



**Permanent Mission
of the Republic of Azerbaijan
to the UN Office and other
International Organizations**

GENEVA

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The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the letter of the Special Rapporteur on violence against women, its causes and consequences dated 9 April 2020, has the honour to transmit herewith the information received from the relevant authorities of the Republic of Azerbaijan in response to the questionnaire.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 11 June 2020



Enclosure: 6 pages

**Office of the United Nations
High Commissioner for Human Rights
GENEVA**

**Information submitted by the Government of Azerbaijan with regard to the
Annex-Questionnaire on criminalization and prosecution of rape**

2. k. Is marital rape excluded in the provisions, or is marital rape not considered as crime?

Generally Marital rape is considered a form of domestic violence and sexual abuse. So in this context marital rape can be considered as a crime depending of the form of violence by law. If marital rape not considered as a crime victim provided with protection order.

4. What is the legal age for sexual consent?

There are no official bans and age limits for the outset of sexual activity in Azerbaijan. The Criminal Code provides a framework that helps differentiate between child abuse, violence and normal voluntary sexual intercourse.

According to Criminal Code article 152:

Article 152. Sexual relations and other actions of sexual nature with the person who has not reached of age 16

152.1. Sexual intercourse or committing other acts of a sexual nature with a person who has not attained the age of sixteen years -
is punishable by imprisonment for the term of up to three years.

152.2. The same acts committed against a person who has not attained the age of fourteen years –
is punishable by imprisonment for the term of three to six years.

5. Are there provisions that differentiate for sexual activity between peers?

There are not any provisions that differentiate for sexual activity between peers in the legislation.

7. What does the legislation in your country provide in terms of reparation to the victim of rape and or sexual violence after conviction of the perpetrator?

8. Does the law foresee aggravating circumstances when sentencing rape cases?

There many aggravating circumstances under the article 61 of the Criminal Code particularly 61.1.7. commitment of a crime concerning a woman, obviously known as pregnant to a guilty, and also concerning a juvenile, elderly or helpless person or person, which is in dependence from guilty.

a. Is rape by more than one perpetrator on aggravating circumstances? YES

b.

c. Is rape by spouse or intimate partner an aggravating circumstances? No

9. Does the law foresee mitigating circumstances for the purposes of punishment?

According to the article 59 of Criminal Code there are several mitigating circumstances including commitment of a crime by the minors and by the pregnant women can be mitigating circumstances as well.

10. Is reconciliation between the victim and the perpetrator allowed as part of a legal response? Yes

According to the article 59.1.12 of Criminal Code: reconciliation with the victim or successor, who is his/her close relative.

- a. Regardless of the law, is reconciliation permitted in practice? Yes

11. Is there any provision in the criminal code that allows for the non prosecution of perpetrator? No

- a. if the perpetrator marries the victim of rape? No

**Information submitted by the Government of Azerbaijan on Annex-Questionnaire
on criminalization and prosecution of rape**

1. Liability for *crimes against sexual inviolability and sexual freedom of the individual* has been provided in Chapter 20 of the Criminal Code of the Republic of Azerbaijan (Articles 149-153). In Article 149 of the Criminal Code, liability has been provided for rape, is the sexual relations with application of violence or with threat of its application to the victim either to other persons, or with use of a helpless condition of the victim (is punishable by imprisonment for the term of four to eight years; in case of charge and aggravating circumstances, is punishable by imprisonment for the term of five to ten years, and of eight to fifteen years). A necessary element of this crime is the factor whether a man has natural sex with a woman against her will. Only a woman can be a victim of rape. A man's sexual intercourse with a woman against her will constitutes this crime even if they are in a formal or informal marriage. A semi-public criminal prosecution on rape takes place on a complaint by the victim. Where no complaint is made by the victim, a semi-public criminal prosecution may be begun by the prosecutor only in the following cases: if the offence committed affects the interests of the state or society; if the offence was committed by or against a representative of the government or other officials of state institutions; if the offence was committed against a pregnant woman or an elderly or helpless person; if the offence was committed by threats and by force or against a person dependent on the person who committed it; if the offence was committed by or against a person without legal capacity or a person below the age of criminal responsibility. The refusal and discontinuation of the criminal proceeding by reason of reconciliation of the victim with the accused have not been provided.
 - a. In Article 150 of the Criminal Code, liability has been provided for buggery or other actions of sexual nature, with application of violence or with threat thereof against the victim or to other persons, or with use of a helpless condition of the victim (is punishable by imprisonment for the term of three to five years; in case of charge and aggravating circumstances, is punishable by imprisonment for the term of five to eight years, and of eight to fifteen years).
 - b. Acts of sexual violence regardless of the sex include having unnatural sexual intercourse against the will of another person or providing sexual

intercourse in another perverted form by one person. The victim can be both a woman and a man in this offense. A semi-public criminal prosecution takes place on the acts of sexual violence. The refusal and discontinuation of the criminal proceeding by reason of reconciliation of the victim with the accused have not been provided.

- c. The following aggravates the liability of a person in accordance with Articles 149 and 150 of the Criminal Code: committed by a group of persons, by a group with a premeditated conspiracy or by an organized group; which resulted in a victim's infection with venereal disease; committed against the person, who is wittingly known as a minor to the guilty; carried out with a particular cruelty against the victim or against other individuals; committed repeatedly; on negligence brought the death of the victim; on negligence resulted by infection of the victim with a virus HIV or other serious consequences; committed wittingly against a person under age of 14.
- d. In Article 151 of the Criminal Code, liability has been provided for coercion of the person to the sexual relations, buggery or to committing of other actions of sexual nature by threat of destruction, damage or withdrawal of property or with use of material or other dependency of the victim (is punishable by corrective works for the term of one to two years or by imprisonment for the term of one to three years). The victim can be both a woman and a man in this offense. A semi-public criminal prosecution takes place on this illegal act.
- e. The refusal and discontinuation of the criminal proceeding by reason of reconciliation of the victim with the accused have not been provided. If it is determined that the act committed as a result of the change of circumstances or the person who committed this act is not a public threat, the person who committed this crime may be released from criminal liability.
- f. In Article 152 of the Criminal Code, liability has been provided for sexual intercourse or committing other acts of a sexual nature with a person who has not attained the age of sixteen years (is punishable by imprisonment for the term of up to three years; in case of charge and aggravating circumstances, is punishable by imprisonment for the term of three to six

years, by imprisonment for the term of four to seven years with disqualification to hold certain positions or engage in certain activities for up to three years or without it). This offense involves having natural or unnatural sexual intercourse with a person who has not reached a certain age, regardless of gender, with the consent of the latter. Liability for this crime arises when the age difference between the perpetrator and the victim is more than two years. Commitment a crime against a person under the age of fourteen, by a person responsible for the upbringing of a minor, or by a teacher or other employee of an educational, upbringing, medical or other institution responsible for supervising a minor, aggravates the person's liability. The refusal and discontinuation of the criminal proceeding by reason of reconciliation of the victim with the accused have not been provided. If it is determined that the act committed as a result of the change of circumstances or the person who committed this act is not a public threat, the person who committed this crime may be released from criminal liability.

- g. In Article 153 of the Criminal Code, liability has been provided for committing immoral acts without the use of violence against a person who has not attained the age of sixteen years (is punishable by corrective works for the term of up to two years, or by imprisonment for the term of up to two years; in case of charge and aggravating circumstances, is punishable by corrective works for the term of one to two years or by imprisonment for the term of one to three years, is punishable by imprisonment for the term of two to four years with disqualification to hold certain positions or engage in certain activities for up to three years or without it). The age limit, aggravating circumstances and the circumstances that allow for release from criminal liability are the same as for the crime under Article 152 of the Criminal Code.
- h. The mitigating circumstances for these crimes as specified in Article 59 of the general part of the Criminal Code applying to all crimes are as follows: commitment for the first time, owing casual coincidence of circumstances, a crime which is not representing big public danger or less serious crimes; commitment of a crime by the minor; commitment of a crime by the pregnant woman; the person, committed a crime has a dependent minor

child; commitment of a crime by virtue of confluence at heavy vital circumstances or on motive of compassion; commitment of a crime as a result of physical or mental compulsion or by virtue of material, service or other dependence; commitment of a crime at infringement of conditions on legitimacy of necessary defense, detention of the person who has made socially dangerous act, emergency, proved risk, execution of the order or instructions; commitment of a crime owing to illegal or immoral actions of the victim or in a condition of suddenly arisen strong emotional excitement (affect) caused by such actions; commitment of a crime by a person with a mental disorder, that does not exclude sanity; voluntary appearance and confession of guilt, active furtherance of disclosure of the crime, exposure of other participants of a crime, search and identification of property, obtained as a result of the crime; voluntary appearance and confession of guilt, active furtherance of disclosure of the crime, exposure of other participants of a crime, search and identification of property, obtained as a result of the crime.

- i. In the investigation of crimes against the sexual integrity and sexual freedom of the individual, the testimony of the victim, witnesses and forensic opinions, along with other evidence, play an important role in providing a legal assessment of the case.
- j. Furthermore, the following cases are provided in the Criminal Code: in the part of *Crimes against Peace and Security of Humanity*, rape, compulsion to prostitution, compulsory sterilization or commitment against persons of other actions connected to sexual violence (Article 108); in the part of *War Crimes*, infringement of norms of the international humanitarian right during confrontations, commitment of other actions connected to rape, sexual slavery, compulsory prostitution, compulsory sterilization, compulsory pregnancy and also sexual violence (Article 116.0.17).
- k. In the last 5 (five) years, 148 rape (attempted) crimes (i.e., 2015 -27; 2016-34; 2017-37; 2018-28; 2019-22) were registered in the country.