

Child Marriage in Azerbaijan (Summary)



Child[hood] dreams end when you get married. It means that you skip your childhood.

—Mother participating in focus group

Legal context

Azerbaijan has ratified the Convention on the Rights of the Child (CRC), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Law on the Rights of the Child was passed in 1998, along with decrees to improve the implementation of policies to assist women and children. The provisions of this legislation have been incorporated into various national action plans, although as yet, there has been no dedicated national action plan on children's rights. However, despite this legislative framework, the child welfare system in Azerbaijan does not function effectively, as agencies are under-resourced and do not have enough staff, and the staff who are working for them are not trained effectively in child protection.

A presidential decree signed in May 2012 established a framework for state oversight in regard to children's rights, defining the roles and responsibilities of the various state institutions responsible for protecting children's rights. A supreme council that would coordinate the work of all different government institutions is also planned. The 'Azerbaijan 2020: Future development concept', approved by presidential decree in December 2012, includes provision for the preparation and adoption of a legal code covering children's rights.

Under Article 1 of the Law on the Rights of the Child of the Azerbaijan Republic, a person under the age of 18 is legally considered to be a child.

Under Article 10 of the Family Code of the Republic of Azerbaijan, the minimum marriage age for men and women is now 18; until November 2011, it was 17 for women. However, the minimum marriage age can be reduced by one year if permission is granted by the local executive power. Some of the experts interviewed for this study were unaware of the change in the law, indicating a wider lack of awareness of the issue of child marriage.

Under Article 11 of the Family Code, for a marriage to be registered, both spouses must provide written consent, and evidence that they have attained the minimum legal age for marriage. Religious marriages based on the *kabin* marriage contract, performed by the local mullah, are not legally recognised. Before issuing a *kabin* marriage contract, mullahs should check that a civil marriage has taken place, and that both would-be spouses are over 18. However, this rarely happens.

Rates of child marriage are high in certain parts of Azerbaijan, and are the result of a combination of cultural attitudes, such as the importance attached to marriage and motherhood for women, and socio-economic factors, such as poverty.



Forced marriage is a criminal offence, with more severe punishments in cases involving a girl under the age of 18. It is also illegal to cohabit with a child under the age of 16. Cohabitation from the age of 16 is legal, provided no force has been used. Bride abductions, which still take place in the country, qualify as kidnapping and fall under Article 144.1 of the Criminal Code of the Azerbaijan Republic. Forcing a person to engage in sexual activity is also a criminal offence, with higher penalties if the actions involve a person under the age of 14.

Family planning and reproductive rights

Under Article 16 of the Law of the Republic of Azerbaijan on Protection of Health of the Population, every citizen has the right to free health advice and check-ups, and to access family planning services at a hospital. A law on reproductive health and family planning is still pending approval, as it was initially rejected following strong opposition put forward by various groups of parliamentarians.

According to article 18 of the Law on Protection of Health of the Population, minors under 18 are able to obtain free consultations and services at state health institutions. However, the law does not contain a separate provision on reproductive health services to minors. In practice, only married adolescents access reproductive and sexual health services, as it would be socially unacceptable for unmarried adolescents to do so.

Reproductive healthcare in Azerbaijan is provided through an extensive system of mobile polyclinics and maternity hospitals; however, the proportion of women who are able to receive antenatal care varies by region, educational attainment, and wealth quintile. Overall, according to the Azerbaijan Gender Information Centre (AGIC), women under age 20 are somewhat less likely to deliver in a health facility than older women. The majority of women in Azerbaijan have access to reproductive and sexual health services when they are pregnant. However, according to the Demographic and Health Survey (DHS) of Azerbaijan carried out in 2006, 85 per cent of women questioned cited at least one of the following as a barrier to accessing healthcare: cost; lack of provision; lack of transport; and needing to obtain permission to go to the doctor (cited by 15 per cent of women).

Since 1980, the fertility rate for girls aged 15-19 has increased, while the general fertility rate has decreased, according to AGIC. According to the DHS, among married adolescent girls, 49 per cent were not using any form of contraception, 37 per cent were using 'traditional' methods, and 14 per cent were using 'modern' contraceptives. In addition, the DHS found that many women continue to rely on abortion as a primary means of contraception; this was reflected in the experiences of child spouses interviewed for this study.

There is some social and cultural resistance in Azerbaijan to including sex education in the school curriculum, and currently, only one paragraph in the entire curriculum deals with sex. Some peer-to-peer education programmes have targeted adolescents with information about reproductive and sexual health, and about contraception.

Child marriages in Azerbaijan

Azerbaijan traditionally has had high levels of early first marriages, and very few people – in particular, women – remain unmarried in adulthood. However, evaluating the actual extent of early marriage is complicated by the lack of statistical data, as marriages involving people under 18 (or 17 in exceptional circumstances) are not registered.

According to the official figures from the state statistics agency (SSCRA), since 2003, the number of women entering registered marriages has increased, as has the number of girls marrying before the age of 18. In 2003, 4.6 per cent of registered marriages involved women aged under 18; in 2009, this figure was 6.9 per cent. However, local human rights nongovernmental organisations (NGOs) insist that the actual number of child marriages is much higher.

In popular understanding, Islam allows early marriages. But this reveals a very superficial comprehension of Islam and Sharia law. Sharia law does not specify the exact age of marriage, but it does stipulate a fixed standard of mental maturity or sound judgment that must be reached before a person should marry. As a mullah interviewed for this research explained, 'early marriage' in Islam does not mean child marriage.

As one of the experts on child marriage interviewed for this study stated, 'Early marriages are a destructive social phenomena [that is not limited to any particular] ethnic or religious groups.' While most of the child spouses interviewed for this research had had a religious marriage ceremony and had a *kabin* religious marriage contract (although some did not even have this), they were not actually practising Muslims.

Given that this was a small-scale, qualitative research project, these research findings cannot be taken as representative. In particular, while the research participants all came from low-income families living in poor conditions (and had married into low-income families), child marriages also take place among wealthier families.

According to research by UNICEF and the State Committee on Family, Women, and Children's Affairs ('Early marriages: Violation of the human rights of children', 2008), early marriages occur throughout the country, but prevalence is higher in certain regions. In this research, focus group participants identified southern districts as having particularly high rates of child marriage, especially Masally and Lerik. Indirect indicators for child marriage, such as the number of female students enrolling in university, also show considerable regional variation, with much lower rates of enrolment in southern areas. These regional differences can be accounted for by the more traditional and conservative attitudes in the southern districts. Mountainous areas in these regions and communities are relatively conservative, and child marriages often take place there.

The UNICEF research found that cultural-psychological and socio-economic factors account for the increasing prevalence of child marriage in Azerbaijani society.

The first group of factors includes traditional attitudes towards the family institution and gender relations, including the idea that marriage and childbearing should be a woman's main accomplishment in life. There is also the importance placed on girls' virginity and chastity, and family 'honour'. Families in Azerbaijan for the most part remain strongly patriarchal, and this is another factor. In addition, as discussed above, many people wrongly believe that Islam condones child marriage.

Socio-economic factors include the ongoing process of economic and social transition. Through arranging early marriages for their children, people strive to overcome poverty or better their economic and social status. At the other end of the social spectrum, there remain more than one million refugees and internally displaced persons (IDPs) in Azerbaijan, as a result of the conflict with Armenia, and in neighbouring Chechnya, many of whom live in very poor conditions. For girls from these families, early marriage can seem like a way of escaping from poverty and overcrowding.

The UNICEF research also found that in most cases, there was a very high degree of acceptance of child marriage both among families in which early marriages have taken place and in the society as a whole.

In some cases of child marriage, the marriage is contracted because of the girl's genuine will to marry. More often, it is her parents' decision. However, analysis of focus group discussions and in-depth interviews shows that a relatively high number of early marriages encountered in this study involved abduction.

One of the main impacts of child marriage in Azerbaijan is early motherhood, as a new bride faces pressure to become pregnant immediately. Early marriage and early motherhood also inevitably denied child spouses their right to complete their education. Finally, most of the child spouses interviewed for this study mentioned that they have faced domestic violence and isolation during the marriage.

Responses to child marriage

Mobilising local communities. In a successful pilot awareness-raising campaign, run in Masalli and Lankaran districts in the south of the country, police officers, mullahs, and community elders were invited to join groups to collect information about early marriages in their districts, and to inform families about the law, and about the consequences of the practice. Executive authorities also participated. As a result of this campaign, some child marriages were prevented in these districts.

Recommendations

- Harmonise national legislation, including the Law of the Azerbaijan Republic on the Provisions of Gender Equality, with the provisions of the amendment on the equalisation of minimum legal marriage age.
- Review and amend, if necessary, the national family and marriage laws and policies that foster discrimination against women and girls, in order to enhance women's rights to property, and their economic independence.
- Introduce special temporary measures, such as financial incentives and scholarships for low-income families with girl children, to encourage the delaying of marriage.
- Organize country-wide advocacy and awareness-raising campaigns to promote awareness of the rights of girls.
- Develop multi-sectoral partnerships among state and nongovernmental agencies to address the issue of child marriage in a comprehensive and holistic manner.



Contact Details:

This summary is based on a fact sheet prepared by Javid Shahmaliyev for UNFPA.

UNFPA Azerbaijan: 24 Neftchiler Avenue, Dalqa Plaza, 4th floor, Baku AZ1000, Azerbaijan; office@unfpa.org

UNFPA EECARO: Hakki Yeten Caddesi, Selenium Plaza, No:10/C Kat 18-19, 34349 Besiktas, Istanbul, Turkey; eecaro@unfpa.org