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Maternity Protection and Childcare Systems in the Republic of Azerbaijan



ILO Decent Work Technical Support Team and Country Office
for Eastern Europe and Central Asia



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Foreword

Maternity protection, aiming to protect the health of mother and child as well as women's economic and employment security, was identified as one of the priority area agreed by the tripartite constituents in the Republic of Azerbaijan in 2011. In its effort to improve national maternity protection system in compliance with the international labour standards, Azerbaijan ratified the ILO Maternity Protection Convention, 2000 (No.183) in 2010. In support this national initiative, the ILO technical assistance on analysing the present maternity protection and childcare systems was provided.

The first draft of the analysis was presented at the national tripartite conference on "Improving Maternity Protection System in Azerbaijan" in October, 2012 in Baku, Azerbaijan. This national tripartite conference aimed to analyze the present situation related to maternity protection in Azerbaijan to demonstrate how legislation can have a significant role in shaping and perpetuating social expectations of men and women, as well as unequal relations between men's role and women's role in the household and society.

This report was prepared by Dr. Elena Kasumova and Dr. Silke Steinhilber under the framework of the Finland funded Technical Cooperation Project "From the Crisis towards Decent and Safe Jobs". The final report was completed under the supervision of Mariko Ouchi, Senior Social Protection Specialist, the ILO Decent Work Technical Support Team and Country Office for Eastern Europe and Central Asia (ILO DWT/CO-Moscow). The comments provided by Laura Addati, Maternity Protection and Work-Family Specialist of the Working Conditions and Equality Department, the ILO Headquarters have been reflected in this final version.

The report consists of introduction, four analytical chapters and conclusions which also include recommendations. Chapter 1 provides the socio-economic and demographic overview and Chapter 2 further reviews of national laws, policies and programmes related to maternity protection. In Chapter 3, the report further focuses on the discussions of the specific features of maternity protection and childcare systems in Azerbaijan and Chapter 4 explains the role of various actors in policy implementation, including the role of Azeri social partners.

We trust that this report will serve as a useful reference for those concerned with the development of a better maternity protection and childcare systems in Azerbaijan.

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List of Abbreviations and Acronyms

CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
GDP	Gross Domestic Product
HDI	Human Development Index
IDP	Internally Displaced Persons
ILO	International Labour Organisation
CIS	Commonwealth of Independent States
UN	United Nations

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1. Introduction

Azerbaijan has ratified all major UN treaties on human rights, including the Convention on the Elimination of all forms of Discrimination against Women, (CEDAW), its Optional Protocol, and the core ILO Conventions in the area of non-discrimination, maternity protection and work-family reconciliation (ILO Conventions 100, 111, 183 and 156). The Constitution as well as labour, family and civil laws and regulations in the fields of health and socio-economic policy form an encompassing legal framework for maternity protection and for the equal treatment of women and men. Azerbaijan was one of the first CIS countries to adopt a specific law on “State guarantees for gender (women and men) equality” in 2006, providing a legal framework for the equal rights of women and men in political, economic, social, cultural and other areas, as well as defining the role and powers of state institutions in this respect.

The State has expressed its commitment to improving social security and maternity protection, reducing infant and maternal mortality and strengthening targeted social assistance to low-income families with children in a number of programmes and policy concepts. The National Action Plan for Gender Equality and the “Strategy of Azerbaijan family”, two core strategies in the field, still await finalization, however.

Maternity protection policy is framed by gendered social norms and traditions. Gendered assumptions are also visible in the fact that, implicitly and explicitly, women continue to be regarded the “weaker” sex in need of social protection. A range of occupations are, by law, prohibited for women. Labour legislation contains numerous provisions and benefits that are addressed at women and at mothers. A discussion about possible differences between provisions that have to be addressed at mothers because of their reproductive and health situation, and other benefits and provisions that could be gender neutral and promote the reconciliation of employment and family life for all working parents, women and men, has only just started in the country, and awareness of the differences is not widespread. Currently, maternity protection is not equally well implemented throughout all sectors of the labour market. However, there are no comprehensive and comparable statistics to assess the extent of implementation and to access gaps. The involvement and collaboration of state bodies, trade unions, employers’ organisations and non-governmental organisations in promoting maternity protection is still limited. The current report presents the main issues for consideration and presents available evidence. It highlights the importance of clear definitions of discrimination and the use thereof in policy and programmes. It also points out the importance of clearly defined responsibility for implementation and monitoring of existing legislation and protective provisions, and the importance of social dialogue in effectively promoting maternity protection.

2. Main socioeconomic and demographic indicators

Demography

According to the preliminary estimates of the census data in early 2010, the population of Azerbaijan was about 9 million people, with a slightly increasing tendency. 49.6 per cent of the population are men, 50.4 per cent are women. Over the last 10 years, the share of women among the population keeps falling. Almost every year it reduces by 0.1 per cent, a process that can partly be explained by a skewed balance of births due to sex-selective abortions.¹ 22 per cent of the population is 0–14 years old, 72 per cent are between 15 and 64, and 6 per cent of the population are over 65 years old. 54 per cent live in urban areas and 45.9 per cent in rural areas. The birth rate has remained stable over the last two years at 17.2 babies per 1,000. Although the current birth rate is much lower than in 1990–1991 (when 26 babies per 1,000 persons were born), it is noticeably higher than in 2001, when there were 13.8 babies born per 1,000 persons. The total fertility rate for the period of 1995–2005 averaged 2.1 and for the period of 2005–2011 it was 2.3.²

In comparison with 2011, the number of marriages and divorces for every 1,000 persons has remained the same, respectively, 8.9 per cent and 1.2 per cent.³ An increase in the number of children born out of wedlock/ under non-registered marriages can be observed: in 2011, 17.6 per cent of children were born out of wedlock, while in 2008 it was 11.8 per cent, and only 2.6 per cent in 1990. This trend indicates both the erosion of the institution of the family and the rising prevalence of child marriages.⁴ The trend is more pronounced in regions with slower social and economic development: the increase in births of unmarried mothers in rural areas has been 19.9 per cent, compared to 15.2 per cent in cities.⁵

Over the last two decades the child birth rate for women in the age groups 15–19 and 25–29 became inverted. The number of child births among 25–29 year old women has systematically decreased, while the number of children born by 15–17-year olds has been on a continuous rise. Between 1980 and 1998, the number of children born by women 15–19 has almost tripled.⁶

¹ http://www.azstat.org/statinfo/demographic/en/1_7en.xls

² http://www.azstat.org/statinfo/demographic/en/AP/_1_13.xls

³ http://www.azstat.org/statinfo/demographic/en/AP/_1_12.xls

⁴ UNICEF 2009. Study on Early Marriages in Azerbaijan. Baku, http://www.unicef.org/azerbaijan/Brochure_Eng.pdf

⁵ http://www.azstat.org/statinfo/demographic/en/AP/_1_12.xls

⁶ www.gender-az.org/nationalgenderreport/research/. Under the existing law, no marriages under 16 for girls and 17 for boys are allowed, so information is carefully concealed by marriage participants and their families. UNICEF 2009 op.cit.

Economic trends and poverty reduction

Azerbaijan was the leader among the CIS countries in terms of economic growth: Between 1997 and 2009, the gross domestic product (GDP) grew at an average of 14 per cent a year.⁷ The highest GDP growth, 34.5 per cent, was recorded in 2006. Most of the growth was generated by industrial production, mainly in the oil and gas industry, which grew on average 18.8 per cent between 2003 and 2009.⁸ Agriculture's contribution to GDP is relatively low, despite the fact that 54 – 55 per cent of the territory of Azerbaijan (approximately 47.4–47.6 thousand square kilometers) is agricultural land, and the number of rural population whose basic income comes from agriculture, forestry and fishery in 2011 was 4.28 million people (47 per cent of the total population).⁹ Women are disproportionately employed in agriculture, with 41.8 per cent of the economically active population of women engaged in agriculture, in comparison with only 35.1 per cent of that of men. Women also constitute the majority (54.1 per cent) of all those engaged in agricultural production.¹⁰ The average monthly income of a rural family in 2011 was about \$180–\$ 185.¹¹ Because of their low income, a significant share of the rural population does not contribute to the social security fund on a voluntary basis.

Poverty has significantly declined over the last decade in the country, as measured by official poverty rates. However, it remains still a serious problem if looking at non-monetary material deprivation indicators. A substantial part of the population has limited or no access to basic utility services such as water, gas or telephone. Conditions are worse in rural areas.¹² The highest poverty rate (72.5 per cent) was recorded among refugees and internally displaced persons (IDPs).¹³ In rural areas almost 39 per cent of households are managed by single women. These, together with larger households with more than three dependents, are generally the most disadvantaged. In rural areas, women are a vulnerable group for several additional reasons. Although they represent the majority of those involved in agriculture, their status is unclear with regard to property issues and to decision-making within households. Deficiencies in public services in rural areas (access to adequate sanitation and safe drinking water, market centres and health services) affect poor rural women disproportionately by increasing workloads and the time commitments required to meet basic family needs.¹⁴

⁷ World Bank, Data and Statistics for Azerbaijan, GDP growth.

⁸ The State Statistical Committee of the Republic of Azerbaijan, Macroeconomic indicators, <http://www.azstat.org/macroeconomy/indexen.php?page=4&estat=archive&topic=30>

⁹ The State Statistical Committee of the Republic of Azerbaijan, Land resources (beginning of the year), <http://www.azstat.org/publications/azfigures/2012/en/003en.shtml> ; The State Statistical Committee of the Republic of Azerbaijan, Demographic indicators Number of population, <http://www.azstat.org/MESearch/details?lang=en&type=2&id=191&department=11>

¹⁰ IFAD 2010. Republic of Azerbaijan. Country Strategic Opportunities Programme. EB 2010/99/R.9

¹¹ Calculated as the average annual income of a rural family of 4 persons in 2011.

¹² Social Protection and Social Inclusion in Armenia, Azerbaijan and Georgia. Synthesis Report. European Commission 2011. <http://ec.europa.eu/social/BlobServlet?docId=6880&langId=en>

¹³ Report. "The Status IDP Women in Azerbaijan". http://www.un-az.org/doc/idp_assesmenteng.pdf

¹⁴ IFAD op. cit.

The increase in oil revenues has contributed to a significant increase in the state budget in a relatively short period of time. From 2003 to 2009, the total budget expenditure has multiplied more than 10 times.¹⁵ Increased government spending in this period was largely focused on infrastructure, defense, and public service. However, health, education and social protection, all sectors of high relevance for women, benefitted much less. Despite a growth in absolute social spending, the relative share of social spending in the national budget fell over the past few years. For example: In 2003, social security spending was 18.2 per cent of total state expenditure, while in 2009 it was 9.7 per cent.¹⁶ Expenditure on education decreased from 19.2 per cent of total expenditure in 2003 to 10.9 per cent in 2009. Public health expenditure increased from 0.8 per cent in 2003 to 1.1 per cent in 2011, a statistic which places Azerbaijan among the countries in the world with the lowest public spending on health.¹⁷

With the global financial crisis of 2008–2009, the economic growth slowed down: In 2011, GDP growth was only 0.1 per cent.¹⁸ In 2011, the growth rate of the non-oil sector of Azerbaijan, at 9.4 per cent, was higher than in the oil sector for the first time.¹⁹ The Azerbaijani government has taken important steps to mitigate the effects of the financial crisis: According to EU data, the government invested about €3,72 billion in the local economy, mostly in infrastructure (60 per cent) and social projects (20 per cent).²⁰

Gender differences in employment and the labour market

The “Global Gender Gap” report by the World Economic Forum, documents a slightly increasing gender gap in Azerbaijan in the areas of economic participation and political empowerment.²¹ Inequality is particularly marked with respect to political empowerment, reflected in very low numbers of women in parliament and women in ministerial positions. The country’s overall score is 0.066 (with 0.00 = inequality, and 1.00 = equality). In 2011, Azerbaijan ranked 91 (of the 135 countries surveyed) in the Human Development Index (HDI), with an HDI of 0.6577 (HDI).²²

A number of indicators speak to the challenges for women in Azerbaijan in reconciling their economic role with maternity and family responsibilities. There are gender differences in economic activity and unemployment rates, the type of employment of women and men, and

¹⁵ The concept of “Azerbaijan – 2020: A look into the future” http://www.president.az/files/future_ru.pdf

¹⁶ Southern Caucasus. 20 years of independence. Friedrich Ebert Stiftung. https://dgap.org/sites/default/files/article_downloads/20%20years%20of%20independence

¹⁷ <http://www.indexmundi.com/facts/azerbaijan; Human Development Report, 2007, United Nations. hdr.undp.org>.

¹⁸ The State Statistical Committee of the Republic of Azerbaijan, Macroeconomic indicators, <http://www.azstat.org/macroeconomy/indexen.php?page=4&estat=archive&topic=30>

¹⁹ The State Statistical Committee of the Republic of Azerbaijan, Macroeconomic indicators, <http://www.azstat.org/macroeconomy/indexen.php?page=4&estat=archive&topic=30>

²⁰ Social protection and Social integration in Azerbaijan. The European Commission. General Management concerning employment, social affairs and integration 2011 [PDF] ec.europa.eu/social/BlobServlet?docId=6899&langId=ru

²¹ http://www3.weforum.org/docs/WEF_GenderGap_Report_2011.pdf In the areas of health and education, the report shows very limited gender differences.

²² <http://hdrstats.undp.org/en/countries/profiles/AZE.html>

2. Main socioeconomic and demographic indicators

wages, all signaling strong gender divisions and a prevalence of discrimination against women.²³ Aspects of the prevalent gender discrimination in employment are broadly recognised officially: the Azerbaijan Employment Strategy, for example, confirms that “statistical data show that the majority of women are usually employed in low-status jobs with little pay.”²⁴

According to the official data of January 1, 2012, the economically active population in Azerbaijan is 4.632 million people. Of them, 49.1 per cent are women. The gap in economic activity between men and women is on average 2.5 per cent in the country. In rural areas, due to self-employment, the gap is less than 1.8 per cent. However, in the 2006 DHS survey, only 19.5 per cent of women considered themselves to be employed, mainly in professional, technical and managerial roles.²⁵ Women’s economic activity has been declining during recent years.²⁶ Many women leave the labour market when they have children, leading to a lower economic activity rate of women of childbearing age when compared to men. Employment of women in Baku is 73 per cent higher than in rural areas, indicating better facilities to combine paid work with family responsibilities, as well as greater acceptance of women engaging in paid work.²⁷ The smaller a settlement is, the lower the economic activity of the population, as data from Baku, Lankaran, Hachmace, Divichi, Sumgait, and Sheki show.²⁸

The total unemployment rate for women in 2011 was 6.4, whereas men’s unemployment rate was 4.5.²⁹ The gender difference in unemployment rates is bigger in urban areas (7.4 to 4.3) than in rural areas (5.3 to 4.6).

Gender wage gap

The overall income gap in Azerbaijan is heavily determined by the size of the male-dominated oil sector in the national economy. The estimated annual income of women has been estimated at \$ 6,691, while for men it has been estimated at \$ 12,720.³⁰ The average wages of women are only 54 per cent of men’s. The share of income from self-employment for men and women has remained unchanged for the last three years: 16.5 per cent for women and 26.7 per cent for men.³¹ More data and research would be needed to illuminate the extent of gendered income differences in the country, and to further explain the reasons for the observed differences, as well as to develop appropriate policy

²³ Discrimination in Employment And Occupation in Azerbaijan. ILO. Baku 2010, p. 45.

²⁴ Employment Strategy of the Republic of Azerbaijan (2006-2015): Approved by the Resolution 1068 of the President of the Republic of Azerbaijan on October 26, 2005, p. 59.

²⁵ State Statistical Committee (SSC) and Macro International Inc. (2008), pp.38, 40, quoted in <http://genderindex.org/country/azerbaijan>

²⁶ http://www.azstat.org/statinfo/labour/en/2_5en.xls#s5

²⁷ National Human Development Report 2007; <http://hdr.undp.org/en/reports/nationalreports/europethecis/azerbaijan/name,3325,en.html>

²⁸ http://www.azstat.org/statinfo/labour/en/8_2en.xls#s2

²⁹ http://www.azstat.org/statinfo/labour/en/008_1.shtml, Table 8.16.

³⁰ http://www3.weforum.org/docs/WEF_GenderGap_Report_2011.pdf

³¹ http://www.azstat.org/statinfo/demographic/en/w_m/4.2.xls

responses. To date, national legislation does not employ the principle of work of equal value, and instead uses only the principle of equal pay.³²

Table 1. Main indicators in the areas of demography and employment

Indicator	
Population size, millions	8.88
Maternal mortality, per thousand	38
Women's labour force participation rate, %	65
Men's labour force participation rate, %	71
Women in non-agricultural paid labour (% of labour force)	44
Ratio of a woman's wage to a man's wage, %	68

Source: WEF Gender Gap Report 2011

High maternal and child mortality

The most serious challenge to safe maternity in Azerbaijan is maternal mortality. The report “The State of World Population 2011”, published by the United Nations Population Fund, states that in Azerbaijan there are 38 maternal deaths to 100,000 childbirths.³³ One reason for the high maternal mortality is complications after abortions as the rate of abortions in Azerbaijan is one of the highest in the world. This is partly due to sex-selective abortions, as well as a lack of information and education programmes on sexual and reproductive health.³⁴ Early marriage is another important factor: 13 per cent of women age 15–19 are married already.³⁵ Maternal mortality indicates the existence of multifaceted inequality based on gender and supported by an income gap. Many deaths could be prevented if women received appropriate obstetric care during the prenatal and childbearing periods.

In 2010, the national infant mortality rate was 11.9 per thousand. In 2011 this figure dropped to 10.8 per thousand, which is still a very high rate.³⁶ In rural areas, infant mortality in the first year is twice as high as in urban areas. In poor households it is three times higher than in those that are well-off.³⁷ The infant mortality rate among children in internally displaced families is 50 per cent higher than infant mortality among other families.³⁸

³² Gender Equality Law Articles 9.1 and 9.2.

³³ http://rss.novostimira.com/n_1661070.html / The DECISION of the CABINET of the AZERBAIJAN REPUBLIC October, 20th, 1999 №170 http://cis-legislation.com/docs_list.fwx?countryid=000&page=235

³⁴ <http://www.vesti.az/nvesti/news/105807/news/118453/last.php>

³⁵ http://www3.weforum.org/docs/WEF_GenderGap_Report_2011.pdf

³⁶ <http://sehiyye.gov.az/metbuat/print:page,1,359-minzdrav-azerbaydzhana-vnes-yasnost-v-doklad>.

³⁷ Adventist Development and Relief Agency (ADRA), Azerbaijan Ministry of Health, State Committee of Statistics et al. Reproductive Health Survey Azerbaijan, 2001. Final report. Baku/Atlanta, 2003, www.healthmetricsandevaluation.org/.../aze...

³⁸ Holley J., Akhundov O., Nolte E. *Health care systems in transition: Azerbaijan*. Copenhagen, WHO Regional Office for Europe on behalf of the European Observatory on Health Systems and Policies, 2004, http://www.euro.who.int/__data/assets/pdf_file/0006/96441/E84991R.pdf

3. Overview of laws, policies and programmes related to maternity protection

3.1. Key legal and programme documents on maternity protection and financing of benefits

Azerbaijan has ratified all major UN treaties on human rights, including the Convention on the Elimination of all forms of Discrimination against Women CEDAW, which establishes the State's obligation to guarantee women's equality and non-discrimination. In 2001, the country signed the Optional Protocol to the Convention, which provides that "the Committee (on the Elimination of Discrimination against Women) can be addressed by individuals or groups, if all internal means of legislative support have been exhausted."³⁹ Thus, every citizen of Azerbaijan can bring the state to account for violations of the CEDAW provisions, which defines a series of measures in the field of women's work "in order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work".⁴⁰

Already six months after its independence in May 1992, Azerbaijan ratified the ILO Convention No. 103 On Maternity Protection as well as ILO Convention No. 122 On Employment Policy, the ILO Convention No.100 On Equal Remuneration and the ILO Convention No.111. In 2010, Azerbaijan registered the ratification of the ILO Conventions On Maternity Protection (No. 183), as well as the 1981 Convention on Workers with Family Responsibilities (No. 156).

At national level, the Constitution (1995), as well as labour, family and civil laws, and regulations in the fields of health and socio-economic policy constitute the legal framework for maternity protection.⁴¹ Specifically, Article 34 n. III of the Constitution declares: "Family and marriage are protected by the state. Maternity, paternity and childhood are protected by law. The state provides assistance to large families".⁴² Further, the Constitution (Article II Section. 35) declares "the right to choose freely on the basis of their abilities, kind of activity, profession, occupation and place of work" and states that "everyone has the right to work in safe and healthy conditions, to receive compensation for their work without any discrimination, not less than the minimum wage fixed by the State."

³⁹ Optional protocol to CEDAW, art. 2.

⁴⁰ Ibid, art. 11(2).

⁴¹ Equal rights and freedoms are guaranteed by p. III Art. 25 of the Constitution of the Republic of Azerbaijan, the right for benefits and privileges is ensured through the amendment to Art. 25 of the Constitution (2009), http://www.azerbaijan.az/portal/General/Constitution/doc/constitution_r.pdf

⁴² http://www.azerbaijan.az/portal/General/Constitution/doc/constitution_r.pdf

(Section VI of Art. 35).⁴³ Constitutional Law of Azerbaijan Republic “On the Basics of Economic Independence of the Azerbaijan Republic” in Article 16 provides for a system of social guarantees and the implementation of practical measures for maternity and childhood protection, radical improvement of living and working conditions of women.⁴⁴

Azerbaijan was one of the first CIS countries to adopt in 2006 the Law “On state guarantees of gender (women and men) equality”, providing legislative framework to guarantee equal rights for women and men in political, economic, social, cultural and other areas, as well as defining main powers of the state bodies of the Azerbaijan Republic to ensure equal opportunities and non-discrimination based on gender.

The State’s commitment to improving social security and maternity protection, reducing maternal and infant mortality, and strengthening targeted social assistance to low-income families with children is reflected in a number of programmes and concepts, including the “Concept of Demographic Development of the Azerbaijan Republic” (1999),⁴⁵ the State Programme on extreme poverty reduction and sustainable development for 20082–015 (mentioning specific measures of social support for low-income families, maternal mortality reduction and raising a healthy generation in its section on “Gender Policy”)⁴⁶ and the “National Programme of action to improve the protection of human rights and freedoms in Azerbaijan” (adopted in late 2011).⁴⁷ There are plans to prepare a “Strategy of Azerbaijan family”, as well as the long-awaited National Action Plan for Gender Equality, and to develop a monitoring system of cases of violence, early marriage, avoidance of education.

The LC and the Labour Inspectorate bodies regulate the use of women’s labour.⁴⁸ Women are not allowed to work in 67 different fields of manufacturing and agriculture, which are considered to be harmful to their health – regardless of their reproductive or family situation.⁴⁹

Financing of maternity and child care benefits

Social benefits, including maternity benefits, the child care benefit from birth up to three years, and the birth grant, are funded out of the State social security funds (Law “On Social Insurance” No. 250 – IQ from February 18 1997; employers’ contributions to the fund

⁴³ http://www.azerbaijan.az/portal/General/Constitution/doc/constitution_r.pdf

⁴⁴ Ibid.

⁴⁵ Demographic Development Concept of Azerbaijan, <http://vescc.az/ViewDoc.aspx?did=28704>

⁴⁶ <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf> Committee on the Elimination of Discrimination against Women Pre-session Working Group, Forty-fourth session 20 July – 7 August 2009. Responses to the list of issues and questions with regard to the review of the fourth regular report of Azerbaijan.

⁴⁷ National Action Program to improve the protection of human rights and freedoms in Azerbaijan. Article 1.2.9. <http://ru.president.az/articles/4017>

⁴⁸ Labour Code. Art. 241.

⁴⁹ Resolution of the Cabinet of Ministers from October 20, 1999 “A list of industries, professions (positions) with hazardous and exploitative conditions, and underground works.

are 22 per cent from the wages).⁵⁰ The amount of benefits is determined by the relevant executive authority and is subject to indexation at least once a year. Benefits are granted and paid by the relevant executive authority at the place of the mother's residence. The decision to grant a benefit is made by the relevant executive authority within ten days of the request. The law does not establish a deadline for this request: As a mother may have difficulties with the timing of the application, the benefit can be paid retroactively after the application is processed (Section 83 of the Regulations). The child care benefit is discontinued in case a parent of a child up to 3 years of age returns from a partially paid social leave. A medical certificate is required in order to apply for the maternity benefit and the birth grant, while no other documents are needed to apply for these benefits.

3.2. Maternity Protection⁵¹

Maternity protection is regulated by Act No. 250 of 1997 on social insurance and the Labour Code of the Republic of Azerbaijan as in force from November 2009.⁵² All employees working in enterprises and workplaces where a contract of employment exists, as well as employees performing jobs in their homes using an employer's material are entitled to maternity leave. The Labour Code also applies to all workplaces incorporated by foreign countries, their citizens or entities.⁵³

Women are entitled to 126 calendar days of leave, of which 70 days are prenatal and 56 days are postnatal leave. There is no mandatory post-partum leave.⁵⁴ In the event of an abnormal or multiple births, women are granted 70 days of postnatal leave. Women working in agricultural production are granted 140 days (70 before and 70 after birth); 156 days in the event of an abnormal birth (70 days before and 86 days after birth); and 180 days in the case of multiple births (70 days before and 110 calendar days after birth). Women who have adopted a child under two months of age or who are raising non-adopted children shall be entitled to 56 days of social leave (postnatal leave). Men whose wives are on maternity leave are entitled to 14 calendar days of unpaid paternity leave.

During maternity leave, women are entitled to a cash benefit that equals 100 per cent of their actual earnings prior to the leave (paragraph 72).⁵⁵ The maternity benefit is not paid

⁵⁰ Article 4.0.1.7. guarantees a child care benefit from birth up to three years; Article 4.0.2.2. is about the birth grant; Article 7.0.6. declares the child care benefit if the person engaged in the care of a child up to 3 years, is on a partially paid social leave, established by the relevant executive authority.

⁵¹ Information based on ILO TRAVAIL database http://www.ilo.org/dyn/travail/travmain.sectionReport1?p_lang=en&p_countries=AZ&p_sc_id=2000&p_year=2011&p_structure=3 (accessed 22 October 2013)

⁵² Allocation and provision of maternity benefits and birth grants are regulated by "Regulations of the calculation and payment of compensation for the mandatory social insurance and benefits paid to employees temporarily unable to work at the expense of the insurer," approved by the Decree No. 189 of the Cabinet of Ministers of the Azerbaijan Republic.

⁵³ International organizations and stateless persons, as well as public officials are also included, with the exceptions established in the law.

⁵⁴ ILO Convention 183 stipulates a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers. (Art. 4).

⁵⁵ Maternity benefits and birth grants for military personnel and persons with special ranks are issued in the amount of 100 percent of the monthly pay, regardless of social insurance period.

when a person is under arrest, or during a forensic medical examination or compulsory medical treatment (except for the mentally ill) (paragraph 71). In case of a miscarriage, a miscarriage allowance is given on the same basis (paragraph 66 of the Regulations).

Employment conditions, access to employment and health protection during pregnancy

The law also regulates employment conditions during pregnancy and after childbirth. Output norms of pregnant women shall be reduced in accordance with medical findings. Upon the request of a pregnant worker, the employer shall reduce their daily or weekly working hours with wages based on their experience and seniority. Both sides have to agree on the time of the workday or week.⁵⁶ It is prohibited to employ pregnant women to work night shifts.⁵⁷ If there is an unfavourable impact on the pregnancy possible as a result of the production, or if the job implies lifting, carrying, pushing or pulling loads above certain limitations, a pregnant woman in accordance with medical findings, cannot be employed or has to be transferred to another workplace.⁵⁸

The Labour Code of Azerbaijan and the Gender Equality Law protect women from discrimination on the grounds of pregnancy and de jure guarantee employment to pregnant women and young mothers. The Labour Code states that any hiring procedure has to comply with the rules against discrimination on the grounds of pregnancy and childbirth. An employment contract cannot be dissolved with a pregnant woman, or a mother of a child under 3 years of age, or a father raising a child under 3 by himself. This procedure does not apply to cases of refusal due to lack of work (position), as well as for harmful types of work. If an employer refuses due to other reasons to conclude an employment contract with a pregnant woman or a woman with a child under 3 years old, a woman has the right to ask for a written explanation of the reason for refusal and, in order to protect her rights, she may apply to the court.⁵⁹ There is no probationary period for pregnant women and women with a child under the age of three. There is also a clause on improving the working conditions of women in the collective agreements.⁶⁰

Every woman during the prenatal, childbirth and postnatal period is provided with free professional medical care in public health facilities.⁶¹ Every woman has the right to independently take decisions on issues of maternity⁶² and the regulation of her reproductive function.⁶³ The Law “On Public Health” (1997) obliges the state to take care of the family

⁵⁶ Labor Code paragraph 96. The same entitlement is valid for women who have children under the age of 14, or have handicapped children under the age of 16, see below.

⁵⁷ Labour Code. Art. 98.

⁵⁸ LC Art. 243.

⁵⁹ Labour Code. Art. 240.

⁶⁰ Labour Code. Art. 31 п. 2.3).

⁶¹ Article 17.

⁶² Article 30.

⁶³ Articles 29 и 31.

protection⁶⁴ and guarantees the rights of pregnant women and mothers on health protection.

Breastfeeding

Women workers who have children under the age of 1.5 years are entitled to breaks of at least thirty minutes every three hours for feeding their child, in addition to regular lunch and rest breaks. These breaks can be added up to the regular lunch or rest break, or can be taken at the beginning of and/or the end of workdays. If the worker decides to take her feeding breaks at the end of the workday, her workday is shortened. This provision is also applicable to all fathers, foster parents or legal guardians who raise children alone and without the mother for a particular reason (eg. death, deprivation of motherhood rights, therapy in medical institutions, time in jail).

Breaks given for feeding children are considered as working time and the average salary of the worker shall remain the same.⁶⁵ If women with children under the age of eighteen months encounter difficulties in connection with feeding their child, the employer, at the woman's request, shall transfer her to lighter work or provide the necessary facilities for breastfeeding.⁶⁶

3.3. Cash benefits for women who are not regularly employed

Unemployed women are not entitled to maternity benefits, since the benefits are dependent on insurance contributions by the employer. Also, employers pay social security contributions only for official staff members, therefore all women who are not regularly employed are also excluded from maternity benefits.

Informal employment implies the absence of labour and social protection. As informal employment has grown in recent years, there has been a corresponding increase in the number of women without access to the maternity protection and benefits provided for in the Labour Code for all those who are regularly employed.

3.4. Cash benefits for workers with family responsibilities

Apart from maternity benefits, which are provided to mothers who are working in the formal sector, the law foresees three kinds of cash benefits for new parents: a birth grant, a child care benefit from birth up to three years, and a child care benefit if the person engaged in the care of a child up to 3 years is on a partially paid social leave, as established by the relevant executive authority.⁶⁷

⁶⁴ Article 16.

⁶⁵ LC Art 244, 246.

⁶⁶ LC Art. 243.

⁶⁷ Article 4.0.1.7, Article 4.0.2.2, Article 7.0.6.

Birth grant

With the birth of a child, the mother is entitled to a birth grant. With the birth of two or more children, a birth grant is paid for each child. A working mother receives a grant at her place of work by the social security office, where she is registered (paragraph 74). If the mother does not work, the grant is issued to the baby's father at his workplace by the social security office. Unemployed single mothers get the grant through social security offices at the place of their residence. In these cases, the representative of the social security office assesses her living conditions, income sources, etc. in order to decide on the payment of social assistance benefits. However, there are no objective criteria regulating the entitlement to social assistance, which creates opportunities for manipulation.

The birth grant in Azerbaijan is low, a fact that has sparked public criticism: The benefit is 82.5 manat (\$ 110), which is about 83 per cent of the subsistence minimum. In absolute numbers, the birth grant has increased in recent years.

Dynamics of the birth grant⁶⁸

Year	2006	2007	2008	2009	2010	2011	2012
Sum (US\$)	31.60.	36.30	49.20	54.30	78.99	79.20	82.50

Source: Azestat.

Child care benefit, and benefit for parent on partially paid leave

Parents are entitled to a child care benefit for children of up to 3 years of age. For small children (up to 1.5 years of age), the benefit is 20 manat (about \$ 22 in 2012), and for children from 1.5 to 3 years, the benefit is 10 manat (about \$ 11). The amount of the benefit is much lower than the minimum wage.

Not only is the benefit low but there is also evidence of malpractice by the public institutions administering the benefit, as the discussion of young mothers in social networks and forums illustrates.⁶⁹ "In the social security office they took 20 manat away from the first benefit, otherwise paperwork would have taken a long time. And I have a baby. I know that all teachers in our school were forced to give the money. Some of them were told that they came too late, others were told that their documents were not done properly. But then I received payments to my card and had no more problems."⁷⁰

A parent or another family member, who directly cares for a child and is employed by a company, regardless of the company's form of ownership, has a legal right to partially

⁶⁸ www.azstat.chidrencare/benefits

⁶⁹ <http://forum.aztop.com/index.php?showtopic=21463&st=40> www.disput.az ...

⁷⁰ Interview 09/06/2012. U. Mamedova, a secondary school teacher. Buzovna settlement.

paid leave and benefits to care for a child under the age of three (paragraph 78 of the Regulations). Paid leave and benefit is also granted if the parent gets an off-job education in a higher institutions or a vocational school, if she/he is enrolled in a master's (or doctorat) programme, has a clinical residency, is retraining or is attending any other training course. In principle, both men and women are entitled to the benefit, but there is no evidence of fathers using their right yet. Women, who get discharged on the grounds of liquidation of their former employer, are entitled to continue to receive the benefit (for the partially paid social leave for child care) for the period of their formal employment (paragraph 89 of the Regulations).

Other family benefits

In 2006 Azerbaijan moved to a system of targeted social assistance, with income testing to determine the eligibility of families with children to state support. The size of the social assistance benefit is determined based on the difference between the criterion of the poverty level, which is 84 manat from 2012 [in 2011 – 75 manat] and the amount of income per family member.⁷¹ For children up to the age of 1.5 years low-income families are granted an allowance of 20 to 40 manat, depending on whether the child is fed breast milk or not.⁷²

To apply for the benefit, the mother needs to contact the social security office at the place of residence and provide the earnings record of her husband and information about the family members. The social security office organises a commission to investigate the case within 20 days. If it is detected that the family has an additional income, no allowance will be granted. Property at lease or financial support from parents can be seen as additional income, which cannot be considered an objective criterion, as this assistance is not legally valid.

⁷¹ <http://biznesinfo.az/news/society/params/In/ru/article/70075>

⁷² <http://news.day.az/society/336798.html>. It is unclear, how state authorities can objectively determine if a child is breastfed or not, and which factors influence a mother's decision to breastfeed or not. No representative data exists on the application of the distinction.

4. Discussion of selected facts and data regarding the implementation of maternity protection legislation and policies

4.1. Maternity protection

Maternity protection policy in Azerbaijan is framed by gendered social norms and traditions: the key responsibility for the household and children is assigned to women, and women are – implicitly or explicitly – regarded as the “weaker” sex in need of special protection, regardless of their reproductive and family situation. Therefore, labour legislation contains numerous provisions and benefits addressed at women and mothers. To facilitate the successful implementation of maternity protection legislation and policies in Azerbaijan, it is necessary to revisit existing norms and stereotypes in light of international legal standards.

Currently, the labour legislation in Azerbaijan includes a range of provisions and benefits that affect women workers. In line with ILO Conventions and other international standards on women’s rights, gender equality, and discrimination, the existing provisions and benefits in Azerbaijan could be divided into three groups. Such a conceptual division into groups of benefits facilitates an analysis of the successes and challenges of implementing effective maternity protection and family support. Currently, the national legislation tends to address elements of the various groups jointly. The three groups of benefits are

1. Maternity protection benefits (i.e. benefits addressing pregnancy, childbirth and nursing).
2. Benefits addressing the reconciliation of paid work with family responsibilities.
3. Provisions addressing women as a group (e.g. prohibition to work in certain occupations).

The first group of benefits is internationally codified through ILO Convention 183 on maternity protection, ratified by Azerbaijan in 2010. It sets the recognised norms and standards for maternity protection. Maternity benefits are, by definition, available only to women.

The second group of benefits is internationally codified through ILO Convention 156 on workers with family responsibilities, also ratified by Azerbaijan in 2010. The Convention

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promotes support for female and male workers with family responsibilities, reflecting the fact that nowadays, not only women workers face family and caring responsibilities and fathers also have responsibilities and rights in connection with paternity.⁷³ In Azerbaijan, this is reflected in men's entitlement to paternity leave (although unpaid). However, so far neither trade union statistics nor NGO monitoring in Azerbaijan documents a father taking advantage of the paternity leave for childcare.

The third group of provisions – addressing women as a special group of workers in the labour market – formally goes beyond the area of maternity protection. Linking provisions addressed at women workers as a special group with maternity protection has a long tradition in labour legislation in the countries that inherited their labour laws from the Soviet Union. This reflects widespread assumptions about women as inherently “weaker” and in need of protection, as well as the assumption that only women assume caring responsibilities for children, and that virtually all women do so. Consequently, women are not allowed to work in 38 different fields of manufacturing and agriculture in Azerbaijan, because these are considered harmful to their health.⁷⁴

Challenges to the effective implementation of maternity protection

Existing maternity protection provisions are not equally well implemented throughout all sectors of the labour market, and for all women, as foreseen by Convention 183. Comprehensive statistics on the use of maternity leave and provisions for pregnant and nursing women are unavailable, however. It is therefore not clear how many women do not use the maternity benefits they are legally entitled to, or do not use them to their full extent, for example out of fear of losing their job. Also, there are no indicators to assess the well-being of families and mothers. There is some anecdotal evidence showing that women's access to maternity protection in the public and private sectors differs significantly.

There are significant differences in maternity protection between women working in public and private enterprises, with women working in public enterprises benefitting to a greater extent from existing provisions. Also, there have been reports about the violation of labour rights, including maternity protection, in foreign-owned companies in Azerbaijan. Solid research on both topics is unavailable, however. Also, there are groups of women who lack any legal entitlement to maternity protection because they work informally or work without pay in family enterprises. Given the absence of reliable statistics, it is hard to estimate their numbers. In the interest of the creation of a minimum social protection floor, as recommended by the ILO in its Recommendation 202 adopted on 14 June 2012, it would be necessary to develop and expand protection and services for all women, but in particular for the group of women not covered by formal social security.⁷⁵

⁷³ U. Mamedova. Head of the Women's Network Program, Open Society Foundation, Interview. 04.09.2012.

⁷⁴ Resolution of the Cabinet of Ministers from October 20, 1999 “A list of industries, professions (positions) with hazardous and exploitative conditions, and underground works.

⁷⁵ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_183326.pdf

Box 1: Situation of maternity protection in public and private sectors

The Director of the well-known Women's Crisis Centre M. Azizova says: "Usually, women who work in public structures can enjoy full maternity leave without fear of losing their jobs. Wages in these structures are low, and it is better to sit at home than to spend money on nurseries or nannies. Above all, in such organisations the Labour Code is in force and maternity is treated with respect. In the private sector, the situation is different. Wages in the private sector is relatively high, and the employees are afraid of losing their jobs. Women often do not use their maternity leave to the full, and more than that, many private companies, in general, oblige their employees to come to work three months after childbirth. In other cases they are fired, or become redundant".⁷⁶

In a monitoring report on the implementation of social and labour rights of young women, the NGO "Women in Law" shows that not only in private but in also in the public sector "women may lose jobs after maternity leave. Despite the fact that, according to paragraph 1 of Article 79 of the Labour Code, the dismissal of pregnant women and women with children up to three years on the employer's initiative is prohibited. We can help women in the public sector, but in the private sector, in most cases reinstatement of employment upon return from a social leave is not possible".⁷⁷

In the "National Programme of action to improve the protection of human rights and freedoms in Azerbaijan" adopted in late 2011, the government has set out to improve the laws related to the labour rights of working women and employees with family responsibilities in accordance with the liabilities arising from the ILO Conventions On Maternity Protection of 2000 and On Workers with Family Responsibilities of 1981.⁷⁸ Other state programmes of importance to women and gender equality include the "Concept of socio-economic development: Azerbaijan-2020" (emphasising the improvement of social protection of mothers and children, and the development of family planning services, as well as the prevention of gender-based violence, the creation of equal opportunities for women and men in the labour market and women's career opportunities).⁷⁹ The government is also planning to prepare a "Strategy of Azerbaijan family" and the long-awaited National Action Plan for Gender Equality, as well as to develop a monitoring system of cases of violence, early marriage and drop-out from the education system.

4.2. Discussion about childcare facilities

Stereotypical gender role assignments and longstanding traditions in Azerbaijan place the main responsibility for housework, child care and the education of children on women's shoulders. In addition to the fact that women are assigned the housework and childcare, there is a lack of nurseries in the country. Also, the number of kindergartens is very low (even expensive private kindergartens) and free daycare groups in schools are rare. The

⁷⁶ <http://www.aze.az/news.php?id=77479/20.05.2012>.

⁷⁷ [www.trend/2809/2011/jenshini uristi monitoring](http://www.trend/2809/2011/jenshini_uristi_monitoring)

⁷⁸ National Action Program to improve the protection of human rights and freedoms in Azerbaijan. Article 1.2.9. <http://ru.president.az/articles/4017>

⁷⁹ The concept of socio-economic development: Azerbaijan-2020" 7.4. Gender equality and family development, http://www.president.az/files/future_ru.pdf

4. Discussion of selected facts and data regarding the implementation of maternity protection legislation and policies

quality of services provided is also criticised for being too low in terms of health and educational standards.⁸⁰ Therefore most women give up paid work when they become mothers. Young mothers face severe obstacles when attempting to enter the labour market, even before becoming mothers, because it is expected that they will withdraw from their jobs in the future.

The number of pre-schools in Azerbaijan aimed at children aged from 0 to 3 years fell sharply in the early 1990s. This was a consequence of changes in the priorities of public spending and the elimination of nurseries and kindergartens. According to the official statistics, at present, Azerbaijan has 1,658 kindergartens with 110,000 children in them.⁸¹ This equals a very low enrolment rate of 16 per cent of preschool children.⁸² In the regions, the enrolment rate for children aged from 1 to 5 years is only 9.5 per cent.⁸³

Box 2: Childcare facilities in Azerbaijan: country specific problems

The unresolved military Armenian-Azerbaijani conflict of the last 23 years has contributed to the reduction of pre-school facilities. According to the education authorities of the capital, 131 out of 307 pre-schools are occupied by refugees and internally displaced persons (666 rooms and 77 back rooms are occupied by 696 families – 3825 people). However, 19 pre-schools in Baku are occupied by the offices of 24 different organisations. The executive authorities took even departmental pre-schools to themselves. H. Rajabli, Chairman of the Social Policy Committee of Milli Majlis considers that “earlier there were nurseries and kindergartens in practically every village, and the vast majority of parents enrolled children to pre-schools. This is not done any longer, forgotten. (...) The question of kindergartens and nurseries may become pressing, but currently it is not on the agenda.”⁸⁴

Private pre-schools are not accessible for most women, given the fact that the monthly payment (even for institutions with low educational quality) is similar to the average wage in July 2012 – 397 manat.⁸⁵ In fact, few women receive an average wage, particularly in “feminised” sectors of the economy where most women work.

There is pressure from the Finance Ministry to close even more childcare services in the interest of budget savings. “In the country, there are regions which do not need kindergartens. In Soviet times, the work of kindergartens was required, as at the time all the parents were provided with jobs and certainly sent their children to pre-schools. Today,

⁸⁰ Response of the Azerbaijan Republic on the Working Group recommendations on the CEDAW regular country report http://www.upr-info.org/IMG/pdf/a_hrc_11_20_add.1_azerbaijan_r.pdf

⁸¹ http://www.azstat.org/statinfo/education/en/1_2_1.xls

⁸² The corresponding indicator among the CIS countries varies between 50 – 80%.

⁸³ http://www.azstat.org/statinfo/education/en/1_2_1.xls

⁸⁴ www.anspress.com/index.php?a=2&lng=ru&nid=162461. The paradox is that pre-schools are the area of competence of the Commission, chaired by the author of this quote.

⁸⁵ R. Hallova, Director of a private kindergarten notes: “Pricewise, private kindergartens in Baku can be divided into three groups. The cheapest of them cost 300 -400 manat a month. This is almost as much as the monthly cost for a babysitter. The second category of kindergartens is 600-700 manat a month. The cost of the English-speaking kindergartens is 1000-1200 manat a month.” <http://news.day.az/society/306878.html>

in some regions, the situation is different, and perhaps we should even close kindergartens and simply introduce training sessions to prepare children for school”, as Finance Minister Samir Sharifov put it.⁸⁶ Typically, legislators consider the issue of kindergartens only in the context of preparing children for school, and not with respect to the limitations of women to enter the labour market and to reconcile their paid work and family responsibilities, as would be necessary in line with ILO Convention 156.⁸⁷ Recently, the State “Concept of Socio-Economic Development: Azerbaijan – 2020” highlighted plans to increase the number of kindergartens and to facilitate childcare for working parents in accordance with ratified ILO Convention No.156 “On Workers with Family Responsibilities.”⁸⁸

General family support

The shift to a social security benefit system based on an income assessment was publicly approved of in comparison with the previous state support system that would pay benefits to certain categories of the population.⁸⁹ It has been argued that the mechanisms for evaluating the entitlements of the population in need are effective, as they cover a large part of the people in need. However, women’s organizations have pointed out the basic drawbacks of the targeting of benefits, such as corruption in the needs assessment and the overall low level of benefits. Instead, they have argued that benefits should be distributed so that women living in extreme poverty can have access to social security.⁹⁰ Not all families that would be entitled to benefits actually have access to them: For example, to apply for an allowance, a woman has to provide municipal statement of residence and a marriage certificate, which means that only officially married women are covered.

Single mothers or mothers of large families with low-income may apply for unemployment benefit to the Ministry of Labour and Social Protection of Azerbaijan. If the employment history is more than six months, the unemployment benefit will be 70 per cent of the salary received at the former work place, and 55 per cent if the employment history is less than six months. However, if a mother has no work experience, she cannot apply for unemployment benefit.

⁸⁶ <http://abc.az/rus/news/60612.html>

⁸⁷ [www.trend/11/11/2011/mnogodetnaya semiya](http://www.trend/11/11/2011/mnogodetnaya_semiya)

⁸⁸ The concept of socio-economic development: Azerbaijan-2020” 7.4. Gender equality and the development of the family. http://www.president.az/files/future_ru.pdf

⁸⁹ http://www.azerbaijans.com/content_1034_ru.html

⁹⁰ [www.gender-az.org/posobiye dlya detey](http://www.gender-az.org/posobiye_dlya_detey)

5. Involvement of various instruments in policy implementation

The absence of reliable statistics on the use of maternity benefits and other provisions is an important obstacle for a thorough situation analysis and the formulation of adequate policy responses. The efforts of state bodies toward improved data collection are therefore crucial preconditions in the efforts to expand maternity protection in the country. Data on the access to benefits and services, as well as information on the take-up of special employment conditions for mothers, is needed for all groups of the female population, but also data on the uptake of men to benefits to which they are legally entitled.

State Labour Inspection Services are, by definition, the principle instrument used to monitor the compliance with special employment conditions for women workers, as well as the application of health and safety provisions in hazardous industries, not only for women workers.⁹¹ So far, there have been no dedicated reports and compliance with the provisions prescribed by the Labour Code.

The State Committee for Family, Women and Children (SCFWC), a coordinating body of the national mechanism for gender equality, works in close contact with the ministries, departments and executive agencies on family and maternity protection. Serious achievement of SCFWC was the preparation and lobbying of the two legislative acts “Gender Equality Law” (2006), “Law on the Prevention of Domestic Violence” (2010). While the passing of the Gender Equality Law can be considered a crucial step in national efforts to ensure compliance with international legal standards and norms, further legal progress will be necessary, for example the inclusion of clear definitions of discrimination, direct and indirect, as has been pointed out by the respective international authorities. Moreover, to achieve full compliance with international norms on maternity protection, workers with family responsibilities and non-discrimination, a revision of existing legislation will be necessary, for example to ensure that existing protection schemes address a defined and specific need rather than perpetuating stereotypical images of women (or men), like in the case of prohibited occupations or discriminatory job announcements.

In light of the international conventions to which Azerbaijan has subscribed, contributions by the instruments of state to ongoing social and cultural change in gender roles and the flexibility of strict stereotypes can therefore be considered preconditions of success of the governmental commitment to improving the situation of families and mothers, as

⁹¹ LC Art. 76.

well as all workers with family responsibilities. However, it should be noted that the latest National Action Plan on Gender Equality and the Beijing Platform covered the period 20002–005. For almost 7 years the coordinating body of the national mechanism for gender equality has had no officially approved action plan. The State Programme of Azerbaijan on extreme poverty reduction and sustainable development for 20082–015 has a section on “Gender Policy”, which sets out specific measures of social support for low-income families, maternal mortality reduction and raising a healthy generation⁹². However, the UN Committee on the Elimination of Discrimination against Women requested the Government to strengthen the Programme in the social aspects of poverty reduction and employment of women.⁹³

Social partners

The Labour Code is the basis for the involvement of social partners, employers’ organisations and trade unions, in the improvement of working conditions, including maternity protection. The Labour Code specifically includes a clause on improving the working conditions of women through collective agreements.⁹⁴

Social partners are always involved in the review of the national legislation for maternity protection at all levels. In accordance with the Labour Code, trade unions are involved in the development and adjustment of legislative acts, and have the right to appeal through the appropriate government bodies against the adoption of acts, which were not approved by them.⁹⁵ A positive example of such cooperation is the work on creation of the new Labour Code, which developed the issues of occupation health of women and their rights for maternity leave. The working group on the Labour Code draft created at the Milli Majlis included representatives of executive authorities, trade unions and employers.

In practice, collective agreements are signed at the enterprise and at the industry levels, as well as the General collective agreement signed at the national level between the Cabinet of Ministers, the Trade Unions Confederation and the National Confederation of Entrepreneurs’ Organizations. Each of these collective agreements contains a paragraph on the occupational safety of women.⁹⁶

One of the priorities for the trade union activities is to promote gender equality in the workplace and protect labour and socio-economic rights and the interests of women, including maternity protection. For example, in 2006, the Executive Committee of the Azerbaijan Trade Unions Confederation (ATUC) established a Centre for Women’s Is-

⁹² <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opensslpdf>
Committee on the Elimination of Discrimination against Women Pre-session Working Group, Forty-fourth session 20 July – 7 August 2009. Responses to the list of issues and questions with regard to the review of the fourth regular report of Azerbaijan.

⁹³ http://www.upr-info.org/IMG/pdf/a_hrc_11_20_add.1_azerbaijan_r.pdf

⁹⁴ Article 31. paragraph 2.(H).

⁹⁵ Labour Code Article 237, Part 2.

⁹⁶ National report on occupational health in Azerbaijan, <http://base.safework.ru/safework?doc&nd=444400035&nh=0&ssect=2>

sues and Gender Equality, which coordinates the activities of gender commissions in industrial unions and gender officers in organisations. In 2008, a Standing Committee on Gender Equality was established. Gender strategies of the trade unions are aimed at equal opportunities for men and women in the realisation of their rights and interests in labour relations, the struggle against any form of discrimination of women in the labour market, equal pay for work of equal value without discrimination and achievement of real equality between men and women. The Coordinating Council for Women's Rights, which was established in 2011, records cases of employment discrimination and infringement of the right to maternity protection. It also provides legal assistance to women. Cases of infringement of rights that were recorded since came from the oil and gas industry, the metal industry, the chemical industry, construction, communication and the municipalities.⁹⁷

According to the Ombudsman E. Suleymanova, in 2011 the human rights authorities received 1,246 complaints from employees, indicating violations of the Labour Code of Azerbaijan. The number of complaints of unfair employers increased significantly as compared to 2010, referring to noncompliance with employment contracts, delays in salary payments, neglected occupational safety in the workplace, poor working conditions and unpaid leaves.⁹⁸ However, unfortunately, the statistics about violations of collective agreements are not disaggregated by sex, and there is no separate category of violations against maternity protection laws in the statistics.

⁹⁷ Report "Access of Women to Justice in Azerbaijan" by Gender Association "Symmetry" in cooperation with KARAT Coalition and supported by Oxfam Novib 2011, www.karat.org/.../Gender_recommendation...

⁹⁸ www.anspress.com/index.php?a=2&lng=ru&nid=141817

6. Conclusions

Azerbaijan was the leader among the CIS countries in terms of economic growth and poverty has declined significantly. When growth slowed down as a result of the global financial crisis, the government took important steps to mitigate the effects of the crisis. However, the relative share of social spending is not commensurate with the existing needs of the population and with international human rights, gender equality and social development commitments. A substantial part of the population, particularly in rural areas and among the refugee and IDP population, has limited access to basic goods and services. Women-headed households in rural areas (almost 39 per cent of rural households) are particularly affected.

Gender inequality in the country is especially marked with respect to women's political empowerment, and there are also gender differences in economic activity, access to employment, unemployment rates, the type of employment and wages. Because of women's traditionally assigned responsibility for childcare and unpaid household work, women tend to face particular challenges in reconciling paid work with their family responsibilities. There are a range of protective measures and benefits available for women (all women, pregnant/breastfeeding women and women with children), and financial support is available for families with children.

For a consistent and effective approach to the areas of maternity protection, it would be beneficial to achieve a differentiation between three types of benefits in the legal framework in Azerbaijan: maternity protection benefits, which are, by definition, only available to women; secondly, measures and benefits supporting the reconciliation of paid work and family responsibilities which should be available to female and male workers with family responsibilities and can be effective instruments to promote greater equality between women and men; thirdly, provisions that address women as a group in the labour market. Currently, the different types of benefits are mixed up and their implementation is inadequately monitored, thus causing protection gaps on the one hand, and indirect discrimination of women in the labour market on the other. There is some evidence of inequities in the access to maternity protection for example, between different sectors in the economy, depending on company ownership and employment status. Benefits in support of work-family reconciliation and other family support measures are also not equally available to all women. Leave and benefits may be unavailable, de-facto, out of fear of losing one's job, or out of lack of information about entitlements. For example, the absence of a mandatory post-partum leave may create significant pressure on women to return to their workplaces prematurely, or to leave them completely. De facto, maternity

6. Conclusions

is a reason for many women to leave the labour market, at least for extended periods of time, making a later return very difficult.

As most benefits are linked to formal employment, all those who work informally or without pay in family enterprises are excluded. In the interest of strengthening a minimum social protection floor, as recommended by ILO Recommendation 202, it would be necessary to develop and expand protection and services for all women, particularly for those not covered by formal social security schemes. The number of childcare facilities such as crèches, kindergarten and daycare in schools is very low, they are unevenly distributed across the country, and the quality of services has been criticized. Therefore, women face severe obstacles in the labour market, which are exacerbated when they become mothers.

The absence of reliable statistical information on the access to and use of maternity benefits, on the take-up of provisions in support of workers with family responsibilities, as well as general data on gender issues in the labour market is an important obstacle to the comprehensive analysis and formulation of policy responses. A range of instruments are involved in monitoring maternity protection and work-family reconciliation, including the State Labour Inspection Services and the social partners (employers' organisations, trade unions), as well as the Human Rights Ombudsperson. However, they do not effectively collaborate in the creation of an effective institutional environment for maternity protection and work-family reconciliation that would reflect Azerbaijan's international legal commitments.

