the mission could not have taken place, particularly the respondents to the survey, those who were willing to be interviewed and civil society representatives. A special word of appreciation is due to the legal advisor, the interpreter as well as Eldar Zeynalov, Saida Gojamanly, Vafa Fatyzadeh and Aygun Kazimova. The draft report improved significantly through the proof reading skills of David Geer, Nigel Warner as well as two Azerbaijani gay men who prefer to remain anonymous.



Chapter 1

Country Profile

1.1 Introduction

Azerbaijan is the largest of the three States of the South Caucasus, bordering with Armenia, Georgia, Iran, the Russian Federation and Turkey. The capital, Baku, lies at the Caspian Sea, in the eastern part of the country. Azerbaijan as a State 'only' came into existence in 1918 after a long and complex history of Roman, Persian, Georgian, Turkish and Russian presence. In 1922 Azerbaijan entered the Soviet Union as part of the Transcaucasian Soviet Federal Republic, becoming a separate Soviet republic in 1936. Following a referendum in 1991, Azerbaijan declared independence from the disintegrating Soviet Union and this came into effect on October 18, 1991. In September 1995 Azerbaijan joined the Commonwealth of Independent States (CIS), which had been founded in 1991.

Name of the country:	Republic of Azerbaijan (Azərbaycan Respublikası)
Capital:	Baku
Total surface:	69.700 m ²
Border countries:	Armenia, Georgia, Iran, Russia, Turkey
Population:	8,200,000 (2005)
Monetary unit:	Manat
Main exports:	oil and gas, machinery, cotton, food products including beverage and tobacco ³
Main imports:	machinery and equipment, oil products, foodstuffs, metals, chemicals ⁴
GNP per capita:	\$3200
Ethnic groups:	Azeri (90%), Dagestani (3.2%), Russian (2.5%), Armenian (2%), other (2.3%).
Religions:	Islam is the main religion in Azerbaijan accounting for 93.4% of the population. Russian Orthodox (2.5%), Armenian Orthodox (2.3%), other (2.3%) make up the rest.
Internet Domain:	.az
Internet Usage:	30,8 users per 1000 people
Languages:	In 1995 the Azerbaijan language was adopted as the only official language of the country
Membership of international organisations:	Azerbaijan is a member of the UN, the Council of Europe (CoE), the Organisation of the Islamic Conference (OIC) and the Organisation for Security and Cooperation in Europe (OSCE).

² Includes the exclave of Naxcivan Autonomous Republic and the Nagorno-Karabakh region.

³ www.azstat.org/publications/azfigures/2006/en/012.shtml

⁴ Ibid

⁵ www.freedomhouse.org



Map No. 3761 Rev. 6 UNITED NATIONS
February 2007

Department of Peacekeeping Operations
Cartographic Section

1.2 Political Situation⁶

Based on the Constitution, Azerbaijan is a democratic, constitutional, secular and unitary republic. The State authority is separated into three branches – legislative, executive, judicial – with a strong executive branch headed by the President, Ilham Aliyev, who succeeded his father Heydar Aliyev in October 2003. Azerbaijan has a civil law legal system, i.e. judges deciding cases are bound by the provisions of the written law and their judgments are based on these provisions. Usually laws adopted by the parliament (Milli Mejlis – National Assembly) are enacted by presidential decrees, which determine inter alia which state authorities are responsible for their implementation.

The 1993, 1998, and 2003 presidential and 1995, 2000/ 2001 and 2005 parliamentary elections were considered neither free nor fair by international observers.⁷ Currently more than 40 political parties are registered. However, most opposition parties are weak and are based on personalities rather than political

⁶ This paragraph is based on reports from the OSCE, Freedomhouse, Azerbaijani human rights groups and other sources.

⁷ See for a complete overview of election observation reports: www.osce.org/odihr-elections/14352.html



platforms; they have been unable to unite in lasting alliances to challenge the government. Hundreds of opposition activists and leaders are usually detained by police in the weeks preceding elections as the government restricts freedom of assembly.

As stated before, the President has a very strong position in Azerbaijan. Whereas some reports suggest that since Ilham Aliyev came to power there has been a slight 'relaxation' in the political situation in the country, others argue that Aliyev has not introduced any notable political reforms. Freedom House's annual "Freedom in the world" report, an often-cited indicator for assessing political freedom, considers Azerbaijan as a 'not free' country.⁸

Azerbaijan faces a number of problems, some of them connected to the transition the country has been going through since independence. Since 09/11, the fear of radical Islam has increased tensions in political life and the government has stepped up efforts to combat movements that strive to establish an Islamic state. This threat has been used by the government as a pretext to justify continued repression and violations of freedom of expression and assembly.

1.2.1 Nagorno-Karabakh

The domestic political situation cannot be separated from its regional context. The war with Armenia over Nagorno-Karabakh (NKR) has dominated Azerbaijani politics for the last decade. The cease-fire declared in 1994 has held well, if seen from the perspective of major outbreaks of fighting, but soldiers and some civilians are killed every year along the line of contact. The international negotiations conducted in the framework of the OSCE/ Minsk Group continue with ups and downs, as do occasional face-to-face meetings between the two Presidents, but these have so far failed to bring a peace agreement. The conflict with Armenia over Nagorno-Karabakh remains the major impediment to development and contributes to regional instability.

Nagorno-Karabakh is a de jure region of Azerbaijan and a de facto self-proclaimed independent republic in the South Caucasus, located about 270 km west of Baku, the capital of Azerbaijan. The region is predominantly ethnic Armenian and is under the control of the Nagorno-Karabakh Defence Army. The local Armenian population declared independence from Azerbaijan on December 10th, 1991 and declared the Nagorno-Karabakh Republic. The NKR's sovereign status is not recognised by any country or international organization in the world. Armenia and Azerbaijan hold peace talks with the mediation of the OSCE Minsk Group, at which among other issues the future possible status of the region is discussed.

⁸ www.freedomhouse.org

1.2.2 Relations Between Azerbaijan and the Council of Europe

The Council of Europe requires new member states to comply with its human rights standards within a reasonable period of joining. These include the decriminalisation of homosexuality. The Monitoring Committee of the Council of Europe Parliamentary Assembly (PACE) follows closely the progress of new member states, including Azerbaijan, in meeting these obligations. The Council of Europe has a small office in Baku.⁹ Recently the Azerbaijani Institute of Peace and Democracy released a report in which it accused the Azerbaijani government of fulfilling only four of the 21 commitments undertaken when Azerbaijan joined the Council of Europe.

1.2.3 Relations Between Azerbaijan and the EU

In July 2003, the dialogue between the EU and Azerbaijan was strengthened by the appointment of an EU Special Representative for the Southern Caucasus. Later, by a decision of the European Council on 14th June 2004, the countries of the Southern Caucasus were incorporated into the framework of the European Neighbourhood Policy (ENP). Under this policy Azerbaijan is invited to enter into closer political, economic and cultural relations with the EU, to enhance cooperation, and to share responsibility for conflict prevention and resolution in the surrounding region. Bilateral work is now continuing on drafting the ENP Action Plan for Azerbaijan, which will set out jointly defined priorities in selected areas for the next five years. Formal consultations on the Action Plan have been opened in Baku. Based on the Finnish Presidency Draft Work Programme for Council meetings it is possible that the Action Plan will be adopted before the end of 2006.¹⁰ The EU does not have an office in Azerbaijan.

1.3 Economic Situation

Azerbaijan's economy is in transition from a command structure to a competitive market. However the state continues to play a dominant role in the economy. It has important oil reserves and a significant agricultural potential based on a wide variety of climatic zones. During the late 1990s, in cooperation with the International Monetary Fund (IMF), Azerbaijan pursued a successful economic stabilization program, with annual growth often exceeding 10%. This is expected to rise even more with increased oil production made possible by the new Baku-Tbilisi-Ceyhan (BTC) pipeline. Inflation, which peaked at 13.7% in 2005, is a major risk and could accelerate in the context of further increases in state spending, high oil prices and an inflexible exchange rate. The national currency, the manat, is stable against the dollar, but was allowed to strengthen in 2005 by 5%.

The official unemployment rate stands at 1.2% (2005 est.)¹¹ but other sources estimate this to be between 15-20%¹². It was estimated in 2002 that about 49% of the population had incomes below the poverty line.¹³ The richest 10% of the population accounted for approximately 27.8% of household consumption and the poorest 10% for approximately 2.8%.

⁹ www.coe.az/contents.php?cid=101

¹⁰ www.minbuzanl.economi.com

¹¹ www.indexmundi.com/azerbaijan

¹² www.state.gov/r/pa/ei/bgn/2909.htm

¹³ www.nationsencyclopedia.com/Asia-and-Oceania/Azerbaijan-INCOME.html



Significant parts of the economy are in the hands of a corrupt elite, which severely limits equality of opportunity. Transparency International ranked Azerbaijan 137th out of 158 in the 2005 Transparency International Corruption Perceptions Index.¹⁴ The network of ties and allegiances, which have developed through corruption, is used by the political elite to bolster its position and maintain influence. Although Azerbaijani legislation allows for the formation of trade unions and the right to strike, the majority of trade unions remain closely affiliated with the government and most major industries are state-owned.

1.4 Human Rights Situation

Although Azerbaijan is a signatory to the main human rights treaties such as the ICCPR, ICESCR, CAT, CEDAW, CRC, CERD, the human rights standards set in these treaties are far from being met. The following human rights problems were reported by the US State Department for 2005¹⁵:

- torture and beating of persons in custody, leading to four deaths
- arbitrary arrest and detention, particularly of members of the political opposition
- harsh and life-threatening prison conditions
- police impunity
- lengthy pre-trial detention
- pervasive corruption in the judiciary
- periodic interference with media freedom and freedom of speech
- excessive use of force to disperse demonstrations
- trafficking in persons

Freedom of speech and of the press deserve a closer look. While Azerbaijan's Constitution guarantees these rights, journalists who publish articles critical of the President or other prominent state officials are routinely harassed and prosecuted¹⁶. For example on March 5, 2006 opposition journalist Fikret Huseynli, of the daily *Azadlig*, was kidnapped, tortured and left to die in Baku. Many other journalists have been threatened, beaten up and humiliated¹⁷. It therefore comes as no surprise that self-censorship among journalists is common in Azerbaijan.

Independent and opposition papers struggle financially in the face of low circulation, limited advertising revenues, and heavy fines or imprisonment of their staff. State-owned newspapers and broadcast media reflect pro government positions.

¹⁴ The 2005 CPI score is an indicator of perceptions of the degree of corruption as seen by business people and country analysts. For Azerbaijan it is 2.2 on a scale of 10 (highly clean) to 0 (highly corrupt).

¹⁵ Country Report on Human Rights Practices – 2005, Bureau of Democracy, Human Rights, and Labor of the U.S. Department of State, March 5, 2006.

¹⁶ Reporters without borders, Press release, 6 March 2006.

¹⁷ Another brutal attack happened on May 18, 2006 on Bahaddin Khaziyev, the Editor-in-Chief of the opposition Bizim Yol (Our Path) newspaper and the Deputy Chairman of the Popular Front Party of Azerbaijan. He was kidnapped and beaten severely before being left on the bank of a lake in a Baku suburb. Mr. Khaziyev was brought to a hospital by residents of the Masazir settlement. He suffered numerous leg fractures and severe bruising.

1.4.1 The Rights of Ethnic Minorities and Women

Some members of ethnic minority groups, including the small Armenian population, face discrimination in areas including education, employment, and housing. Hundreds of thousands of ethnic Azerbaijanis who fled the war in Nagorno-Karabakh have not been able to return to their homes and remain in Azerbaijan, often living in dreadful conditions. Although Azerbaijan has committed itself to introducing a law on national minorities, it has failed to do so.

The number of women taking part in social and political processes in Azerbaijan is quite low. There are no female ministers in the government, although there are two deputy ministers. However, some women are active outside of government, in particular in NGOs. Women occupy mainly low-prestige, low-paid work, such as sellers in markets, nurses and maids. Violence against women, forced prostitution, and generalised discrimination are all significant concerns. The position of women in rural areas of the country is particularly difficult given the insufficient availability of health and social protection.¹⁹

1.5 Civil Society in Azerbaijan

Rough estimates suggest that there are some 1,600 NGOs registered in Azerbaijan, though only a fraction of these are considered to be genuine, independent NGOs. Registration with the Ministry of Justice is required for a non-governmental organisation to function as a legal entity, but this process is complex and lacking in transparency. Amendments adopted in 2003 to NGO laws introduced complex requirements for the registration of grants²⁰, creating obstacles for NGOs. It thus comes as no surprise that there is friction between NGOs and the Ministry of Justice, with the latter criticising the “non-transparent activity” of NGOs. In comparison to the other South Caucasus republics (Armenia and Georgia), it is often argued that Azerbaijan has the lowest level of civil society development. Some respondents explain this as the result of the fact that young people are mostly attracted by foreign companies and are employed in the oil and gas industry, while Armenia and Georgia lack these opportunities. Others, however, rightly point to the long history of government harassment of NGOs.

There are approximately 60 human rights NGOs registered in Azerbaijan²¹. Some of these focus on general human rights work, others on women's rights, refugees and internally displaced persons (IDPs), trafficking, prisoners' rights, youth, human rights education and migrants. Those defending human rights in Azerbaijan are in a difficult situation, as recently pointed out by a report on the situation of human rights defenders.²² Defamation campaigns to discredit the work of human rights activists are a common feature. All publicly known human rights defenders the mission met experienced regular obstructions, threats, anonymous phone calls and visa problems, when going to conferences abroad. Some even reported that they had faced attempts to kill them in a car accident.

¹⁸ Manafli, R., “How is Women's Situation in Azerbaijan?”, Pravo Vybora.

¹⁹ Committee on the Elimination of Discrimination Against Women, Concluding Observations: Azerbaijan, 1998.

²⁰ According to the law “On Grants” NGOs are obliged to inform the Ministry of Justice about the grants they receive.

²¹ <http://humanrights-az.org/contents.php?cid=133> provides a good overview of all human rights NGOs in Azerbaijan.

²² Observatory for the protection of human rights defenders. FIDH/OMCT, Steadfast in Protest. Annual Report 2005, p. 357-358.







Chapter 2

Findings of the Mission: The Situation of Lesbian, Gay, Bisexual and Transgender People in Azerbaijan

2.1 Introduction

“One can see men holding hands in Azerbaijan but this cannot be interpreted as homosexuality. By the same token people of the same sex have sexual relations as long as it is in private and it is not discussed in public.”

Azerbaijani gay man trying to explain to a non-Azerbaijani how ‘homosexuality’ in his country ‘works’

Before describing the situation of LGBTs in Azerbaijan, it is important to consider the cultural and historical background of the country. An important premise of this study is that homosexuality, or rather same-sex (sexual) acts, is an aspect of sexual relations in all cultures although its manifestation and the way it is articulated may vary from culture to culture. Whereas in most Western European and Northern American countries homosexuality has become (part of) an identity-construct, in many Ottoman/ Muslim cultures (intimate) relations between people of the same sex are not considered as such due to strong cultural and religious traditions. Sexuality in general and homosexuality in particular, are not publicly and openly discussed and same-sex sexual relations are not labeled as homosexuality. Often one can hear it said that ‘homosexuality does not exist in Muslim cultures’.

However, there are a number of historical accounts, which shed a light on the relationship between men and young male adolescents²³, in particular in the context of the hamams, the Turkish bathhouses – traditionally an important social and cultural feature of Ottoman/ Muslim life. In early Muslim cultures hamams played an important role serving as places of social gathering: the masseurs were boys helping the men in washing their bodies. Their duties were not just to act as washers, but included having sexual relations with their clients.

Some Ottoman authors have published detailed accounts of these sexual practices²⁴. In medieval Muslim societies, "sexuality was defined according to the domination by or reception of the penis in the sex act. Moreover, one's position in the social hierarchy also localised her or him in a predetermined sexual role. Hence, boys, "being not yet men, could be penetrated without losing their potential manliness".²⁵ Sex between adult males and young men was not construed as "homosexual"; what was deemed problematic was homo-eroticism among adult males. Some historical evidence suggests that this was also the case in Azerbaijan. In a unique and rare publication "Caucasian Days", the French author of Azeri origin Um-el-Banin, who spent her childhood in Baku, depicts the climate among the Azeri nationalist intelligentsia at the beginning of the 20th century. There are a few pages dedicated to the relations between men and young adolescents:

"Pederasty of two kinds – active and passive – was flourishing in Baku among men predestined for the company of the representatives of their sex. The first form, usually respected, was something that all men did; at least before marriage and was considered as some form of social necessity. The second one on the contrary was not practiced by anybody except for the womanly boys in their aim to earn some money and was deeply despised. This person was called "getveryan"²⁶ and people offended him in this way. Nobody found objections to this fact that a most respected sir could belong to the "fellowship of ushagbaz".²⁷

Despite the fact that this text was published in 1946, it is striking to observe how the 'active-passive' dichotomy has prevailed over time. During the mission being gay was often divided into 'passive gays' and 'active gays'.

Another interesting aspect of the Azerbaijani Ottoman legacy was a cultural practice, existing at the beginning of the 1900's, in which the bacchá²⁸, an adolescent or adolescent-seeming male entertainer, performed erotic songs and suggestive dancing²⁹. He wore resplendent attire and makeup, which we nowadays would understand as cross-dressing or transgender expression. The appearance of transvestites in some clubs in Baku nowadays is thus not as "western" as some may argue. The bacchá was appreciated for his androgynous beauty and was available as a sex worker. The bacchás were trained from childhood and carried on their trade until their beard began to grow. Once they matured out of the trade, some were set up in business as merchants by their patrons. More often, the boys were left to their own, often meager, resources.

Despite the fact that Azerbaijan has been exposed to other cultural and political systems in its history, in particular when it became part of the Soviet Union, much of the Ottoman legacy is still present.

²³ Information on relationships between women and girls is even scarcer. This lack of documentation and discourse can be considered a result of the taboo on women's sexuality.

²⁴ For example Bouhdiba (1985) who wrote: "The hammam [...] is a highly eroticized place - so much so indeed that the name has come to signify for the masses the sexual act itself [...] "going to the hammam" quite simply means "making love" [...]. Every Muslim can relive his childhood in terms of his experience of the hammam [...] notoriously a place of homosexuality, male and female [...]."

²⁵ Pierce, 1997, p. 175.

²⁶ The word "getveryan" means word for word "offering his back part". The word "ushagbaz" means "somebody who loves kids".

²⁷ Banin, "Kavkazskiye Dni" (Caucasian Days), 1946, p. 9, 35-36.

²⁸ The word "bacchá" is a Turkic Uzbeki term etymologically derived from the Persian bacheh, - "child" or "kid".

²⁹ <http://search.psychcentral.com/psych/Baccha>



2.2 The Community of LGBT People in Azerbaijan

The terms 'LGBT community' or 'LGBT movement' are only partly useful and appropriate concepts in Azerbaijan as they depart from an 'identity' perspective and presuppose a more or less organised group of people who (decide to) meet, organise and put forward political demands on the basis of being gay, lesbian, transgender or bisexual. A movement understood as such is practically non-existent in Azerbaijan.

Most lesbian, gay, bisexual and transsexual people in Azerbaijan are invisible to the public. The community can best be described as a loose collection of communities, often groups of friends and acquaintances, sometimes around an informal leader, sometimes connected to some leaders of human rights NGOs. Many LGBT people live in (or moved to) the capital Baku because life is more anonymous there and thus it is easier to live one's life without the attention and obligations of family and village elders. Apart from Baku, the mission was informed that there are small 'gay' communities consisting of 10 to 20 people in other cities (like Gandja) often also created around an informal leader. Information is even scarcer as regards rural regions. As regards Nagorno-Karabakh, Mr. Albert Voskanian of the Centre for Civilian Initiatives responded in an e-mail that "we officially do not have similar communities and organisations and taking into account the mentality and traditions of Karabakh people, the given category of persons is trying to conceal their orientation, which creates serious difficulties in the research of the given issue."

However, there are some bars in Baku where LGBT community members meet. In the bar "P" an (openly) lesbian bartender arranged an informal meeting for the mission with other (mainly) lesbian and bisexual women (see 'Lesbian and bisexual women' below). LGBT people also meet with each other at home where it is safe to speak and to 'be'. The mission was invited twice to a gay couple's place where they were introduced to their gay friends. In the flat of these friends the mission observed many 'gay symbols', books, photos and other paraphernalia of the gay community, like the rainbow flag. It seems that there are some same-sex couples living together in Baku without noticeable problems.

In addition to bars and (informal) groups of friends and acquaintances, the Internet is an important place for 'virtual' meetings. There are two sites where one can find small 'profiles' of LGBT people. On one of those sites there are 300 profiles of Azerbaijani gay or bisexual men; on another one there are about 80³⁰. Many 'profiles' do not include a recognisable face, but some do. During the mission some people said that they never give their real name on the Internet for fear of being discovered or identified by the police.

³⁰ Date of accessing the website: January 16, 2006.

2.3 Psychological Aspects

The general public in Azerbaijan does not understand what homosexuality is: people are ill-informed as to what it is or means. This was shown, for example, in the linguistic confusion during the mission over defining 'a homosexual'. Factors contributing to this lack of understanding include the paucity of research in Azerbaijan into the psychological aspects of homosexuality and the limited possibilities for publishing information about homosexuality.

Some of our interlocutors stated that the majority of psychologists and psychiatrists in Azerbaijan are not informed of the fact that the American Psychiatric Association (APA) removed homosexuality from the Diagnostic and Statistical Manual of Mental Disorders in 1980 and that from January 1, 1993, the World Health Organization (WHO) removed homosexuality from its list of diseases.

In one of the few, if not only, articles on this topic in the Azerbaijani language, Geraybeyli³¹, a senior lecturer at the Medical Faculty of the University of Azerbaijan provides some interesting viewpoints. The article describes the results of his research³² and focuses on the question of how to deal with homosexuality. The author argues that the legalisation of homosexuality has not solved the problem of homophobia and the many 'hurt lives, arbitrariness, reprisals in court, sexual violence in jails, camps and army (...) and the tragic loneliness of people with untraditional sexual appetite'. Whereas the author does not think that it is right "to consider homosexuality as an absolute norm of sexual behaviour" (because "not all societies are ready for this understanding"), he thinks that it should be regarded as a "permissible" and "acceptable sexual deviation".

In a meeting, a respected and well known psychiatrist in Azerbaijan³³, Mr. Sultanov, compared homosexuality with left-handedness: "Some people are left-handed, others are right-handed" and that is the advice he has given to a number of parents who have sent their child to him. He continues: "the human being is free to use his/ her own gender and sexuality with the exception of a) rape and violence or b) sex with minors or c) if the victim is mentally/ physically ill or d) when the person abuses his position." Mr. Sultanov is well aware of the problems LGBT people face and he plays an important role in educating Azerbaijani society on what homosexuality is. He also notes that it is very difficult in Azerbaijan to engage professionally in a scientific discourse on this topic.

The immediate result of the lack of psychological knowledge on homosexuality is that people in Azerbaijan (including LGBT people!) remain uninformed and that stereotypes prevail. Apart from Mr. Sultanov's clients, it seems clear that few LGBT people have access to the counselling services they need. This can lead, as some

³² Unfortunately, the article fails to provide details on the aims of the research, the number of people researched, the methodology used etcetera. The scientific literature referred to in Geraybeyli's article does not reflect the wide range of scientific approaches to homosexuality.

³³ During the mission a considerable number of people referred to this psychiatrist. Some knew him from the media, others (LGBT people) had been sent to him by their parents.



human rights NGO representatives observed, to psychological problems: depression, suicidal behaviour and exclusion from social life. One NGO representative even suggested that 'The attitudes in society lead gays to develop characteristics that change patterns in their behaviour: they become less decent, informers³⁴, because they are trying to prove their necessity and existence in society.'

2.4 Coming Out

"Coming out" as a gay, lesbian, bisexual or transgender person is very rare in Azerbaijan. Most persons live double lives and they do not usually disclose their sexual orientation to their family. "I will be exiled if they find out," said one of the interviewees. There are cases known where family (especially brothers and fathers) beat up their children or siblings when they find out they are gay, others where they are sent to a mental clinic. Of the 22 respondents to our questionnaire only 3 had told their father, 4 had told siblings, and 5 had told their mother about their sexual orientation. Many gay men change phone numbers often or have two sim cards ("one for my gay friends, one for others"). Others have a second flat where they meet with their partners, lovers or sex contacts.

People are afraid to be known as 'gay' – for example, J. who said "I consider migrating to Canada to have a normal life... not to live a life where you are scared that somebody can see you". Some people feel deeply ashamed about being gay. One of them expressed it in the following way "It is my shame but what can I do?" This shame is fuelled by feelings of guilt, particularly in the case of LGBT people who are religious. As one respondent phrased it: "Although I live with my boyfriend I always pray to God for forgiveness for this sin".

Coming out could to some extent be encouraged by the example of a few artists who are said to be openly gay. Most, if not all, respondents during the mission referred to two in particular: A. is a much esteemed artist who is accepted as he is according to some respondents. 'We never disturb him; we don't ask him about his private life'. The situation with the other artist, X., is more difficult as he was forced to marry because of a long lasting smear campaign in the media to the effect that he was gay. At the height of this campaign a fabricated porn movie 'starring' X. was being distributed by videotapes and on the Internet.

2.5 Lesbian and Bisexual Women

The mission met with some lesbian and bisexual women during a meeting at "Club P"³⁵. Apart from one informal leader, I., all live with their families or relatives. None of the women had told their families about their sexual orientation. "If my family found out they would kill me or bury me alive". The main issue lesbian and bisexual women have to deal with is the social pressure to marry. After the age of 25 most parents, worried by the views of neighbours and the

³⁴ The term 'informers' is used to describe LGBT people who are engaged by the authorities to blackmail opposition members in exchange for money and 'protection' not to be 'outed' to family and friends.

³⁵ This paragraph is mainly based on a focus group meeting in Club P. About 10 lesbian and bisexual women attended. Most of the women identified as lesbian, 2 as bisexual. All participants were younger than 30 years of age. The translator observed that all of them spoke Russian amongst each other.

community, put a great deal of pressure on girls to marry. This can be the source of considerable tension in the family. Often the woman ends the pressure by getting married. Women who do not conform to stereotypes of femininity, like those with a butch/ tomboy appearance, have more difficulties than 'straight looking' girls.

Profile of a lesbian: I.

Just when the mission desperately started to conclude that lesbian women were simply impossible to 'find', I. walked into the bar with a person who later turned out to be her girlfriend. I. wore a big sweater and jeans. One could define her as 'butch/dyke looking', not very traditional feminine. I. is 25 years old and works as a bartender in a down town bar. I. finished her accounting degree last year. She had had other girlfriends before. She finds it easy to date other women and has no problems 'finding' them. I's mother knows that she is a lesbian. She took her to the famous psychiatrist Mr. Sultanov for help but he told her that, just as some people are left-handed and some right-handed, so it was with I's sexual orientation, and that nothing was wrong with I. Now that her mother knows, her parents push her twice as hard to get married but I. tries to ignore them and lead her own life....

2.6 The 'Gays on Tbilisi Avenue'

In Baku the most visible sub-community is the transsexual/transgender community that meets in bars and whose members are sex workers on the streets in Baku. One of the most discussed topics during the mission was 'the gays on Tbilisi Avenue, selling their body'. The mission met with some of the members of this group. They pointed out from the beginning that they don't feel comfortable with the body they have: their gender identity does not match their biological sex. The mission met with Hamlet, Lisa, Christina, Yden, Zadr and Tama in suburban Baku where they live together in a small flat. Most of them are between 20-30 years old, biologically male and describe themselves as "gay". They all expressed the wish to become a woman (or 'girl' as some of them put it). Our respondents all spoke very openly about their lives and problems. Most of them expressed the desire to go abroad to have a sex change operation, for example in Turkey. They stated that there is no medical expertise in Azerbaijan to conduct sex change operations and/ or related surgery. As members of this group do not hide their gender identity (most wore dresses and make up), they all have problems in being accepted in society and particularly in finding a job. Most of them therefore go out on the street - to the Tbilisi Avenue, 'to sell their body' (in their own words). As one of them stated: "You can't get a job here because we are petuh (cock). Society has a negative approach to us, the police are very aggressive to us, harass us. The police beat us up. The police chief harasses us, physically and verbally." In North American/ Western terminology one would describe this group as transgendered sex workers. This group is one of the most vulnerable in Azerbaijani society. Their problems touch upon (at least) two issues: the possibility to change sex in Azerbaijan and the legal issues related to sex work (prostitution).

2.6.1 Sex Reassignment Surgery

From a legal point of view, there are no provisions in Azerbaijan regulating or prohibiting a physical change of sex. Provisions setting the conditions for renewal of official documents, particularly identification cards and



passports, which identify the sex of the holder, allow for changes of name, address, marital status, correction of inaccurate information and misrepresentation of records, etcetera.³⁶ But they don't allow for the record of a person's sex to be changed and it remains unclear how the state authorities would act in such a situation. The fact, however, that the European Court of Human Rights has ruled in favour of transgendered people wishing to change 'sex' in their personal documents³⁷ may mean that Azerbaijan would follow that precedent. The mission learnt about cases where transgender people underwent surgery abroad, such as implantation of breasts and facial plastic surgery, and on returning to Azerbaijan were allowed to enter the country as a woman, despite still being identified in their documents as a man, provided they paid a bribe.

2.6.2 Prostitution/ Sex Work

Prostitution is a taboo but not uncommon phenomenon in Azerbaijan and it has never been penalised as such in the Penal Code. However, both the old and new Penal Codes lay down penalties for the organisation of brothels.³⁸ Despite the fact that prostitution, including street prostitution³⁹, is not illegal, the situation of sex workers is not easy. The 'Tbilisi Avenue' sex workers face police harassment on a regular basis. The mission saw the injuries of two transsexual sex workers, Toma and Christina, who had wounded themselves in order to defend themselves in the face of threats from the police. The events took place in the summer of 2005:

The Police stopped our car and started to beat us up. I took a knife, stood up in the middle of the road and threatened to commit suicide. Then I cut myself. The ambulance arrived and they took me to the hospital where they refused to treat me. My friends were detained for 15 days. I went to the Council of Europe office to complain about our treatment. They gave me some prints from the Internet from ILGA-Europe.

The Tbilisi Avenue sex workers earn between 10-25 Euros per night. High-ranking (government) officials are also part of the clientele: they are said to frequent the Tbilisi Avenue after 10 PM. The police often take money in exchange for "protection" of the sex workers. Mr Zeylanov from the Azerbaijan Human Rights Group: "The police force them to pay bribes. As prostitution as such is not illegal, the police can't act against the 'gays on Tbilisi Avenue'. But there are some tricks to put pressure on them, like the continuous checking of identity papers during patrol and the use of false allegations of involvement in murder (on the basis of which the police may detain a citizen from 3 hours to 2 days in the police station). In order to avoid problems, a pimp collects the protection money or "taxes" from the prostitutes and bribes the police. This is the best guarantee for sex workers to be left alone."

³⁶ Law on Departure from, Entry into the Country and Passports, Article 10.1; Law on Identification Card of the Citizen of the Republic of Azerbaijan, Article 4.2.

³⁷ Goodwin v. UK, 2002.

³⁸ Article 229 of the Old Penal Code provided for penal sanctions for "maintenance of dens of debauchery, as well as procuration for debauchery or recruiting of women for such purpose". The new Penal Code Article 244.1 provides for penal sanctions for "organisation and maintenance of dens for prostitution or accommodation for such purpose".

³⁹ Street prostitution in Baku takes place near the Hyatt Regency hotel, the Grand Hotel Europe, the park at the Bulbul Avenue and the square close to the Russian Embassy.

'I found an animal in the forest: come to see it': The case of Christina

Christina is a 21-year-old who was born as a boy but feels more like a woman. Her father subjected her to serious abuse.

"It was 4 to 5 years ago – I was in the second year of the lyceum and I was provoked by a fellow class mate who told me about 'life on the street'... I was feeling like this (gay) but I did not know about 'the street'. So I went on the streets to discover it. My father found out because my friends (one of them was Lisa) played a bad joke on me: they told me to dress up like a woman and said that they had a surprise for me. They brought me to my father. He got very angry and tied me with chains in the cellar and I spent 8 months like this. I was beaten up every day, sometimes with a rubber pipe. I did not have contact with anyone. He attempted to cut my ear off. When I had to go to the toilet he put a rope round my neck and controlled me from a distance. He did the same when I took a shower. During that time my mother and my elder sister were not in Azerbaijan so I was only with my younger sister and my father. My younger sister, secretly, brought me food sometimes. Sometimes my father would cut my hair randomly. I looked awful. My body was covered in bruises from the beating. Some traces are still on my body. For example I have a scar on my knee, where he hit me.

After 8 months he forced me to marry someone, not legally but more as a religious ceremony. During that 'marriage' my child was born, a girl, and my father forced me to divorce. He kept on saying that 'the child is not from you'. Even though I was married to a woman, I did not feel like being married. I was under pressure from my father. I got divorced and my father kept me in the house, did not let me out to be in contact with people. Once my patience ran out and I attempted to commit suicide. I drank a lot of medicines...

One day during the night, the emergency services came to our house, because I had been beaten heavily with a rubber pipe on my head. I fell unconscious because my father hit me on the head. The police came as well. They took me to a clinic. The local police officer said I was insane and that I should be sent to a mental clinic. The police officer actually found out about me because my father made an announcement to all the neighbours (while I was locked up) that "I found an animal in the forest and you can come to see it". The neighbours came to the cellar and looked at me and were very angry with my father.

When I woke up in the hospital I felt I was going crazy. I started to fight with my father. "It is enough; I am not going to tolerate this anymore". The doctor, who examined me, saw that it was about being gay. There was one male nurse in the hospital, who was gay, and he understood my situation and he did not put me in the room with the mentally ill patients. He arranged a separate bed for me in a corridor. I could not sleep till morning because I was in pain. Painkillers did not help. In the morning my mother came to the hospital. She talked to the doctor. 'I don't want my kid to stay here because it is a dirty place'. The doctor was trying to keep me there. But my mother paid the doctor and they let me go. "I came home and my elder sister took me to the beach to rest a bit. After that rest I came home but I still felt pain in my head. I was crying and screaming. Nobody took it seriously. After three days we realised that I had a 'brain shake' and the left side of my head was paralysed. My left eye would not close and I could not walk. My mother took me to the doctor again. I got better in the end although I suffered a lot but still my eye and mouth hurt when I smile⁴⁰.

⁴⁰ The interviewer noticed a scar in her face and a 'tic' at her face every few minutes



time my father accepted this. My father got afraid of me because I was strong. I do what I want. I am still living in my family's house and I go out every night in women's dress, from my house. My father still harasses me verbally but I don't care. There is no physical violence anymore. I scare him now. I do the opposite to my father's desires and wishes. I go out on the streets because he told me not to. I never finished the lyceum because my father did not allow me to continue my studies."

2.7 The Legal Position of LGBT People in Azerbaijan

2.7.1. Penal Code

The former Penal Code, which was adopted in 1960 and abolished in 2000, penalised consensual same sex acts between men. Article 113 provided that sexual intercourse between men could be punished by imprisonment for up to three years⁴¹. The current Penal Code, which came into force in January 2001 (after adoption in September 2000), decriminalised consensual same-sex acts between men. Some sources during the mission stated that there were no significant discussions or debates in the parliament when decriminalisation was discussed: the President "just ordered" the parliament to approve decriminalisation, since that was a pre-condition for membership of the Council of Europe. It should be noted that consensual same-sex acts between women are not and have never been penalised.

	Old Penal Code (1960-2000)	New Penal Code (2000 -)
Consensual same sex acts between men	Deprivation of liberty for a term of up to 3 years for consensual sodomy	Not applicable (depenalised)
Consensual same sex acts between women	Not applicable	Not applicable

An enquiry regarding the application of Article 113 has been submitted to the Ministry of Justice of Azerbaijan but as yet no official response has been received. Interviews during the mission did not provide any information on persons convicted under Article 113 in the period prior to 2000. This is an indication that Article 113 may not have been applied on a wide scale though more research is needed to come to final conclusions.

⁴¹ Former Penal Code, Article 113.

2.7.2 Age of Consent and Relations with Minors

The current Penal Code prohibits sexual intercourse or other acts of a sexual nature⁴² by a person of 16 or older with a person manifestly less than 16 years old.⁴³ The age of consent is 16 for hetero- and homosexual acts. Sanctions do not differentiate between same-sex and different-sex intercourse. Should the above acts be accompanied by the use of force, Penal Code articles on rape and violent acts of a sexual nature apply (see next paragraph). The Penal Code also prohibits “immoral acts” against a person manifestly of less than 14 years of age committed without the use of force.⁴⁴ Such acts can take either a physical or non-physical form, including the display of pornographic films or pictures, having sexual intercourse in the presence of a minor, etcetera.⁴⁵

2.7.3 Rape and Sexual Harassment Legislation

The Penal Code of Azerbaijan differentiates between *rape* and *violent acts of a sexual nature*. Vaginal intercourse is a prerequisite for rape, so this offence applies only where the victim is female⁴⁶. The offence of “violent acts of a sexual nature” includes all other violent acts directed to the satisfaction of sexual desire in an immoral form⁴⁷, including violent anal or oral sex⁴⁸, and violent lesbianism⁴⁹. The victim of this offence can be either male or female.⁵⁰ It should be noted that violent sodomy is penalised slightly less severely than rape. While someone convicted of violent sodomy may be imprisoned for a term of 3 to 5 years, rape is penalised by imprisonment of 4 to 8 years. The legislation fails to provide any explanation for this difference.⁵¹ The following table provides an overview of non-consensual (same and different) sex acts, rape and violent acts of sexual nature.

	Rape	Violent acts of sexual nature
Different sex acts		
Male victim	Not applicable.	3 to 5 years’ deprivation of liberty.
Female victim	4 to 8 years’ deprivation of liberty.	3 to 5 years’ deprivation of liberty.
Same sex acts		
Between men	Not applicable.	3 to 5 years’ deprivation of liberty.
Between women	Not applicable.	3 to 5 years deprivation of liberty.

It should be noted that 12 out of 22 respondents to our questionnaire experienced harassment/violence.

⁴² The Code includes the phrase “other acts of a sexual nature” which covers sodomy and lesbianism

⁴³ ‘Manifestly’ implies that the fact that the victim is less than 16 years of age is clear to the offender. Penal Code, Article 152.

⁴⁴ Penal Code, Article 153.

⁴⁵ Samandarov, F., Commentary to the Penal Code of the Republic of Azerbaijan, p. 366.

⁴⁶ Rape is defined in the Penal Code as “sexual intercourse with a victim accompanied by use or threat of use of force against the victim or other persons, or use of the helpless state of the victim”. Penal Code, Article 149.1. Violent acts of a sexual nature is defined as “sodomy or other violent acts of a sexual nature accompanied by the use or threat of the use of force against the victim or other persons, or use of the helpless state of the victim”. Penal Code, Article 150.

⁴⁷ This sentence is taken from the section of the Commentary on the law dealing with “a violent act of a sexual nature”; there is no definition of “satisfaction of sexual passion in an immoral form” either in the law or the Commentary.

⁴⁸ Ibid, p. 355.

⁴⁹ Samandarov, F., Commentary to the Penal Code of the Republic of Azerbaijan, p. 362. This sentence is taken from the Commentary, which uses in this particular place ‘lesbianism’, and then defines ‘lesbianism’ as a violent act. The legal expert inserted ‘violent’, to deliver the author’s meaning

⁵⁰ Samandarov, F., Commentary to the Penal Code of the Republic of Azerbaijan, p. 362.

⁵¹ It is worth noting that the former Penal Code provided for relatively equal sanctions for rape (deprivation of liberty for a term of 3 to 7 years) and violent sodomy (deprivation of liberty for a term of 3 to 8 years). Former Penal Code, Articles 109 and 113.



2.7.4 Discrimination on the Basis of Sexual Orientation and Gender Identity

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 organisations”. Corresponding provisions are embodied in various fields of legislation, including civil, criminal, criminal procedure, labour and family law.

Azerbaijani legislation does not directly touch on the issue of non-discrimination on the basis of sexual orientation and gender identity, although the mission’s legal advisor pointed out that, indirectly, it is provided for since the right to equality is guaranteed to *everyone*. In practice, however, as is evident from the different examples and case studies in this report, discrimination *does* take place. The US State Department concludes in this respect that “the government did not officially condone discrimination based on sexual orientation; however, there was societal prejudice against homosexuals”⁵² In the field of employment discrimination, the mission was informed about a case of two lesbians who, in 2005, were reported to have been fired from their jobs in an insurance company with the justification by the employer that “we did the right thing because we can’t tolerate this in our society”. There have been other cases of dismissal of LGBT people although sexual orientation is not usually the reason given and thus the discriminatory attitude of the employer is hard to prove. That is why LGBTs are more likely to keep their sexual orientation hidden. As one of the mission’s respondents stated: “It is for many difficult to find a job and if your employer finds out that you are gay, you can lose the job even more easily”.

2.7.5 Private and Family Life Right to Private Life

The right to private and family life is guaranteed by the Constitution and further elaborated in several acts, including the Criminal and Criminal Procedure Codes. Interference in private life is prohibited, except in instances provided by law, in particular to prevent commission of a crime or to reveal the truth during the investigation of a criminal case⁵³. The State guarantees privacy of information transmitted by correspondence, telephone communications, mail, telegraph and other means of communication. The Criminal Procedure Code prohibits the unnecessary collection, dissemination and use of information concerning the private life of any person in the course of legal proceedings.⁵⁴

Despite constitutional protection, the mission noted statements of respondents about the authorities often conducting searches of private premises without warrants. It is widely believed the Ministry of National

⁵² US Department of State, Country Report on Human Rights Practices – 2005, section 5.

⁵³ Constitution, Article 32.II.

⁵⁴ Penal Procedure Code, Article 199.2.

Security and the Ministry of Internal Affairs monitor telephone and Internet communications, particularly those of foreigners and prominent political figures as well as family members of suspected criminals. Same-sex couples living together in a flat, especially male couples, are reported to be harassed by local police in order to obtain money.

Same-Sex Partnerships/ Civil Marriage Accessible for Same-Sex Couples

The Constitution provides that everyone shall have a right to marry upon reaching the age specified by law: 18 years for men and 17 years for women⁵⁵. Although this article is not gender-specific, the Family Code of Azerbaijan specifically provides that marriage is a voluntary union between a man and a woman for the purpose of establishing a family⁵⁶, contracted under the procedures of, and registered with, the appropriate body of the executive authority⁵⁷. Azerbaijani legislation also does not recognise any kind of registered same-sex partnership/cohabitation or unregistered cohabitation and it is probable that the authorities would not recognise a same-sex marriage or partnership contracted abroad.⁵⁸ However, there has been at least one occasion, reported in an article in the newspaper EHO in 2005, when a gay couple *tried* to register their marriage officially. This was refused by the registration office and the article mentions that the two persons planned to go the European Court of Human Rights.⁵⁹ The same article also quoted a deputy of the Azerbaijan Parliament, Mr. Ramiz Akhmedov, as stating: “No matter what decision is made by the ECHR, the Azerbaijani public and Azerbaijani justice will not accept it”.

2.7.6 Inheritance Rights

Azerbaijani inheritance law does not recognise common law marriage (i.e. marriage not registered with the appropriate body) for the purposes of division of the deceased’s property.⁶⁰ Accordingly neither a same-sex partner nor a common-law wife or husband of opposite sex would be considered heir-at-law. However, anyone can bequeath his or her property to any person, including a same-sex partner.⁶¹

2.7.7 Adoption

Pursuant to the Family Code, persons who are not married cannot adopt a child jointly.⁶² Since the Code specifies that marriage is a union between man and woman, lesbian or gay couples would not be allowed to

⁵⁵ Constitution, Article 34.I. Please note that the Family Code, Article 10, states that the legal age for marriage may be decreased by one year for both male and female persons if there is a ‘reasonable excuse’.

⁵⁶ Family Code, Article 2.3.

⁵⁷ Family Code, Article 1.4.

⁵⁸ Article 148 of the Family Code provides for recognition by the Republic of Azerbaijan of marriages, whether between the citizens of Azerbaijan, foreigners, or citizens of Azerbaijan and foreigners, contracted outside of Azerbaijan. However, Article 157 provides that the legal norms of foreign states, which contradict the Azerbaijani legal order, shall not apply in Azerbaijan, and in such cases Azerbaijani legislation shall apply.

⁵⁹ Aliev, N, Faikgyzy, L., “Azerbaijani gays want to try to marry”, Eho February 2, 2005. Despite efforts to verify this newspaper article, no further confirmation of this case could be obtained.

⁶⁰ Civil Code, Article 1159.

⁶¹ Civil Code, Article 1166.

⁶² Family Code, Article 120.3.



adopt children. Adoption applications are considered by the courts with advice from the government agency responsible for adoptions.⁶³ Although there is no formal barrier to adoption of children by individual lesbians or gays, the agency would probably advise that adoption of a child by a lesbian or gay was not in the best interests of the child. In practice heterosexual unmarried persons are usually also denied the right to adopt.

2.7.8 Housing

For the purposes of the Housing Code only, persons living and keeping house together with the tenant or a homeowner *may* be considered members of the family.⁶⁴ This Article has existed since Soviet times when consenting sodomy was a crime. Therefore, although not gender-specific, it would appear to be addressed to common-law marriages between a man and a woman only. However if same-sex partners were considered as part of a tenant's family, they would have the right to take over the tenancy of the property, provided that it was public housing, that they had lived in it together, and that the tenancy agreement was in the deceased partner's name.⁶⁵ If the property were in private ownership, the owner would be obliged to conclude a tenancy agreement for the rest of the term of the original agreement with the surviving partner.⁶⁶ Homeowners have a right to allow any person to move into their property.⁶⁷ In the case of a tenancy agreement with a private homeowner, however, the property owner's consent is required⁶⁸. Apartments in public housing are allocated to families as a rule, so it would be relatively rare for a same-sex partner to be a tenant in such housing and therefore in a position to move in his/ her partner.⁶⁹

2.7.9 Immigration, Asylum and Freedom of Movement

Asylum issues are regulated in Azerbaijan mainly by the Law on the Status of Refugees and Internally Displaced Persons and the presidential Decree on the Order of Consideration of Application for Refugee Status. Azerbaijan is a signatory to the UN Convention relating to the Status of Refugees of 1951. Pursuant to the Law, refugee status may be granted, *inter alia*, on the basis of a person's belonging to a "certain social group", if such affiliation causes justified fear of persecution in the country of which (s)he is a national.⁷⁰ Although no further clarification of the term "social group" is provided in the law, it can be argued that, in line with the practice in many West European countries, individuals who apply for asylum based on persecution on the ground of sexual orientation should fall within the scope of this provision.

There is no evidence that anyone has ever been granted asylum in Azerbaijan due to persecution on the basis of sexual orientation. However, given the general stigma attached to homosexuality in Azerbaijan it seems highly unlikely. By contrast correspondence between, among others, Dutch asylum support agencies and Azerbaijani human rights activists, suggests there have been cases of Azerbaijani persons who have been

⁶³ Ibid, Article 118.1.

⁶⁴ Housing Code, Articles 53.3, 123.1.

⁶⁵ Ibid, Article 85.

⁶⁶ Ibid, Article 127.

⁶⁷ Ibid, Article 118.1.

⁶⁸ Ibid, Article 126.

⁶⁹ Ibid, Article 28.1.

⁷⁰ Law on the Status of Refugees and Internally Displaced Persons, Article 1.

granted asylum abroad on the basis of sexual orientation. The mission also learnt of a case of a young gay Azerbaijani who fled to Czech Republic and was granted asylum on the basis of sexual orientation.

2.7.10 Right to Information, Freedom of Opinion and Expression

Right to Information

Freedom of information is guaranteed by the Constitution of Azerbaijan, which provides that “everyone shall have the freedom to search for, obtain, transmit, prepare and disseminate any information by legal means”.⁷¹ Such freedom is not absolute since its exercise should not violate the rights and interests of individuals and legal entities.⁷² Access to information concerning state, professional (attorney, notary, medical), official, bank, commercial, investigation and judicial secrets, the private and family life of persons, and acts of terrorism are limited.⁷³ There are no legal provisions explicitly discriminating against LGBT people in respect of freedom of information. This would imply that a gay magazine would be acceptable from a freedom of information perspective.

Freedom of Opinion and Expression

In accordance with the Constitution of Azerbaijan, everyone shall have the right to freedom of opinion and expression.⁷⁴ State censorship of the mass media, including the press, is prohibited.⁷⁵ However exercise of this freedom may be limited to prevent agitation and propaganda promoting racial, national, religious and social antagonism and hostility.⁷⁶ Unlike in many countries ‘moral value’ or ‘morality’ is not mentioned as a limitation or condition on the freedom of opinion and expression. There are no legal provisions which could justify restricting the freedom of opinion and expression of LGBT people.

2.7.11 Hate Crime, Hate Motivated Incidents and Hate Speech

Although there are no such concepts as hate crime and hate speech in the criminal law of Azerbaijan, the Criminal Code provides for penal sanctions for the persecution (e.g. harassment or victimisation) of groups or organisations on political, racial, national, ethnic, cultural, religious, or sex grounds or others prohibited by international legal norms.⁷⁷ Such persecution needs to be accompanied by at least one so-called “crime against humanity” (e.g. torture, deprivation of liberty against international norms, etc.) in order to qualify as persecution and to be penalised accordingly. A ‘mere’ violent hate incident, hate crime or hate speech is not sufficient.

⁷¹ Constitution, Article 50.I.

⁷² Law on Freedom of Information, Article 2.2.

⁷³ Law on Freedom of Information, Article 10.1.

⁷⁴ Constitution, Article 47.I.

⁷⁵ Constitution, Article 50.II.

⁷⁶ Constitution, Article 47.III.

⁷⁷ Criminal Code, Article 109.



2.8 Political Discourse

Generally homosexuality is not the subject of heated political discussions in Azerbaijan. This was most obviously shown when same-sex acts were decriminalised in Azerbaijan in 2000. There were no significant discussions or debates in the parliament. The process was made easy by authoritarian decision making: since decriminalisation was a pre-condition for membership of the Council of Europe the President simply instructed the parliament to approve it.

However, during the 2005 election campaign homosexuality was politicised when the main opposition leader, Mr. Ali Kerimli, was accused by the governing party and subsequently in the media generally of having 'unconventional sexual preferences'.⁷⁸ Many articles were published on this issue and because of the strong and continuous stream of media reports, people came to believe it. Rather than working on his election campaign, Kerimli spent time trying to prove that he was not gay. One particular incident quoted in this respect involved a group of transsexuals who waved and cheered for him at his arrival at an election meeting. This incident appears to have been set up by the authorities to discredit Kerimli.

Some politicians and commentators in Azerbaijan opposed to European values have sought political advantage by equating homosexuality with being European, and portraying Europe as a place where "men have sex with and marry men". Even a prominent poet, Mr. Bahtiyar Vahabzade, is reported to have stated during a programme on ANS channel "we don't need such European values". Still, as pointed out, these incidents are exceptions to the rule: homosexuality is not generally part of public political debate.

2.9 Media

Media plays a crucial role in shaping societal attitudes. Media can transmit correct information about homosexuality, but it can also be used for transmitting stereotypes about LGBT people. In Azerbaijan, a mix of these elements can be observed, though the main observation is that there is hardly any information in the media at all. A *Media Diversity Institute* project researching press coverage of minority groups in the South Caucasus concluded in 2005 that "there is a lack of coverage of sexual minorities across the South Caucasus as a whole".⁷⁹ Nevertheless, some newspapers such as "Vedomosti", "Zerkalo", "Eho", "Yejednevnyye Novosti" have paid attention to this issue in recent years. In order to understand the media discourse on homosexuality, some articles, most of them published in 2005, are briefly analysed below.

"**Zerkalo**"⁸⁰ deals with the "transvestites working on the Tbilisi Avenue". The article comments that "the majority of the transvestites "working" at night on the streets are not homosexuals in the medical sense of the

⁷⁸ Parool, November 5, 2005, "Actie a la Oekraïne dreigt in Bakoe" and Gazeta Wyborcza, 25-07-2005 "Dajcie mi swoje zony, a ja wam udowodnie".

⁷⁹ Media Diversity Institute, "Press coverage of minority groups in the South Caucasus, 2004-05", p. 9.

word. To some degree, they are ordinary men solving in this original way their personal financial problems.” This article sheds some light on the general ignorance and lack of awareness of LGBT issues in Azerbaijan.

In **“Eho”**⁸¹ the topic of ‘official marriages between Azerbaijani gays’ is discussed. The article refers to a case of a gay couple living together in Baku who wish to have their relationship recognised by official registration. The article then quotes a lawyer who expresses the view that the legal system of Azerbaijan defines “a marriage as a union between man and woman”. He further points out that registry offices will simply not be able to satisfy the request of same-sex couples. That would not stop the gay couple who say that, “despite the legal difficulties we will reach our goal anyway! It will simply take a longer period of time. We are even ready to appeal to the law courts. We are human beings and have our own rights for which we are going to fight!” The article shows that the journalist has done comparative research in European countries referring to rulings of the ECHR and Council of Europe resolutions.

In the article **“If you are sick, see a doctor”**, published in *Yejednevnyye Novosti* in 2002, the topic is of a more psychological nature. The journalist in fact tries to describe non-traditional sexual orientations and ‘deviations’, including zoophilia, necrophilia, and paedophilia. She refers to homosexuality and lesbianism as ‘being paraphilia, i.e. untraditional direction of sexual desires’ but distinguishes them from zoophilia, necrophilia and paedophilia. She also quotes professor Sultanov.

In the article **“Gay-Azeri”** published in **“Vedomosti”**⁸² the author describes her first trip to Tbilisi Avenue to interview some people. Upon arriving she wants to ask her ‘secret night strangers’ some questions but then notices “bad shaven skin under make-up. In fact, the face belongs to a young, sun-tanned Azerbaijani man (...).” She interviews one person who reveals to her that the police are taking money from the sex workers in exchange for turning a blind eye to their work there. At the end of the article the journalist notes that “in European countries (...) homosexuals make quite significant careers; they become scientists, artists, policemen and diplomats. In our country, however, homosexuality has become prostitution. I do not know what the reason behind this is: either the economic situation or maybe it is because demand makes it an attractive proposition. Anyway, our gays prefer to sell their bodies and not to make a career. But we also have a couple of gays in the higher circles of our society.”

Media attention has not been limited to written media. In 2001 *Space channel* organised a meeting with some representatives of sexual minorities who spoke about their problems. In 1998 an openly gay man appeared on the TV programme “The light of the candle”, in which he talked about being gay and revealed that some high level governmental officials are as well. He later disappeared and his whereabouts are unknown. It is not known whether appearing on this programme caused these problems.

⁸⁰ Myasnikova, A., “Homosexuality in Action”, *Zerkalo*, 29 of April 2005.

⁸¹ Aliev, N, Faikgyzy, L., “Azerbaijani gays want to try to marry”, *Eho* February 2, 2005 and 12 February 2005.

⁸² Akhmedova G, “Gay Azeri”, *Vedomosti*, 4 February 2006.



2.10 Law Enforcement and Authorities

Several times during focus group meetings it was said that there are no significant problems “between the State and gays” because of the influence of the former President who decided to decriminalise homosexuality. Some respondents expressed the view that along with decriminalisation an ‘informal instruction’ was given to law enforcement bodies not to interfere in the lives of LGBT people. Others recalled that people who were dismissed on charges of being gay or fired (under the previous Penal Code) were ‘restored’ by the President at the time of and after decriminalisation. This allegedly applied particularly to teachers and policemen. However, despite decriminalisation and the ‘don’t bother them’ instruction at the higher political level, there are many problems at the level of law enforcement officials, as incidents described in this report show. LGBT people during the mission argued that they are often intimidated and harassed by the police and live in constant fear. The mission also learnt of reports that on several occasions LGBT people were raped at police stations. In June 2006 such a case became public as this translated newspaper article shows:

Case: Gasanov (“Toma”) beaten and raped by policeman (June 2006)⁸³

A 22 year old homosexual was beaten and raped on June 1 in the Police Department #27 of Yassamal Region in Baku. On that particular night Toma and some friends were strolling in the streets of the Yassamal Region. There Gasanov met somebody whom he liked. Toma got to know him. Soon after a police car approached them and the policemen arrested everyone, including the stranger in the street. Gasanov, however, escaped. Later, when he found out that his “girl-friends” were taken to the Police Department #27 of the region he decided to help, and came to the police station. The “girl-friends” were released, the stranger too, but Gasanov was asked to stay for a “talk”. He was then beaten and raped by somebody called Arzuman – Captain of police. To escape the police Gasanov cut open his stomach a couple of times with a razor. The police got scared by that and let him escape.

It should be noted that soon after the publication of this article the president of the Azerbaijan Committee against Torture, Mr Elchin Behbutov, who some LGBT people turned to for help, stated: “When Azerbaijan was entering the Council of Europe the state took upon itself responsibilities one of which was to see to the rights of the representatives of sexual minorities. However, the duties have not been respected and the rights of sexual minorities are being violated. For this reason I intend to appeal to the Minister of Internal Affairs, Ramil Usubov, and to the general procurator of the Republic, Zakir Zeynalov so that they take appropriate measures”⁸⁴.

In other instances LGBT people are forced to testify against their partners. Threats of informing family members and employers are also quite usual. Police charge gay men with hooliganism, disturbance of public order and resistance to public officers in order to extort money from them. Due to the fear of reporting these incidents to the police, detailed and reliable information on this is hard to find. The level of under-reporting of incidents is high: only a tip of the iceberg of incidents is reported, and even then, pressure is likely to be exercised on those wanting to sue the police, as a case in 2001 showed:

⁸³ ECHO newspaper, June 9, 2006

⁸⁴ Source: Human Rights Centre of Azerbaijan

In 2001 the Clean World NGO started a criminal case against four policemen who had beaten up some gay men on Tbilisi Avenue. The gay men and their supporters were threatened and bribed not to testify. Those who were beaten up withdrew their complaint due to pressure on them by police. Clean World believes that the police told the beaten up gay men that if they filed a lawsuit against the police, they would have 'a difficult life'. The police also tried to bribe the representative of Clean World to stop the lawsuit.

On another occasion during the mission, a leading Azerbaijani human rights activist stated that it was frequently reported to her that raids take place in bars where LGBT people meet, usually to intimidate or take money from them. Other people confirmed this story: "Someone had told the police that they should check out this Club P. so 3 guys went there and beat up transvestites who were in the bar. One guy was killed over there." An article in the Zerkalo newspaper confirms this practice: "As one of the officials of Yasamal Regional Department of Internal Affairs (...) said (...), the police periodically carry out spot-checks or raids in places where gays meet. This is, by the way, not only Tbilisi Avenue, but also several central city bars where transvestites and their potential clients prefer to party. However, after short identity checks the police prefer to let them go without causing harm; this is again because of the absence of the actual crime."⁸⁵

The relationship between law enforcement officials and gays and lesbians can sometimes take a different form. Some respondents reported 'coalitions between gays and law enforcement officials'; for example in 2005, when the police encouraged transsexual people to demonstrate in favour of the main opposition candidate, thereby portraying him as gay or having sympathetic views. In exchange the police promised the transsexuals an 'easy life' where they would not be bothered in their work. Another form of "coalition" reported involved sex workers co-operating with the police to threaten their clients in order to extort money.

The case of John Elvis (2001): wide scale harassment of LGBT people

A case widely referred to during the mission was the killing of an American citizen, John Elvis, who worked for UNAIDS. He was killed in his flat and the autopsy showed that he died from knife wounds, apparently following a sexual encounter. The Azerbaijani police started an investigation as part of which they contacted all people whose phone numbers they found. N. was one of them. He told the mission that "they threatened to out me at work and to my family, so I paid 100\$. After this I stopped any sort of activism". Other LGBT people gave similar testimonies, as the IHF reported⁸⁶. "In the summer of 2002, some Baku homosexuals complained to the Human Rights Center of Azerbaijan that they had been harassed by law enforcement officers investigating the murder of an American citizen in 2000, which was allegedly related to his homosexual orientation. In addition, police officers threatened to arrest innocent homosexuals and beat them, following which they required bribes to release them." However, the victims did not initiate legal actions against the perpetrators. In the end nobody was arrested and an FBI agent came to Baku to investigate - the outcome of that investigation being unknown.⁸⁷

⁸⁵ 'Absence of actual crime' should be understood as the absence of a legal basis to prosecute LGBT people.

⁸⁶ Azerbaijan, Human Rights Center of Azerbaijan to the International Helsinki Federation (IHF), December 2002. December 2002 (Covering events of 2001).

⁸⁷ A request for more information was put to the US Embassy in Baku but no information was received.



2.11 Initiative Groups/ LGBT Organisations/ Freedom of Association and Assembly

There are no registered organisations or initiative groups of gays, lesbians, bisexuals and/or transgender people in Azerbaijan, though there have been attempts to set them up in the past. N and one of his best friends set up *Mavid* ("Blue world") in 2001. Approximately 12 people were involved and the group met in one of the flats of the members. On average 25-30 people attended the meetings. However, the group disappeared because all the members moved away from Baku. The aims of the group were to offer a meeting space for LGBT people in Azerbaijan and to disseminate correct information on homosexuality to society. The mission could not verify whether this initiative was linked to an article in 1999 by "Elik/ mavi oglan" on 'the first Azerbaijan gay website' where similar intentions to set up a group were expressed⁸⁸. On the site the author describes the situation of homosexuals and refers to Article 113, which at the time of writing was still in force.

There are at least two reasons why this group and possibly other initiatives⁸⁹ did not work out. One human rights activist reported that she was pressured by her (then) political party leadership not to talk about homosexuals and to keep silent on gay issues. A second reason is linked to the case of 'John Elvis' and the subsequent massive police interrogation in the community. Those who initially wanted to set up a group got scared and gave up their attempts.

2.11.1 Freedom of Association

Apart from these reasons, it remains to be seen if setting up an LGBT group would be successful in Azerbaijan, particularly if the organisation tried to register. On the one hand, the Constitution of Azerbaijan guarantees that everyone shall have a right to associate with others, i.e. to establish associations or to join existing ones.⁹⁰ Non-governmental (non-profit) organisations can be established and carry out their activity for any purposes not prohibited by the Constitution and laws of Azerbaijan.⁹¹ A refusal of registration for any purpose, except those provided in the legislation, is prohibited.⁹² The list of explicit reasons, set out in the law, justifying refusal of registration of an organisation⁹³ does not contain any provision that would prevent freedom of association of LGBT people. However, in practice there are certain difficulties with the registration of non-profit organisations in Azerbaijan, although these do not specifically apply to LGBT associations. They arise from the fact that the government perceives NGOs as a means through which foreigners can fund political opposition

⁸⁸ Elik, "Mavi Oglan – "A Blue Boy" or a Gay in Azerbaijani Way".

⁸⁹ Other sources during the mission mentioned an attempt to set up a self-defence group for LGBT people and an attempt by 'a group of foreigners' in Baku to set up a group, but no details could be verified.

⁹⁰ Constitution, Article 58, I-II.

⁹¹ Law on Non-Governmental Organizations (Public Associations and Funds), Article 2.3.

⁹² Law on State Registration and State Register of Legal Entities, Article 11.1-2.

⁹³ Law on State Registration and State Register of Legal Entities, Article 11.3.

groups. The Ministry of Justice, in charge of registration of legal entities, creates various obstacles to the registration of non-profit organisations.⁹⁴

2.11.2 Freedom of Assembly

If at some point an LGBT group were permitted registration and wanted to organise a Gay Pride March, freedom of assembly could become an issue, as it has in several countries in Central and Eastern Europe recently in similar circumstances. Under the Constitution of Azerbaijan everyone has a right to freedom of assembly with others, subject to prior notification of relevant state bodies.⁹⁵ Pursuant to the Law on Freedom of Assembly such freedom may be restricted only for the protection of legitimate aims prescribed by law and necessary in a democratic society.⁹⁶ These include “for the protection of morals” and “for the prevention of violations of public order”. It would be open to authorities wishing to ban Pride or other public LGBT events to try to use these grounds, although any challenge under the ECHR would be likely to succeed.

Despite the absence of specific LGBT groups the mission identified some NGOs that try to work for and on the problems of LGBT people. These include some human rights NGOs, such as the Bureau of Human Rights and Clean World and a youth organisation, established in 2004 by a number of young women and men working in the field of gender equity and sexual orientation. The latter organisation serves and supports lesbian, gay, transgendered, and bisexual people. However its representative advised that “we cannot declare our clear mission on LGBT issues publicly. It’s easier and securer for us to work under another mission and not disclose our main activities”.

2.12 Response of International Organisations

The presence of international organisations in Azerbaijan has the potential to contribute to improvements in the lives of LGBT people. As already noted in this report, the Council of Europe has taken a consistent approach over the accession of new member states. Its requirement that homosexual acts be decriminalised was implemented by Azerbaijan without any noticeable opposition. According to many interlocutors during the mission this was the direct result of former President Heydar Aliyev’s personal involvement in this decision as he wanted no obstacles to entering the Council of Europe. The Council of Europe has since monitored the situation towards sexual minorities and the local office in Baku has been in contact with members of the LGBT community, usually in connection with specific cases of police violence.

⁹⁴ The Ministry of Justice avoids registering NGOs by taking an excessive amount of time to discover shortcomings in their applications, and thus unduly prolonging processing times. While many of the shortcomings in applications cited by authorities are valid, most of them are correctable during the registration process and should not be grounds for final rejection.

⁹⁵ Constitution, Article 49.

⁹⁶ Law on Freedom of Assembly, Article 7.1. There are numerous examples where the government restricts freedom of assembly, interpreting the law to require individuals and political parties to obtain permission from the authorities in order to assemble and organise demonstrations. In the period preceding the parliamentary elections of 2005, the government authorised political rallies exclusively at predetermined venues, most of which were far away from the city center.



Some members of the Azerbaijani LGBT community, particularly those at Tbilisi Avenue, have also been in contact with the OSCE Mission in Baku. A former OSCE Human Dimension Officer stated that in 2004 he was approached by a few representatives of the LGBT community who had come to the OSCE Center in Baku and complained about maltreatment by police. The OSCE officer invited two of them to participate in the annual OSCE Human Dimension Implementation Meeting. Unfortunately the OSCE officer lost contact with the representatives.

The general impression is that the relevant UN⁹⁷, Council of Europe and OSCE⁹⁸ offices in Baku are aware of the problems LGBT people face, though they could step up their efforts to monitor the situation in a more coherent way, using existing tools and mechanisms such as individual human rights complaints mechanisms.

2.13 Prison and Army

The general situation in prison facilities in Azerbaijan is disastrous. A recent report by the UN Special Rapporteur on Torture stated that “(...) torture and ill treatment continue to be carried out frequently in places of pre-trial detention, and to a lesser extent in post conviction prison facilities.”⁹⁹ During the mission NGO representatives added that there are cases of rape of homosexuals in prison, and that being homosexual in prison is a big problem. “Gays and lesbians are not treated as human beings and they have no right to speak” according to Mr. Zeylanov of the Azerbaijan Human Rights Group. He described the ‘caste system’ prevalent in the prison system: all prisoners are fitted into the (informal) hierarchy whereby prisoners are separated and stigmatised based on a colour. Grey is the colour for Roma people, red for ‘spies’ (those who tried to undermine the administration or worked against the government) and blue for ‘passive homosexual men’ and those sentenced for rape. The ‘blue category’ is the lowest in the hierarchy. “Active lesbians” are referred to as ‘*kobla*’, ‘active dogs’. The system is enforced by the administration as well as by the prisoners themselves. People are separated in different cell blocks and there is a strict division between those groups.

The mission collected little information on the situation in the army. One respondent told the mission: “One day I was called for military service and they sent me to a mental hospital in the city. The doctor confirmed I was gay and they sent me back to the military office. They gave me the 18B- diagnosis.” The mission could not verify the meaning of this code. The mission was informed of another case of a gay man who had been discharged from compulsory military service on account of his sexual orientation, but this could not be verified either.

2.14 Health Aspects (including HIV/AIDS)

The right to medical care is guaranteed by the Constitution of Azerbaijan¹⁰⁰ and further regulated by the Law on Protection of Population Health, which states that care in state medical institutions is free.¹⁰¹ Furthermore,

⁹⁷ For an overview of UN agencies in Azerbaijan:

www.un-az.org.

⁹⁸ www.osce.org/baku/

¹⁰⁰ Constitution, Article 41.I.

¹⁰¹ Law on Protection of Population Health, Article 10.2.

patients have a right to choose a doctor and patient care institution, while confidentiality of information obtained during medical examination and treatment is guaranteed.¹⁰² There are no legal provisions restricting the right to medical care for LGBT people in a discriminatory manner. However, despite this, the mission was told of a case of discrimination in which transsexuals were refused necessary medical care after an accident.

With regard to access to reproductive technologies, the law states that every woman of 18 years or more has a right to artificial insemination and embryo implantation. The formal consent of husband and wife, or single woman, is a precondition.¹⁰³ There is no law or regulation in Azerbaijan denying an individual lesbian or bisexual woman access to reproductive technologies such as donor insemination or in vitro fertilisation or preventing a lesbian from becoming a foster mother, although in practice disclosure of the applicant's sexual orientation may lead to discrimination.

With regard to blood donation and possible restrictions for certain groups, the law states that every capable person between 16 and 65 years old, who has undergone medical examination in a blood service facility, and who has no contra-indication to blood donation, can be a blood donor. LGBT people are therefore not excluded from blood donation.

With regard to HIV/ AIDS, the official statistics as of January 2006 are: 928 registered cases of people diagnosed with HIV, of whom 100 had died, 108 had developed AIDS and 720 had HIV. However these figures are believed by some to represent only 10% of the real number of cases, while a spokesperson for an organisation of People Living with HIV and AIDS goes even further, suggesting that the real number of HIV + persons is **30 times** higher than the official statistics. The main transmission routes for HIV are via injecting drug use (47%) and unprotected heterosexual sex (26%). The latter occurs mainly because Azerbaijan has a migrant population: many Azeri men who travel for work to Russia and Ukraine (and are said to have unsafe sex during their travel) increasingly carry the virus to Azerbaijan. In this respect one respondent pointed out that gender roles in Azerbaijan make it difficult for women to tell their husbands to use condoms, making the spread of HIV even harder to bring to a halt.

According to a UNESCO report, unprotected sexual practices between Men having Sex with Men (MSM) represents only 0.4% in the official statistics on HIV transmission. However these figures most probably do not reflect the real situation: "Sexual relations between people of the same sex are no longer against the law in Azerbaijan, but MSM are one of the most stigmatised population groups, and public admittance of one's homosexuality is not common. Because of this, there is almost no reliable sociological and epidemiological data available on this group"¹⁰⁴

The "Law on Preventing HIV/AIDS" of 1996 is an ideal text, guaranteeing effective health care but, according to various interlocutors, it is not effectively implemented. Several respondents pointed out that

¹⁰² Law on Protection of Population Health, Article 24.1.

¹⁰³ Law on Protection of Population Health, Article 29.

¹⁰⁴ HIV and AIDS in Azerbaijan: A Socio-Cultural Approach, Culture and Development Section, Division of Cultural Policies and Intercultural Dialogue, UNESCO, 2005, p. 25



doctors in Azerbaijan are not trained in treating HIV. Treatment is not free, though recently a pilot programme started in which 80 people will be treated with anti-retroviral drugs produced in India. The cost per person per month is 150\$.

The big taboo on sexuality and HIV/ AIDS has contributed to a lack of accurate information on the spread of HIV in Azerbaijan. Whereas some organisations have produced 'safer sex' materials targeting different communities and the general public, the mission did not find 'safer sex' prevention information targeted specifically at the LGBT community.

There are a number of initiatives in Azerbaijan focusing on the fight against HIV and AIDS¹⁰⁵. Like most countries in the Caucasus and Central Asia, Azerbaijan has received funding from the **Global Fund**. In the official funding application of Azerbaijan to the Global Fund¹⁰⁶ sex workers and homosexual men are specifically addressed as 'vulnerable and highly vulnerable groups'. The Global Fund works through so-called "Country Coordinating Mechanisms" (CCM)¹⁰⁷ in which, among others, the Ministry of Health, USAID, the Open Society Institute, UN(DP), World Vision and the International Mercy Corps are represented. Several NGO representatives involved in the fight against HIV/ AIDS reported problems with the CCM. Complaints included the highly politicised structure of the CCM and corruption. Nepotism seems to be the leading principle in appointing people to strategic positions in the CCM. One source also expressed concern over prejudices prevalent among leading CCM officials. During a Moscow 2005 meeting the president of the CCM allegedly stated "Do I have to sit at a table with gay and lesbian people and talk to them about HIV/ AIDS?"

In the absence of a UNAIDS office in Baku UNDP serves as the HIV/ AIDS focal point. UNDP has concentrated on supporting a multi-sectoral approach to HIV/ AIDS. Apart from successful efforts to update protocols for handling STI/ STDs, UNDP's current focus is on education and awareness-raising activities for and in cooperation with civil society, including religious groups. UNDP also co-funded a publication on "Religion and HIV/ AIDS". The UNDP spokesperson stated that she has no objective information on discrimination against HIV+ persons in Azerbaijan, only anecdotal evidence, e.g. that most HIV+ people are unemployed.

There are two organisations working directly with People Living with HIV and AIDS (PLWHA): *Imdad SOS* (exists for over 5 years) and *Association of PLWHA* (exists for one year). Due to time constraints the mission met with the latter organisation only. The group, which has over 200 supporters, implements educational activities in Azerbaijan despite the cultural sensitivities regarding sex education and provides an opportunity for HIV+ people to meet and discuss their problems. Intolerance and discrimination seem to be the hardest problems for HIV+ people to deal with. The association

¹⁰⁵ Due to time and resource limitations only a few actors in the HIV/AIDS field are listed here.

¹⁰⁶ www.theglobalfund.org/search/docs/4AZE_H_768_374_summary.pdf

¹⁰⁷ These country-level partnerships develop and submit grant proposals to the Global Fund based on priority needs at the national level. After grant approval they oversee progress during implementation.



reported cases of refusal by dentists to treat an HIV+ man and gynaecologists to treat HIV+ women. During an educational seminar some participants expressed the view that “HIV+ people should be exiled to the Caspian Sea or prison”. A UNESCO analysis of various surveys revealed similarly intolerant and negative attitudes towards PLHIV: “Up to 80% of respondents say they would not want an HIV-positive friend, business partner, neighbour or teacher. Such attitudes discourage people from knowing their HIV status and getting voluntarily tested.”







Chapter 3

Concluding Remarks

3.1 General

1. Homosexuality in Azerbaijan is an issue surrounded by confusion, ignorance, secrecy and a lack of conceptual understanding at the most basic level. There is hardly any objective and correct information on the psychological, sociological and legal aspects of homosexuality in Azerbaijan, with the result that the majority of society simply does not know what homosexuality is.
2. Generally homosexuality is perceived as a 'male phenomenon' or linked by the media to 'those standing on Tbilisi Avenue'. Lesbian women are less visible.
3. Social attitudes are generally homophobic. "Coming out" as a gay, lesbian, bisexual or transgender person is therefore rare in Azerbaijan and individual LGBT people are afraid of the consequences. Thus many of them lead double lives. Some feel deeply ashamed about being gay.
4. Some, in particular those who are financially independent and living in Baku, are able to lead a safe life as an LGBT person, as long as they 'practice' their homosexuality in the private sphere. However, those who remain dependent on their families, who are living in small cities or villages, are in heterosexual marriages, or who have never made contact with other LGBT people, are not so fortunate.
5. The transsexuals of Tbilisi Avenue are the only visible element of the LGBT community. They face social exclusion, are unable to get employment, are rejected by society and often by their family, harassed by the police and dependent on sex work as a means of survival. Their wish to change sex is supported neither by legal provisions allowing changes in documents, nor medical resources.
6. There is no LGBT political movement in Azerbaijan, but there is awareness among some human rights activists and LGBT people, particularly those who face problems with the police, of the need for an organisation advocating for LGBT rights and protection. There is concern that, despite the decriminalisation of same-sex acts between males, any attempts to establish a political movement or greater visibility for LGBT people will be met with hostility and/or bureaucratic obstacles.

3.2 Law

1. The decriminalisation of consensual same-sex male acts in Azerbaijan in 2000 was a big step forward in respect for the human rights. The late President Heydar Aliyev's determination to remove any obstacles to Azerbaijan's accession to the Council of Europe was the major factor leading to the decriminalisation. This was noted and appreciated by most interlocutors during the mission.
2. However, decriminalisation has not been followed by the inclusion of 'sexual orientation' and 'gender identity' as protected grounds in anti-discrimination legislation.

3.3 Law Enforcement

1. Decriminalisation has not led to a life free of human rights violations for lesbians, gays, bisexuals and transgender people in Azerbaijan. They are vulnerable and exposed to extortion by law enforcement officials. There is a constant fear that law enforcement officials may use their knowledge of someone's sexual orientation to 'out' a gay or lesbian person to family, friends and colleagues – a fear justified by actual cases.
2. In particular those who are more visibly recognisable as members of the LGBT community face problems varying from being ridiculed and forced to pay bribes to being abused, or even raped by law enforcement officials. Only exceptionally do such cases lead to the filing of official complaints.
3. Prosecution of law enforcement officials who abuse LGBT people is rare. The recent public statement by the president of the Azerbaijan Committee against Torture following the rape of a transgender person by a law enforcement official should therefore be applauded. Due to the fact that law enforcement officials are among those committing acts of violence against members of the LGBT community, victims simply can't or don't dare to file a complaint or a lawsuit against police officers. This is symptomatic of a general lack of trust in the law enforcement institutions so that members of the LGBT community who are victims of violence or abuse at the hands of the police are unwilling to file complaints.
4. Sometimes law enforcement officials adopt other strategies towards LGBT people, particularly the most vulnerable ones: in exchange for money or 'protection' from harassment by the police, members of the LGBT community are used in campaigns to damage the reputation of members of opposition political parties.

3.4 Human Rights Organisations and Civil Society in Azerbaijan

1. There is a general awareness of the problems of LGBT people within the human rights movement in Azerbaijan. Several representatives of human rights groups showed a sound knowledge of the problems and a commitment to assist the LGBT movement in their struggle. However, given the general repressive climate for human rights defenders and the sensitivity around homosexuality in particular, strategic campaigns or actions by human rights organisations have been absent.
2. International organisations present in Azerbaijan are informed and aware of the problems of the LGBT community. Some officials have made attempts to support them but far more support and resources are needed if there is to be any significant impact on the situation of LGBT people. In this respect the tools the OSCE Mission, the UN offices and the Council of Europe representation have at their disposal should be utilised to the maximum.

3.5 HIV/ AIDS

1. The stigmatisation of the LGBT community makes it very difficult to take effective action to limit the spread of HIV amongst LGBT people, most notably Men having Sex with Men, there being almost no reliable sociological and epidemiological data, and no means of reaching individuals at risk.
2. There appears to be no 'safer sex' information targeted specifically at the LGBT community.



3.6 Recommendations

3.6.1 To the Government of Azerbaijan:

If Azerbaijan is to enjoy the values of a modern, secular, democratic and 'open' society, a consistent, comprehensive and targeted programme of education and legislation is needed to address the human rights abuses, discrimination and social exclusion experienced by the LGBT community in Azerbaijan.

Implementation of such a programme would demonstrate that Azerbaijan is a country committed to fundamental rights and equality for all, in line with its obligations as a member of the Council of Europe. In particular the following recommendations should be noted:

Law

A programme to prohibit discrimination against LGBT people should be set up with the aim to bring Azerbaijani laws into line both with the standards set by international organisations and with the best practice established in some other European countries. Realistically, such a programme would need to be phased over a number of years and it would include the following elements:

1. Introduction of 'sexual orientation' and 'gender identity' as grounds of non-discrimination in the constitution and in specific laws that address non-discrimination;
2. Legal recognition of same-sex partnerships, including inheritance rights;
3. The granting of adoption rights to same-sex couples;
4. The implementation of legislation on physical change of sex and its legal consequences;
5. The government should encourage and support the establishment of NGOs working for the LGBT community, and should ensure that they are able to obtain official registration without hindrance.

The introduction of the aforementioned measures would show Azerbaijan's commitment to progressive democratic principles and a policy of non-discrimination. The introduction of such legislation, particularly in the field of non-discrimination, could help to reduce the effects of the hostility that the LGBT community now faces.

Law Enforcement, Army, Prison

1. Azerbaijan should set up a specific training programme for its police officers, prison staff and army officers aimed at raising awareness of the rights of LGBT people and designed to stop abuse, extortion and attacks on them.
2. Law enforcement agencies should seriously investigate the abuses and cases documented in this report as well as protect LGBT people in prison from maltreatment.
3. Azerbaijan should introduce codes of conduct in the law enforcement, army and prison services, which take account of the need to respect the rights of LGBT people.
4. Azerbaijan should continue to assist and facilitate the work of the Azerbaijan Committee against Torture in investigating accusations about maltreatment, abuse and other violations of the human rights of LGBT people, as documented in this report.
5. Azerbaijan should strengthen the capability of its Ombudsman's Institute, including the development of expertise on LGBT issues. In this respect the Swedish International Development Cooperation Agency (SIDA)

and the Azerbaijani Ombudsman's Institute should, as part of their ongoing cooperation include LGBT issues in trainings for employees of the Ombudsman's Institute.

Education and Research

There should be specific research designed to assess the extent of discrimination against the LGBT community and to establish the most appropriate methods to counter this discrimination. In particular:

1. Homophobia should be addressed in educational programmes in schools, colleges and trainings for government agencies designed to raise awareness or provide education on tolerance and non-discrimination.
2. The government should support conferences or seminars designed to educate public opinion and the media on the rights of the LGBT community. The experience and resources of the Council of Europe, the European Union and the OSCE should be used in such conferences and seminars.
3. There should be specific research into the needs of the transsexual community, with a view to identifying means of alleviating the social exclusion which they now experience.
4. More resources should be put into scientific research into the psychological and sociological situation of LGBT people.
5. Azerbaijani psychologists and psychiatrists should receive training in the psychological aspects of sexual orientation and gender identity. As part of this training they should be informed of the fact that in 1980 the American Psychiatric Association (APA) removed homosexuality from the Diagnostic and Statistical Manual of Mental Disorders and that from January 1, 1993, the World Health Organization (WHO) removed homosexuality from its list of diseases.

Health services

Medical training courses – whether for training new doctors and psychiatrists, or for updating the knowledge of those already trained – should include material on sexual orientation and gender identity consistent with WHO classifications, and be designed to enable the provision of effective support to individuals whose self-image has been harmed by a hostile family and social environment. Moreover:

1. Medical students attending courses at university as well as other training courses should, likewise, take account of up-to-date knowledge and understanding of LGBT people and their needs.
2. The health services should develop the capability to provide sex change operations to transgendered people.
3. HIV/ AIDS programmes should make specific provision for targeting the MSM group, including the development of specific safer sex education materials, as was envisaged in Azerbaijan's application to the Global Fund.

3.6.2 To the European Union:

1. The EU should include adoption of anti-discrimination legislation inclusive of sexual orientation in the priorities of the EU-Azerbaijan Action Plan.
2. The EU should closely monitor implementation of the ENP Action plan with regard to the LGBT community in its regular reports.
3. The EU should include LGBT human rights as an area of priority for the European Initiative for Democracy and Human Rights (EIDHR), and support projects to this end.



3.6.3 To the Council of Europe:

1. The rapporteurs for the Monitoring Committee of the Parliamentary Assembly should meet with NGOs and individuals knowledgeable about the LGBT community, and take account of their evidence of abuse and malpractice in their reports and Recommendations to the Assembly.
2. They should recommend a programme of education by the government to raise awareness of the rights of LGBT people, and the introduction of legislation prohibiting discrimination on the grounds of sexual orientation and gender identity, and making legal provisions for sex changes in line with the judgments of the European Court of Human Rights.
3. The Commissioner for Human Rights should meet with NGOs and individuals knowledgeable about the LGBT community, and take account of their evidence of abuse and malpractice in his next country report on Azerbaijan.
4. There should be increased monitoring of the situation of the LGBT community by the Baku office of the Council of Europe.

3.6.4 To the Organisation for Security and Cooperation in Europe (OSCE):

1. The OSCE should assist Azerbaijan in fulfilling its commitments in the fields of tolerance and non-discrimination and human rights. More specifically, the OSCE should offer existing tools, programmes and apply existing mechanisms, in particular the OSCE's Law Enforcement Officials Programme on Hate Crimes and the Human Rights Individual Complaint Mechanism (at OSCE Mission level).
2. There should be increased monitoring of the situation of the LGBT community by the Baku office of the OSCE. In particular the OSCE should closely monitor compliance of Azerbaijan's commitments in the field of freedom of association, expression and assembly.
3. The Personal Representative of the Chair in Office of the OSCE on Combating Racism, Xenophobia and Discrimination should address the Azerbaijani authorities on human rights violations as documented in this report.

3.6.5 To UNESCO:

UNESCO should develop specific programmes on MSM and strengthen its training component on MSM in the overall work on socio cultural aspects of HIV/ AIDS.





Annex 1 – Newspaper and Academic Articles (English translations)

Annex 1.1 – Newspaper Articles

1st Article: “Sexual minorities”

It has not yet been fashionable to have a boy-lover in Azerbaijan; it is true that in Moscow people are peaceful about homosexuals, but Azerbaijan is far from that.

It is difficult to imagine that there are many of them in Azerbaijan. Indeed in the whole Azerbaijan, not only in Baku. The majority runs to Baku; mainly they are the ones who have been disclosed in their region for some reason. They run there because firstly, no one can notice them and secondly there are more of them here and they can stay in groups. This makes their life a bit easier.

I will tell you a story of some of them; of those that I was lucky to talk to when meeting them personally. They invited me to their place. Five people rent the apartment where they live but I was able to talk to only three of them. By the way, one of them who was born in Baku did not say that he was gay. But we were secretly told that he is also gay. Gays, however, call themselves transvestites.

House is an apartment for rent the owners of which hardly ever suspect who rents it. The thing is that they do prostitution. They have no other job to do. One of them confessed that he is a good cook. He was even able to find a job in some café, but he was soon fired off. According to what he explained to me, the owner of the café did not want to have such a worker. To my question about how the owner found that out they answered that after some time by all means their non-traditional orientation is figured out. And no one wants to work with these people in Azerbaijan.

Among themselves they call each other by women names. Among people close to them they do the same, but when there are outsiders only by men names. They run their household like in female hostel. Somebody is responsible for cleaning, somebody for washing clothes and some for washing up dishes. The house is indeed clean, in order and does not look like a bachelors' place of living. I do not know if they live there in couples because they do not talk about that. But they know everything about each other. They talk to each other about who they are in love with and their lovers. They even told me that their “girl friend” found a man not worthy for “her”. He only uses “her”, but they know that one day he will leave “her” alone because they have seen him several times with others. They do not tell about it to their friend because they want to respect “her” feelings, but they try to open “her” eyes. To cut the long story short everything is women way.

Almost everyone has had an unfortunate or hopeless love. They understand perfectly well that two men that love each other will never be able to live together because the society will by no means accept them.

One of them said that he had lived with a man, but he was terribly jealous and threatened to kill him. That is why he had to run.

Not everyone's relatives know the truth. Among the interviewed only one said that his parents found out about him. Father left the family because of that. He told to his wife that unless she drives her son out, he will never come back. The mother would never renounce her son, however, she advised him to leave the neighbourhood. He is in touch with his mother and sister, but never appears in his neighbourhood.

There is no place to work for them. I am talking about those that do not hide that they are not men. For instance the same guy from Baku that did not confess to us works as a procurator assistant in one of the regions of Baku city. I do not think that if he had told to everyone about his orientation he would have remained in his job. For sure he would have been gotten rid of under any pretext!

They earn mainly by prostitution. They stand in definite places in highways about which both the police and the clients know. There are cafés where they hang around. Like for any prostitute it is a high risk to be one. First of all because they stand in the streets and sometimes clients that drive by do not know that they have ordered and taken a man. When they find that out the clients beat them and throw out of the car. One of the guys nose was broken by a client. Sometimes they are not paid for the services. And they cannot do anything about that because they have no one to complain to.

The relationship with police is diversified. Almost all policemen know gays in the places where the latter hang around. Some simply take money without discussing anything. The others beat them and swear at them. As a rule clients are not taken home. They either drive to the client's place or serve directly in the car. The earnings are diversified. In winter they earn of course less because it is not easy to stand in the street in cold weather. They have to hang around in cafés. But all of them point out that the earnings are not like they used to be several years ago when many foreigners arrived in the country. There are permanent clients, however. All transvestites know who they attract. They have confessed that even high officials are interested in them. They told that both sons of R.U. use the service of both women and men.

They did not tell anything about whore-masters. Probably they do not want to disclose them. They start their work late in the evening. They dress at home, order taxi and try to slip out of their blocks as quickly as possible and in such a way that their neighbours do not notice them.

They have problems not only with clients. I hope that this will not be funny, but there are problems with clothing. They cannot buy things in shops especially when they need to try things on. They think that their work requires dressing well. Besides clothes for women they need special bras and underpants, stockings that hide men genitals so that they cannot be seen.

I was surprised that all of them dream of meeting their love – just like every woman does. They also dream of having their own family. But they know perfectly well that their dreams will remain dreams and nothing special will happen in their lives, which makes one feel sorry for them.



2nd Article: “Hear Me Out: Gays in Azerbaijan struggle with tradition, not religion”

Source: <http://ec.gayalliance.org/articles/000153.shtml>, November 11, 2003 by Mubarak Dahir

Despite his unwavering smile, the young man in my Hyatt Park hotel room appears to be a little nervous. He is 30 years old, but looks much younger. At about 5’-8” and 140 pounds, this unemployed economist is slender, with large dark eyes and jet black hair, trademarks of the handsome features of Azeri men. His English is surprisingly good, considering he learned it primarily by listening to Western music. (Tina Turner is his favourite.)

We are in Baku, the capital of Azerbaijan, a central Asian country that is a former Soviet republic. Anar has agreed to meet and speak with me about what it is like to be gay here, but only in the privacy of my hotel, which caters to Westerners. Out in public, he says, he might not be so free to speak, as many people now know English. “And this is a nosy country. Someone would listen.”

It is far from the days when secret police used to trail both Westerners and local citizens, and Anar’s hesitation does not stem from some holdover fear of the government. “Today, whatever you want to say, it is very free,” he says. What keeps him secluded in my hotel room – and what keeps the country’s gay and lesbian population firmly in their closets – are social attitudes toward homosexuality, not government penalties.

In 2000, the parliament here lifted a Soviet-era law that criminalised anal intercourse between men, previously punishable by up to seven years in prison. Lesbianism and non-anal sex between men were also specifically mentioned as crimes, and each could carry up to three years in jail. Though Azerbaijan gained its independence in 1991, following the collapse of the former Soviet Union, it took nearly a decade to repeal the old laws, and their demise had less to do with any cultural acceptance of homosexuality than it did with international politics.

At the time, Azerbaijan had applied for membership to the Council of Europe, a political and human rights organisation. To gain entry, the government undertook a series of suggested reforms, including erasing anti-gay laws. Currently, there are no laws prohibiting homosexuality in Azerbaijan. That doesn’t mean there aren’t a lot of constraints, says Anar.

The primary obstacle to coming out, he says, is that “we will be laughed at, and that is not so good for you here.”

I can’t help but wonder if religion plays an important role, too. Azerbaijan is not only an overwhelmingly Muslim country; it is also one of just two nations in the world that are primarily Shiite. The other is Iran, its neighbour immediately to the south. And rightly or wrongly, Shiites have a reputation for being more conservative, more “fundamentalist,” than Sunnis, who make up the majority of the world’s Muslim population. But the religious differences between Shiite Azerbaijan and Iran couldn’t be starker. Sure, there are pockets of conservative Muslims throughout the country, but overall, Azerbaijan, and particularly its capital city, Baku, is remarkably secular. There are plenty of mosques, and despite hearing the Muslim call for prayer five times a day, in the short time I spend here I do not see a single woman who covers her hair with a scarf. Alcohol, forbidden by the religion, is plentiful and widely consumed. Azerbaijan’s secular nature is largely an influence



of nearly seven decades of Soviet rule. Still, Azeris never completely adopted Soviet thinking, and though the country is secular, it is still conservative.

But Anar, as well as Zaur, another gay Azeri man I meet on my trip, both insist that religion is far less a factor for gays here than social customs and traditions.

"Oh no, I am sure it is not about religion," says Zaur, laughing at the suggestion. "It's about fear of shame, not fear of God." The tall, broad-shouldered 26-year-old with hairy arms speaks to me as we down spicy donner kebabs just bought from a street vendor on Fountain Square, a tremendous public area in the heart of the city. On hot summer nights, when the afternoon humidity finally breaks and the famously cool wind can be felt coming off the nearby Caspian Sea, Baku's residents turn out by the thousands to stroll the streets here, and shop at stores open as late as 10 p.m.

It's not surprising that such a great "people watching" arena has cruisy areas, particularly some of the well shaded and poorly lit patches of parks that branch off the labyrinthine walkways. Other cruisy areas include the square in front of the majestic ballet, and a bathhouse far outside the city center.

Neither Zaur nor Anar, however, are fond of the cruisy areas. They are not dangerous, and physical violence would be unusual, both agree. (A gay American living in Baku confirms this, saying, "It's one of the safest places I've ever lived. It's a lot safer than New York City!")

But meeting someone at a cruisy spot is "undesirable," says Anar. There are no gay bars, per se, but one night spot, called 1033 Club, draws a mixed crowd.

Both Anar and Zaur prefer to go to one of the dozens of Internet cafes that populate the city, and talk to people online for 2000 manat (about 40 cents) per hour. Even in cyberspace, you have to be careful. There are no local gay sites, and the two men have honed their cyber-gaydar.

"You learn to hear code," when exchanging messages online, says Anar. There are also several dating sites that accept men-for-men ads. It was through these sites that I initially made contact with both men. As requested, I have changed their names to protect their identities.

One day, dreams Anar, "I'd like to have all the conveniences you have in America for gay life. There is gay life here, but it is invisible." Even at the Internet cafés, Anar is cautious. "I always look for a computer in the corner so no one can see my screen."

"We have no sense of a gay community," he says, "because we have no place we can feel free to be ourselves."



3rd Article: "If you are sick, see a doctor..."

Source: *Yejednevnyye Novosti (Daily News) March 29, 2002 by Irada Musabekova.*

Agabek Sultanov, chief psychiatrist of the Azerbaijan Republic gives a talk on "the Problem of Sexual Deviations"

On one of the presentations that is taking place in a night club a young man refused an invitation of his friend to get to know two beautiful girls that were sitting at the bar stand. After this he provided an explanation that women of an old age with a face which reminds a shriveled apple do not attract his attention anymore. Of course, everyone accepted this as a joke, but the guy did not stop after saying this; in fact, he continued by saying that at that day he had already had a contact with an old lady who is around 70 and whom he had to give a ride. Another story listener of which I became was a story about the police department of Nariman Region where we went to obtain a criminal report. The police officer we met was commenting excitedly on some magazine article and remembered just by accident that once, while working for Russian police, he happened to perform his duties by bringing a young girl and a guy who died in a car accident to morgue. The girl had long fair hair and a slim body. She reminded him a sleeping beauty. He liked her so much that he had to show the door to the aid man in the morgue and had sex with her for a considerable period of time. He said he had never experienced such a feeling before.

Scary? Yes. Many see in it terrible signs of the end of the world but on the other hand there is nothing new in this world.

History of the old world: according to some antique authors, the male population of Ancient Greece was excited about homosexuality and the female population about lesbianism. They lost all interest for the opposite sex and as a result the population of Greece started to decrease quickly. Rome, probably, was distinguished as a place of the highest climax of sexual deviation. According to Svetoniy, "Gay Julius Cesar was a husband of all wives and a wife of all men". History shows that each civilization before its fall experiences the decline in morals. What does it mean? It means that the modern glaring civilization of the West which our democrats show as a standard will soon die. This is probably the biggest ill of our time. And if the ill is big should we not see a doctor?

Agabek Sultanov is a Chief Psychiatrist of the Azerbaijan Republic. He is a Chairman of Azerbaijan Medical University for narcology, sexual pathology, honored professor and active member of the World Federation of Psychiatrists.

– Sexual sphere of a man is specific because it is quite particularly individual, unrepeatable and original. Even Sigmund Freud believed that every sexual act has elements of perversion and that is why, perhaps, partners never (or almost never) talk about and do not remember details that could be included into the framework of "deviations". All organs of a human being play role in his sexual life. They are sight, hearing, feeling and especially olfactory analyser is remarkable. We know that bees and butterflies during the time of sexual appetite cover a long distance to reach their females; males find them by means of hearing their smell. Human beings have it the same way. Smell, seeing perception, hair and other parts of the body can cause

individual appetite. For instance, the smell of sweat of one woman can cause disgust, but at the same time the sweat of another woman can attract. Therefore, it is particularly individual. The beautiful part of humanity after having lived for some time with men and when deciding to marry forgets that men always want new sexual intrigues. Sometimes women while getting ready for the wedding open the door to men with hair curlers on their heads and with a mask on their face. This causes negative emotions in a man and no matter how attractive she can be at the wedding her man could not care less for that because he remembers the negative appearance. First acquaintance of a man and woman can always cause excitement and at the same time disgust. Details are multifaceted. Sometimes so called deviations form during the first sexual act which has a leading role in the sexual orientation of a human being. This begging is as usual in the continuation of his orientation. If after the first sexual act this feeling comes for a woman much older than he is; and if she could make a good contact with this man this can lead to appetite for her and a gerantophilia which means "appetence for old people". There are two forms of gerantophilia: physiological and social; the latter has almost a criminal character. This happens when, for instance, a young girl or man for the sake of financial prosperity has sexual intercourse with some woman or man older than he or she is; sometimes with those that have somatic illnesses, so that they later can come into possession of their property. This very type of genantophilia has a criminal character and has no sexual deviation. Today many opinions on life have changed all over the world. According to American researchers, with whom we agree, some sexual "traditional deviations": homosexuality and lesbianism are considered as being paraphilia, i.e. untraditional direction of sexual desires. Love to corpse (necrophilia), love to animals (zoophilia), and paedophilia have sadistic complexes in their basis, i.e. desire to bring pain to the partner and subordinate him. Mentally retarded and morons usually have them; which is understandable because they cannot establish natural contact. Today according to the new Law Code of the Republic of Azerbaijan the Article #113 is eliminated. This Article had foreseen to punish unisex intercourse and many have accepted it as a guideline. Many lesbians and homosexuals have come out of underground. We should understand that democracy is not allowance of everything, but is a high culture. We should know that at present homosexuality – either male or female – is not a crime, if there is no violence, if there is no seduction of the little, if emotionally and physically ill are not used for that and if no office position is used. Nowadays, untraditional appetite has started to be considered not as deviation, but as originality. Well, the left-handed are not considered abnormal. Paedophilia, zoophilia, and necrophilia are another case; their basis is a serious psychiatric decease. However, zoophilia as described in the literature and in our practice is more found among people that deal with animals – shepherds and grooms. Necrophilia is found among people working in morgues and cemeteries. I do not want to offend all people that work there because it is a matter of case. And the last thing, one should not advertise oneself by showing sexual orientation; and by this try to attract spectators and compensate by this the lack of talent. Take for instance the group "Tatu" that has recently had a concert in Baku. Sometimes television and press in their pursuit of cheap popularity contribute to the rise of these negative phenomena because of their simplified understanding of the meaning of democracy. But let us remember the words of Feyerbach "in order to love a human being one should understand him", and I would add one should be able not to judge him.



4th Article: “Azerbaijani gays want to try to marry”

Source: Eho February 2, 2005 by N. Aliev, L. Faikgyzy.

After the refusal, as it was expected, unisex couple from Baku will reach the European Court on Human Rights which according to experts will on the side of the homosexuals.

Citizens of untraditional orientation of the Republic of Azerbaijan started to protect their rights in an active way. As it became known to the Eho newspaper, a formal request for marriage registration will soon be made by the unisex couple in one of Baku's registry office. After the refusal young people intend to appeal to state courts in order to be able to appeal further to European Court on Human Rights. There are no doubts that gays will be refused an official marriage registration in local registry offices. Eho was informed about this by the famous lawyer Ramiz Zeynalov. According to him, it is clearly said in the legislation system of Azerbaijan that “a marriage is a union between man and woman”. He further pointed out that “registry offices simply will not be able to satisfy the request of unisex couple”.

Eldar and Mansur are inspired by the example of homosexuals from Russia who appealed to the Moscow registry office with a request to register their marriage and whose request was later ignored. After this the deputy of the Government Assembly of Bashkortostan Republic Edward Murzin appealed to Ostankinskiy Moscow Court regarding the decision of Butyrskiy registry office of Moscow city. The Butyrskiy registry office of Moscow made a decision against his marrying Edward Mishin, the editor of gay magazine “Kvir”. The Bashkortostani deputy supposes that “challenged refusal that limits the possibility to marry anybody I wish severely violates equality rights; in this case this does not depend either on sex or sexual orientation”.

Murzin considers it indispensable to bring necessary changes into Family Code of Russia. Now this document refers to the voluntary marriage only between man and woman.

Russian and Azerbaijani gays want to reach European Court on Human Rights (ECHR) in order for them to be able to marry. It is quite possible that the hopes of the homosexuals can come true. It is known, for instance, that in 2002 according to the decree of European Court on Human Rights, the right for transsexuals to marry was confirmed. After considering the claim of Christine Goodwin against the Great Britain, ECHR spoke for the registration of the marriage of transsexuals. In the decree proclaimed it was pointed that the change of sex should not be an obstacle for having a family.

Soon after this became known, two unisex couples – an Austrian and a Frenchman – intend to appeal to the European Court and demand to acknowledge unisex marriages on the whole territory of the European Union. In the Austrian case it is a German who married an American in the Netherlands. When the German decided to move to Austria, his husband American was refused an Austrian residence card and work permission. Kurt Krickler, the general secretary of an Austrian rights protection gay-organisation “Hosi” called it “the European

laws violation” because they prohibit the discrimination on the basis of sexual orientation and because the European Convention on Human Rights guarantees respect of private and family life.

French case is the only unisex marriage that was registered in June, 2004 between Bertrand Charpentier and Stefan Chapen in a city of Begl. The ceremony was lead by the mayor of the city. The marriages were, however, proclaimed by the French government as being invalid. After this the couple declared that they were going to appeal to the European Court on Human Rights in Strasburg.

Even before this, according to the decision of European Court homosexuality was considered as a right for private life. ECHR protected the rights of homosexuals on the basis of the Article on non-interference in the private life and on non-allowance of discrimination. Besides that, in 1994 European Parliament accepted the resolution on equal rights of homosexuals and lesbians in the European Union. In 2000 the Council of Europe also accepted the guideline on non-allowance of discrimination because of unisex orientation.

Discussions on the possibility of registration of unisex marriages are taking place all over the world. They are especially tense in the countries of Eastern Europe and former Soviet Union. For instance, in Lithuania debates on the possibility of legitimising homosexual marriages grew tense after Valentinas Mikjalenas, the judge of the Supreme Court, a specialist on family law among those who enjoy great authority publicly made a supposition that sooner or later Lithuania will have to take into consideration the decision of European Court on Human Rights regarding the marriages between unisex couples. The judge was later supported by Vitautas Mjarkjavichus, the minister of justice.

According to an Azerbaijani human rights advocate Eldar Zeynalov homosexuality also implies right for private life. “Marriage has many aspects and one of the most important amongst them is the possibility to have children. Another important part of it is economic side of the matter because in case of death of a spouse the possessions will belong to the other. Or, for example, divorce. It leads to the dividing of possessions and so on. The homosexual couples do not have this all now”.

According to Zeynalov, we should have expected long ago that Azerbaijani homosexuals will protect their rights and will try to legalise their relationship. The advocate points out that one of the main reasons is the desire to have children. According to the estimates of the expert, the whole procedure – from appealing to the local court in Azerbaijan and to the decision of the ECHR – may take 2-3 years. But the thing is that it is enough for the European Court to simply accept the petition from Azerbaijan. After this the correspondence with state structures will take place; judges will be finding out on which basis the refusal for marriage registration was made and so on. Zeynalov also stated that one of the main possible options will be the decision in favour of the unisex couple.

In his turn, Lev Levinson, an expert from Human Rights Institute of the Russian Federation in his interview to *Eho* newspaper said that initially in 60s of the last century ECHR had a negative attitude to the homosexual relationship. Judges considered that the state has the legitimacy to regulate ethical issues. However, already in 70s the situation began to change. First serious decision on this matter was made by ECHR in 1981. European



Court considered it as being impossible to punish on a legal basis people with untraditional sexual orientation. Up to this day ECHR has not considered any claims for unisex marriages, but the attitude of ECHR towards the issue is difficult to guess. Levinson pointed out the decision made by ECHR couple of years ago on the issue of adopting children by people of untraditional sexual orientation. The judges thought that it was possible.

When answering the question asked by *Eho*, Levinson pointed out that it is not difficult to make a prognosis of the results of considering the petitions made by Azerbaijani and Russian homosexuals; the claim made by them will probably be satisfied. And the decision will be not only for this specific couple – Eldar and Mansur, but for all unisex couples. And as the Russian expert emphasised the point is not only about Azerbaijan, but about all the countries that fall under the jurisdiction of ECHR. Another situation is also possible: even before the “Azerbaijani petition” is considered by the European Court, the latter will make a decision regarding some other country. In this case the prohibition on unisex marriage will have to be cancelled even in Azerbaijan”.

Ramiz Akhmedov, deputy of Milli Mejlis¹⁰⁸ and the leader of the Communist Party expressed his deep indignation because of the actions of the homosexual couple. He is against even the theoretical possibility of allowing unisex couple to be registered as married. The leader of Azerbaijani Communist is completely against such relationships. “No matter what decision is made by the ECHR, Azerbaijani public and Azerbaijani justice will not accept it”

However, Lev Levinson, the expert from Russian Human Rights Institute told us that political sanctions made by the Cabinet of Ministers of the Council of Europe can follow the case of failure to comply the decision made by European Court. And depending on the importance of the issue this can lead even to the exclusion from the Council of Europe. “But this issue is approached quite cautiously” – Levinson told us.

Eho Newspaper (February 12, 2005) paid its attention to the problem of official marriages between Azerbaijani gays. There are no doubts that gays will be refused the official marriage registration in local registry offices. *Eho* was informed about this by the famous lawyer Ramiz Zeynalov. According to him, it is clearly said in the legislation system of the Republic of Azerbaijan that “a marriage is a union between man and woman”. He further pointed out that “registry offices simply will not be able to satisfy the request of unisex couple”.

This does not stop gays. As *Eho* was informed by two young people that have been living together for a quite a long time they are not interested at all how the society accepts them. Eldar and Mansur (according to well-known reasons their last names are not mentioned here, despite the fact that the couple itself does not hide their requisites) told us that from their childhood they realised that they are different from other people.

“The society did not want or could not accept us as the way we are”. Nevertheless, we consider ourselves as being normal, simply a little different. That is why we could achieve in our life definite results”. Mansur is 29 years old and he works in one of the oil companies. He lives in his own apartment, speaks several foreign languages. Eldar is 23 years old. He is finishing his Master’s Degree program. Many companies already have several free work positions that he could take. The couple has been living together as a family for three years.

¹⁰⁸ Parliament of the Republic of Azerbaijan

"In our free time we go to clubs, restaurants and discos. We have many friends. If you look at us from outside we are not different from other couples. The only thing that disappoints us is that it is impossible to legalize our relationship and adopt a child."

Nevertheless, Mansur and Eldar wanted to get their marriage registered for a long time. However, at the same time they realise that nothing is going to come out of it. "But we will reach our goal anyways! It will simply take a longer period of time. We are even ready to appeal to law courts. We are human beings and have our own rights for which we are going to fight!"

5th Article: "Mavi Oglan – 'A Blue Boy' or a Gay in Azerbaijani Way"

Source: <http://www.geocities.com/WestHollywood/2118/mavi.html> and http://www.mavi-oglan.chat.ru/index_r.htm, written by Elik, August 1999.

Azerbaijan is "a country of fires". This is the way the name of my motherland is translated from the old Arabic. Azerbaijan has become famous in the world not only for its of inexhaustible sources of oil and gas, which were praised not only by Zaratustra (the founder of fire worship religion), but also by the greatest figures of the antiquity and modernity (Nizami, Nasimi, Fizuli, Ahundov, Vurgun, Zorge, Landau, Rastropovich, Anar, Ibragimbekov). Nowadays, Azerbaijan represents a mixture of the Western culture with Eastern customs. Traditionally, since the antiquity we know unisex love stories and relationships. The beauty of bodily dignities, passion and lovefulness of the Eastern men were praised in *gazels*¹⁰⁹. Shahs and rulers, following the examples of the Ottoman and Persian pashas¹¹⁰, had their harems, wives and eunuchs here. All this is in the past, but the wish to love whom the heart desires is still there.

You cannot encounter much about Azerbaijan in gay catalogues: couple of local parties in the capital and there is nothing else to do. This is prohibited by law. Therefore, be careful! On arriving in Baku you start to realise that everything is exactly as it has been said. Whenever people talk about this issue they are against it. They do not have it! And even if they have "this has nothing to do with me and I cannot help you". Or even worse: "What? Do you want this?" You will regret you asked this, and next time you are not going to ask this again. After leaving the country you will remain in bewilderment because in fact, outside of the fantastic country its men behave themselves quite differently. And you are right here. You could argue this, but I am sure that 90% of our men have had unisex contact.

No, of course we have sex, but it is made in the Eastern way – it is very coquettish, and the main thing is that it is very shameful. We have everything, but you have to know how to make it out and even better – you should know where to look for it and whom to ask.



During Soviet times Baku had only two places where gays met. Many got to know each other in public transport or through their friends. But this happened very seldom and was done in a very cautious way. Now, when it seems that all that had to do with the Soviet times is in the past, the life of gays has not become better. They meet in the same swabs, places where they hang out and sell themselves and in the special places (without advertising it) for gays in bars. The society still, however with not such severity as it used to be, expresses intolerance towards people with expanded sexual orientation. We are also very far from official recognition of the fact that gay couples exist and from legalizing voluntary cohabitation. But certainly, there is some success: from time to time an article could appear in press, or radio could mention something about protecting them.

Occasionally, funny things also happen. For example, there was an article on gays protection in a very popular newspaper *Ayna-Zerkalo*. Unsatisfied and hungry reader was informed about famous Baku gay – Masa, who could earn up to \$100 and in addition to this he can do it even for free if it is a policeman or somebody from high authority ranks. All this was accompanied by the commentaries from the Criminal Code of the Republic of Azerbaijan.

The Code is based on the former Soviet Criminal Code, despite of the fact that substantial changes were introduced in it. For instance, we do not have capital punishment in our country, but homosexuality still remained to be punished. The voluntary homosexual act is punished up to three years of imprisonment by the Article 113. There are rumours in our country aspiring to be part of the Council of Europe that there are going to be reforms to make the life of sexual minorities easier. These are, however, only rumours.

But there is one more hope that Azerbaijan does not want integration with the countries of fundamental Islam where the attitude towards homosexuality is surely hard and negative. Perhaps, we are afraid of them even to a bigger extent than Christian countries do. A bright example of secular Islam for us is Turkey with its liberal rights in their attitude towards sexual minorities.

Discrimination articles regarding gays were cancelled neither in Transcaucasian, nor in Central Asian Republics of the former Soviet Union. In Armenia, Georgia, Tajikistan and Uzbekistan the voluntary homosexual act is a crime. The situation in Central Asia is even worse than in our country. At least we have Europe with its democratic institutions whereas they have monarchic regimes.

We should talk about our police separately. To say that gays do not like them is to say nothing. It seems like these people after getting dressed in the uniform lose any sense of humanity and compassion. If you are gay and you happen to be in a police office then you should start negotiating the price immediately. It is like in the market here, but you can choose here only between the worst things. The Article 113 says that people should be punished only for the fact of introduction of the penis into the anal hole (even if the act is voluntary). This Article could actually be used even if somebody points out that you are gay. You will be threatened by Court Medical Expertise and “hot” days in the isolator room. Alas, but our policemen that should take care of order can even put drugs into your pockets if you do not give money... Are there gays among the policemen? Yes.

¹⁰⁹ Specific type of poetry in the East

¹¹⁰ King, emperor, ruler

But there is little profit. There is only one – the benefit of having sex with a man in uniform.

If the life of gays could be talked about, the lesbianism is very much hidden, even too much. From legal point of view it is not punishable. But why cannot police have money from that? Here is one sad example: two gays hid in garages of one of the districts of a city and had sex there. At that time a robbery happened in that district and the police searched every corner in hope to find the traces of the criminals. The guys were afraid that they could be exposed and stayed there for a long time. When they decided to come out they made it by mistake and incautiously which let the police to follow them. One of them ran into the nearby booth which distributed electricity and perished. The second one was caught, but they realised it was a mistake. They beat him and let him go for money. So, the fear of being caught because of gay sex stands higher than life. There was no court session. Nobody knows about the story. The living witness did not appeal to anyone."

So we live, but we do not want to live so. We decided to do what was impossible to do couple of years ago – simply say "STOP!" to the discrimination. If Azerbaijan wants to be civilised, to be member of Council of Europe and other democratic institutions it must follow the main point – respect rights of its citizens and right for freedom. We have made the first step and although Koran prohibits it "Allah akbar" and "may Allah help us!"

6th Article: "Gay Azeri"

Source: *Vedomosti*, February 4, 2006 by Gyulara Akhmedova

Everyday after nine o'clock there is considerably big crowd on the corner of the former Inqlab Street of Tbilisi Avenue. First, I naively thought that "motordrome" was made there for the protesting electorate so that people do not hold any meeting. But when took a closer look I noticed that there were only women. Fantastic!

I could not believe that now after nine o'clock you could go out in the city. That you can shout to the authorities, to the night city and to the whole crazy world what you have to tell them about your painful life and thus use your democratic rights for freedom of speech and meeting. But why is Gadjibala Abutalybov is being accused of prohibiting holding protest meetings in the city? In this case you could actually also protest after nine o'clock against falsified parliamentary elections, Armenian occupiers and other disgrace. Well, it is quite convenient! You come after work (or after ineffectual search for it) home, grab a bite of what can find at home and straight ahead to Tbilisi avenue! Moreover, to your luck, there is no police station close to the place.

Well, this is the real democracy! I was glad and decided to approach them because when else will I be able to witness such an event again? My heart was touched by the big crowd of people dressed in the civilian and by the fact that there is no police there. Who knows may be these are Azerbaijani feminists who obtained the permission from the executive authority of the city for the evening meeting. "But why evening and not morning or day?", – I wondered and answered it myself: "Probably, they are ashamed of the daytime gazes of men. This should be true – because this is not Europe, it is the East".



I came closer. From far off you could say that those girls looked like girls; some were bandy-legged. So what? There are men that are sexually provoked by the bandy-legged and hairy legs. So, there is nothing to worry about. The luck is not in the legs. Their gaze is emancipated; make-up is cheap, bought in the kiosks of the underground passages. They are socially decently dressed (clothes bought in Bina-“Sadarak” trade fair).

When seeing me all unfriendly turned back. I was puzzled: what wrong have I done to them? But being and owing to my profession an annoying person, I should also add rather impudent, I tried to ask my secret night strangers couple of questions. One of the beautiful strangers in order to answer my question or better to say, to refer to my mother when answering it turned to me... and I noticed bad shaven skin under the make-up. In fact, it was a sun-tanned and young Azerbaijani man in check fabric skirt that was 20 centimetres shorter than mine, in brown and nice looking jacket. His stockings were torn in some places and his legs were not shaved for two or three days. They were big. His hands were well-groomed and nails were polished in bloody red colour. The dimensions of typically Caucasian nose were so impressive in its scope and in its clear belonging to west-Azerbaijani region that a thought came across my mind that this poor thing is in desperate need of the plastic operation. Otherwise his career is doomed.

While these thoughts flitted in my light-minded head the man was staring at me with a trying look. It was too late for me to step back and because of adventurous character I decided to interview somebody. To my luck the man in skirt was favourable this evening to be interviewed and did not see in me a competitor for street business.

I am not going to ask you traditionally inconsiderate questions – Why? and How? I will ask you the following:
How come there are so many of you here and there is no policeman?

They have already taken what belongs to them and drove back to the police station.

Are you generous in paying the policemen?

Of course! They have already bought cars for our money. Soon when they save more money they will buy apartments in the newly-built blocks.

So, you are the providers of the police?

Absolutely! They must kiss our hands for that. But all of them come from far distanced villages and have never had a dollar in their hands. Good there are us. We have mercy for them because they are hungry.

What about your clients?

It is okay. Was worse before.

I guess big wheels come as well?

There are both big and small.

Are there police officials among your clients?

If I answer this question I will lose my work place. But, you know our daddies with whom we make love do not have low positions.

I will ask you a bit tough question: if it is hard on you, do not answer. What about your civic position? You know, our lands are occupied in Karabachos. Will you go to protect Karabachos in case of war outbreak?

No, I do not care for your Karabachos.

But it is yours also?



Enough of politics. We do not like it.

You have a dream?

Yeah, earn enough money and run away somewhere far from here.

To Holland?

Maybe Holland.

Do you know that there is going to be an international gay festival of gays in Moscow? Going there?

By all means. We are going to represent Azerbaijan there.

What if Armenian gays start to make sexual harassment? What will you do?

I told you: no politics! We do not care... Armenians or Germans, French or Russians... what is the difference?

There are about fifty of you here and the police are not driving you out from here at this time of the night. Are they pretending that they do not see you? Can you give an advice to people who want to go out too? What should they do if they want to express their indignation and dissatisfaction with the government that is not solving their social problems?

They can follow our example and no one will touch them.

How should they follow you? From behind or the front?

The man in a skirt could not answer this question because a black Mercedes with dark windows arrived. People in it hailed him. He gladly walked on his high heels to the car shaking his back. A stout "daddy" with a tie around his fat neck looked out of the window. He paid no attention at me probably taking me for a short and ordinary looking transvestite. The breaks screamed and the evening interview was over.

P.S. In order to escape being politically incorrect I would like to say beforehand that personally, sexual orientation of people does not matter for me at all. In European countries (in USA as well) homosexuals make quite significant carriers; they become scientists, artists, policemen, and diplomats. In our country, however, homosexuality has become prostitution. I do not know what the reason behind this is: either economic situation or maybe it is because the demand causes the high scale of offer. Anyways, our gays prefer to sell their body and not to make career. But we also have couple of gays in the higher circles of our society.

We have an interesting game of words in this context: homosexuals are called "gays". In the Azerbaijan language "gay" means "blue". (The word "blue" is used in the Russian language for homosexual.) That is to say, it means the same thing.

7th article: "Homosexuality in Action"

Source: Zerkalo, 29 April 2005 by A. Myasnikova

A charming creature in scarlet costume smoking her cigarette in a relaxed manner walked along the highway which is not quite brisk in the evening time. Her legs were in ajour stockings and she wore incredibly high heels. Her gait, the way she shook ash from her cigarette, her flattering scarf, carrying bag (probably from



some couture). Such a splendour, grace and femininity were there...

"Come on, it is not a woman!" And my female envy was broken by the taxi driver's retort. "It is a gay! There are many of them at this time of the day. They sell themselves here"

Indeed there were quite a lot of them. Part of Tbilisi Avenue, which stretched from Yassamal Regional Police Department and practically to School # 60, was brimming with charming creatures that had well-known sexual orientation. And if you had tried to forget about this orientation you would have had a different impression – that you were driving around the night Baku, but under the force of some incredible circumstances you happened to be in Tverskaya Street in Moscow or in the Broadway; and would seems that were are observing the difficult life of prostitutes. You can see the same expensive cars here and there is the same negotiation on the price which is quite "appropriate" here; in the same way the buyer obtains the right for temporal use of the "living goods" and then leaves satisfied with the purchase and in anticipation of even greater, however full of doubt and suspect enjoyments.

And actually there is not a big problem here. But there are some "buts" that make you consider what kind of "tomorrow" this "oasis of man's love" which is located almost in the center of the night city might lead us to...

No law, no problem. I am not a puritan and am quite loyal to any kinds of minorities and majorities, as long as they do not intrude into my property; and all these questions as "who?", "when?", "with whom", "for how much" I attribute to the category of question of personal likes.

Nevertheless, no matter how liberal your point of view can be on what is happening you ought to agree that the fact that the "oasis" neighbours with the police department is quite shocking. Policemen from Yassamal Region with whom I had a chance talking as a rule giggle, ask not to refer to their names and justify themselves by saying: "But what can we do?"...

I am expressing here my mistrust in the police because our police, when it is desired, can find criminality even in the day-nursery of a kindergarten by means of incriminating the fact that a baby wanted to take violent possession of the pot which belonged to somebody else. In their response to this the policemen shake their shoulders and say: "Well, even if this happens, we must assure you that there will be less of a scandal than if we arrest a gay non-legally ..." After talking with the representatives of police I could find out that the Article that had existed during Soviet times called "pederasty" is not anymore present in the legislation system of Azerbaijan Republic. Therefore, nobody could be punished in any ways for homosexuality. And I think this is right because it is not worthy for the state not to deal with the bed linen of its citizens. But the problem is not rooted in this.

The Criminal Code of Azerbaijan has an Article that can punish prostitution. According to the decision of court, of course if the act of selling body will be proved, a prostitute will be required to pay a fine in the amount from 90,000 to 200,000 manats. Besides that, the law punishes forcing others to practice prostitution. The policemen "parry" by saying first, that in case of "boys" from Tbilisi Avenue nobody is seducing anybody neither is anyone forcing others to have sex. Concerning "selling the body" they claim that it should be first of all proved, which is practically impossible. Moreover, there is an interesting nuance according to which the Article

on prostitution refers only to female population; transvestites do not fall under this category.

As one of the officials of Yasamal Regional Department of Internal Affairs, who certainly wished to remain confidential, told me that nevertheless, the police periodically make something like spot-check or raid in the places where gays get together. This is, by the way, not only Tbilisi Avenue, but also several central city bars where transvestites and their potential clients prefer to party.

However, after short check-up police prefer to let them go without making them any harm; this is again because of the absence the actual crime. Also, as written above, this is done because in some case this can raise a big scandal.

Much noise out of nothing? New times dictate new doctrines. It is not a secret that the fashion is not limited by what is shown during spring-autumn fashion show in Milan. Fashion can be in what we eat, smoke and talk about. In the season of new century you can be liberal and have wide points of view on different problems. It is also in fashion to be not like others.

The teenage syndrome "I am different" and also the width of our points of view have given birth to the problem in which the society gets caught up more and more.

Law advocates shout everywhere that homosexuals are not quite healthy people who need to be provided with special conditions, gathered in clubs according to their interests and not castigated. Transsexuals from Tbilisi highway themselves say that.

I would like to point out that the topic of homosexual prostitution has nothing to do with medicine and sexual minorities' rights violation. And even if does, it does from quite opposite perspective.

According to the findings of official psychiatry, a girl (or woman) who was raped has more chances for psychological rehabilitation than a boy (or a man) who was also raped. Today's teenagers have a bigger access to information than their parents did at the same age. Without possessing adult adaptation to the society around them and aspiring to everything new and inaccessible, teenagers often undergo the influences of modern environment in which "to be natural" means something like a bad style.

Already today no one can one-hundred-percent surely say: "this will never affect my child..." because this can affect anyone. It would be good if in the family, where this could happen, had enough wisdom, patience and efforts, not only moral, but also financial (taking into account our free medicine) to get their child out of this trouble.

Continuing the same medical topic it should be pointed out that until the presence of homosexual prostitution in the country is not recognised on the official level in the context of legislation it is senseless to talk about fight with AIDS, various types of hepatitis and venereal deceases...



Well, as for the ardent law advocates who are for clubs, Holland and Council of Europe – I would like to know the following: who specifically do they want to unite in clubs “according to interests”? Those who make not at all bad business on their bodies and orientation at nights? Not for the world they will go there! Those who would have gone already have their small socialising groups in which they speculate on political freedom and live according to this “freedom” without paying attention on what the outsiders talk about, and at the same time they do not cross borders where the personal ends and the public starts...

On the border ... Our quite conservative population tries not to discuss and notice this problem. However, it is getting more and more difficult to do the latter.

The majority of the transvestites “working” today in night city streets are not homosexuals in the medical sense of the word. To some degree, they are actually usual men solving in this original way their personal financial problems. It is difficult to accept this fact and to believe in it, but alas! The reality of today’s life is that the way of earning of such kind is not to be discussed and it is in fact not discussed. So, when lawyers try to make gay prostitution a human rights violation by appealing to the fact that their wards are not accepted to work because of untraditional orientation they imply that gays’ going to the place of selling themselves should be accepted almost as an action of protest. Whether one wants it or not a wish comes to remind to people protecting rights of others that our country has a high level of unemployment with which sexual orientation has nothing to do. Many people to some degree have been in this place of sale.

Until elementary social issues are not solved we can in no way be equal to Holland or any other European country; the reason for this is that our sexual minorities and theirs are of different categories of citizenship and of absolutely different approaches to one and the same problem...

Annex 1.2

"On the Problem of Stigmatisation (or Public Condemnation) of Homosexuals and on the Homophobia in Contemporary Society"

by Geraybeyli G. Ch., Senior lecturer, Medical Faculty, Medical University of Azerbaijan

While we were still carrying out the research on multidisciplinary studies of homosexuality, the Article of Criminal Code of the Republic of Azerbaijan that specifies punishment of individuals for homosexuality was abolished.

However, the abolishment of the Article did not and could not solve all the social, psychological and legal problems that were accumulated during many years. How should homosexuals be treated? As psychologically ill, as criminals or as "victims of fate"? This question is very topical problem for many post-Soviet countries and it is very crucial to Azerbaijan. This issue being unsolved leads to the fact that there are still hurt lives; arbitrariness; reprisals in courts; sexual violence in jails, camps and army; and the most important thing is that the tragic loneliness of people with "untraditional sexual appetite" continues to exist. They are doomed to live in constant fear and misunderstanding. Ongoing psychological tragedy of these people leads them not only to the fear of persecution of blackmail, but also to the fact that at times they cannot develop adequate self-consciousness and understand who they are. The bigger part of homosexuals, being conscious of the fact their behaviour does not fit the surrounding norm adopted by the social majority, deeply suffer of their "defect". They feel themselves unhappy, began to be unstable in various situations that injure their psychics, are afraid of condemnation and discredit. Therefore, they hide their problems not only from the specialists, but also from people close to them.

As research conducted by us during several years shows people with homosexual appetite are often objects of discrimination. Moreover, because of the common attitude to homosexuals they do not approach psychologists. Instead, they hide their feelings, encounter more stress, and psychological hardships. They cannot thus, receive psychological and medical help and cannot arrange their life according to their sexual need. All this makes deep social and psychological disadaptation, alienation and it makes them derelicts.

Excluding homosexuality from the list of crimes that are punished by law reduced the possibility of blackmail and at the same time challenged homosexuals to seek psychiatric and psychological help more bravely and actively. Nevertheless, even in our days in many societies homosexuals is an oppressed and condemned minority and belonging to it is associated to many negative characteristics that create brand or stigma.

Stigmatisation can have various forms and manifestation – physical (persecution by law, deprivation of freedom), economical (prohibitions for profession, dismissal from work), normative (prohibition to marry) and symbolical (insulting jokes, mockery). These all, however, always mean oppression and discrimination. As it is known, irrational fear of homosexuality and negative feelings in relation to homosexuals is called to homophobia.



Stigmatisation of homosexuality and homophobia not only make the relationships in the society difficult, but also imposes an impression on psychics and self-consciousness of the given minority which generates reduced self-respect and so on.

Stigma and fear of it acts as if it be a self-realising prediction: a boy that everyone considers a “mollycoddle” and mocks by calling him “pederast” starts to doubt his own masculinity. He begins to envy stronger boys and at the end accepts the roles imposed to him by others, which he himself considers humiliating. For some teenagers of our time haunt for “gays” (as homosexuals are often called in our society) is “means” of increasing their own authority and quite often is an overcoming of their personal latent homosexuality. The most “zealous” homophobes are often those having something to hide or those suspected of homosexuality.

Our research shows that homosexuals are not the only victims of homophobia. When there is hate for homosexuals in a society, accusations of homosexuality are quite “efficient” means to intimidate, make silent or even to destroy opponents (this can include political opponents as well, no matter what their sexual orientation is). Despite the abolishment of legal punishment for homosexuality their civil rights are still difficult to guarantee.

No matter how radically legal punishment has changed the real situation of sexual minorities depends not so much on norms of consciousness, but on the situation of public psychology. Homophobia, irrational fear of homosexuality and hate to those having it is one of the main problems of sexual culture of the modern society. Change of legal status of homosexuality is closely connected with overcoming the fear of homosexuality in the public consciousness. Hostility to homosexuals is rooted not so much in individual, but rather in public psychology. People often think about the homosexuality according to the following principle: “What do the majority of people surrounding us think about it? I will think in the same way.”

The attitude to homosexuals in the public consciousness of modern society came to be fixed; it was “brought up” by Soviet society and Soviet reality. In Soviet society homosexuality was out of law, but besides that it was seen as “invasion of normal way in the realm of sexual relationship”. That is why it is “deserved” condemnation both as a social reality and as a psychological way of life and way of behaviour of particular person. In recent years a term “heterosexism” is often encountered in special literature. An American psychologist Gregory M. Herek defines this term as an “ideological system that denies, belittles and stigmatises any non-heterosexual forms of behaviour”.

On the basis of long-term observations and carried out research we can draw the conclusion that the level of “heterosexuality” in modern society depends on the whole range of factors:

1. on the general level of social and cultural tolerance. Authoritarianism and intolerance to differences are incompatible neither with sexual nor any other pluralism. From the point of view of totalitarian consciousness a homosexual is already dangerous because he is different from others;
2. on the level sexual uneasiness. The more the culture is unisexual the more there are sexual taboos and fears. An individual that considers its heterosexuality shameful and dirty will never be able to accept homosexual sex;
3. on the character of traditional culture, religion and its attitude to sexuality;

4. on general level of education and sexual culture of a society. Education as such does not set free from prejudices and biases, but if there are other equal conditions education makes easier to overcome them.

5. on situational social and political factors. Homophobia, as well as other social fears and forms of group hate, usually becomes intense during social crises and when people need common enemy or a scapegoat.

A prejudice against so called biphobia has been marker recently in the society. Biphobia is prejudice against bisexuals. Biphobia has even more mass character than homophobia. One of the probable reasons for this is false public opinion that bisexuals are the first to have the responsibility for spreading HIV among the heterosexual part of the population. The terrible thing is that bisexuals "have simply no rights for existence" because, according to their opinion, such people are not able to choose a definite orientation for themselves: either heterosexual or homosexual.

By the middle of the 20th century homosexuals were one of the most rightless social minority groups that underwent most of the oppression and most diversified kinds of discrimination. By the end of the century AIDS made the situation even worse. It turned to be a catastrophe for many homosexuals. It was homosexuals that became the victims of the most monstrous disease. This gave a way for conservative homophobes to interpret the appearance of AIDS as a "punishment of homosexuals for their sins."

The epidemics of AIDS and the strengthening of negative public opinion about homosexuality made the integration of sexual orientation and positive self-respect even more difficult. Some healthy homosexuals started to perceive themselves as "carriers of death." They were afraid not only to catch AIDS, but also of public contempt. They tried to hide their homosexuality because they considered it as being "killing disease" of AIDS.

Social position and self-consciousness of homosexuals started to change later under the influence of different macro social processes that spread almost in all Western countries and in all spheres of public life. These processes directly affected interests of sexual minorities thus contributing into the change of public opinion about them and their own social and political mobilisation. In many countries a new homosexual subculture started to appear and first forms of homosexual movements for their rights started to exist.

The appearance of homosexual rights' movements in many countries should be regarded as the cause of persecution, discrimination, infringement and hate to this group of people that lasted for many years. One the most visible achievements of homosexual movement for their rights was the exclusion of homosexuality from the classification of psychiatric illnesses by American Psychiatric Association in 1974. This event had both serious social and medical consequences, but from our point of view it cannot be called as based on scientific sufficiency.

It is not a secret that the decision on the exclusion of homosexuality from the list of psychiatric distress is an unprecedented procedure the adoption of which was named "epistemological scandal". This decision was inspired by the "militant" homophile movement.

The definitions were made under the pressuring circumstances of the homophile movement and they contradict to some extent the fundamental principles of medical diagnostics. The reason the definitions contradict the principle is



because the former exclude from the range of psychiatric distresses cases when the patient rejects his pathology – anosognosia. One of the main arguments used by homophiles in their antipsychiatric challenge is well-known conclusion made by A. Kinsey. Kinsey stated that 10% of the population of the United States was homosexual. As it is known, later this data was denied by a more methodologically based data which showed that 2.8% of men and 1.4% of women were homosexuals. This data has a big meaning not only for politically oriented activity that had to consider homophiles as a political force, but also for a lay producer that saw them as a wide class of consumers.

After the well-known decision of American Psychiatric Association categorical statements about aprioristic “normality” of homosexual behaviour started to appear and to spread widely. Moreover, in 1993 American Psychiatric Association accepted “The Resolution on Homosexuality” under the pressure of politically active part of homosexual movement. This resolution was recommended to be adopted in the General Assembly of World Psychiatric Association. The resolution says “taking into consideration that homosexuality in itself does not lead to decline of opinions, stability, and strength of common public and professional skills, World Psychiatric Association appeals to its organisations and to individual members to invalidate laws that punish homosexual acts between adults according to mutual agreement and in the state of confidentiality. World Psychiatric Association appeals to its members to make everything possible to reduce the negative opinion (brand, stigma, shame) about homosexuality wherever and whenever it was encountered.

Besides that American Psychiatric Association strongly recommends to exclude homosexuality from all psychiatric textbooks, stop teaching students this topic as a form of sexual pathology and also stop all scientific medical and other research related to the problems of homosexuality.

Our research done during many years and related to the problems of homosexuality can give its own point of view on this occasion. According to our strong belief criminal, administrative and any other persecution is absolutely impermissible. We condemn any forms of discrimination and punishment of homosexuals as well as breaking their social and civil rights. We believe that they should be provided with all rights and privileges that other people have; and in this we fully agree with “the Resolution of World Psychiatric Association”.

As our research shows unsettled personal relationships and social conflicts connected with sexual feelings are important factors that cause individual health problems. People that do not display and that hide their sexual orientation because of the fear of discrimination, contempt or alienation encounter additional stress, live less, and are often in the situations of psychic and psychological disorders. We are in absolute solidarity with the opinion of World Health Organization that was declared in September 1991: “[s]exuality is a strong human instinct. It causes positive effect on human health not only in the case when sexual desires find appropriate expression”.

However, we believe that it is not right to consider homosexuality as an absolute norm of sexual behaviour. By far not all societies and cultures are ready for this understanding. Besides that we consider that the thesis on absolute normality of homosexuality is not given sufficient arguments and that it does not meet the norms and aims of objective scientific methodology that has a strategic meaning for psychiatry.

Satisfaction of one’s sexual orientation, inefficiency of therapy, the level of the distribution of the phenomenon

and other similar reasons that people give in believing of "normality" of homosexuality certainly cannot be seriously accepted in none of clinical disciplines for drawing a borderline between norm and pathology. Besides that other prognostic criteria of homosexuality such as depersonalisation of partner relationships, stereotyping of behaviour with the growth of addictiveness of it and other found in big number of observations testify, in our opinion, for the advantage of anomaly of the forms of homosexual behaviour. In fact, homosexual behaviour is close to the medical phenomenon of paraphilia.

From the social point of view we think that homosexuality can be regarded as "permissible" and "acceptable" sexual deviation (or type), but by no means as an absolute norm. From the other hand, accepting homosexuality as a norm can be regarded as an encouragement of homosexual relationship and as cause this can lead to wide and unpredictable spread of it among growing generation with all consequent medical and social outcomes.

We also absolutely disagree with the prohibition to teach, moreover to scientific study of homosexuality. We strongly believe that homosexuality as a scientific problem is far from being fully solved and that is why scientific research in this field should be continued with, by all means, voluntary participation of homosexuals in them. We think that similar research will let us develop supported with arguments, proved and serious position for psychologists on this controversial issue and will contribute to the development of new points of view on this "old" problem. Besides that we are convince that this research will contribute to the development of public opinion and perhaps will put an end to homophobia and prejudice for homosexuals. However, the most important thing is that scientific approach and research based on arguments should put an end to psychological tragedy of many people that suffer of their "defect". They will be able freely approach psychiatrists for help and other specialists in order to solve their universal problems.

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Lesbian, gay, bisexual and transgender people are not invisible in the predominantly Muslim Azerbaijani society. Tens of transgender sex workers go into the main street of the capital city Baku every night, prominent showbiz figures barely hide their sexual orientation, mass media gives more space every day to the subject of sexual orientation and gender identities. And yet one should not be misled by this relative visibility: there is a price of estrangement from family, bullying, social exclusion, discrimination, blackmailing and hate crimes attached to it.

This joint ILGA-Europe and COC report is the first of its kind to be published about same-sex relationships and LGBT people in Azerbaijan. It explores identities, common human rights violations, the landscape of LGBT organising, health and HIV/AIDS, and relevant legal aspects. It also provides recommendations to the Azerbaijani government, donors, LGBT activists and international organisations.

