



## Committee on the Rights of Persons with Disabilities (CRPD)

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## Information on Azerbaijan for Consideration by the Committee on the Rights of Persons with Disabilities at its 30th Session (04 Mar 2024 - 22 Mar 2024)

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### Summary of the Submission:

In Azerbaijan, women and girls with disabilities, survivors of sexual violence, face significant barriers in accessing justice because of insufficient legislative protections, and failure to effectively enforce the laws and provide adequate support to victims.

Official statistics in Azerbaijan lack specific disaggregated data on women with disabilities, and there's a lack of information on sexual violence against women and girls with disabilities, as the government has yet to start collecting disaggregated statistics on this issue. An extremely limited number of reported judgments on sexual violence against women and girls with disabilities (the government of Azerbaijan reported only 13 sentences that were passed from 2014 to 2018) reveal significant barriers to their access to justice.

Azerbaijan's laws lack explicit protections for persons with disabilities, including for survivors of sexual violence. The legislation in Azerbaijan lacks a consent-based definition of rape contrary to international standards, in particular those developed by the CEDAW Committee. Sexual violence against persons with disabilities and marital rape are not considered aggravating circumstances. Azerbaijan has yet to ratify the Council of Europe's Istanbul Convention.

Additionally, inadequate implementation and enforcement of legal frameworks in relation to sexual violence remain a problem. Burdensome evidentiary standards, including the requirement for physical injuries and biological evidence, hinder prosecution in cases of sexual violence, especially for victims with disabilities. Patriarchal attitudes among law enforcement and judicial officials contribute to underreporting, and the lack of gender-sensitive protocols leads to the retraumatization of survivors.

Services of victim support and protection are also lacking. Very few shelters for women victims exist, lacking specialised disability support. Accessibility challenges hinder reporting for women and girls with disabilities, as wheelchair users struggle with transportation limitations. Access to justice is impeded by physical barriers in court buildings, with inadequate accommodations such as wheelchair access, braille indications, or enlarged print documents, creating barriers to justice.

Having said that, there is very limited research available on the issue of sexual violence in Azerbaijan, and even less on sexual violence against women and girls with disabilities.<sup>1</sup> Therefore, it is crucial for the Committee to address this issue of sexual violence against women and girls with disabilities in its concluding observations on Azerbaijan. In particular, we respectfully ask the Committee to recommend the government of Azerbaijan to:

**Key recommendations:**

1. Align the definition of rape with international human rights standards, focusing on the lack of consent as the constituent element of the offence;
2. Put in place comprehensive manuals and guidelines for criminal justice professionals, in line with CRPD and CEDAW standards, and provide trainings for law enforcement and judiciary to effectively respond to and address sexual violence against women and girls with disabilities;
3. Establish victim-centered support services and provide reasonable and procedural accommodation for women and girls survivors of sexual violence during criminal justice processes;
4. Remove burdensome evidentiary standards and abolish discriminatory provisions preventing women and girls with disabilities from testifying;
5. Collect and analyse administrative data on sexual violence disaggregated by sex, age, disability and other characteristics.

**Introduction:**

1. The authors submit this report in relation to Azerbaijan’s second and third periodic reports on the implementation of the Convention on the Rights of Persons with Disabilities (‘the Convention’). In our submission, we detail concerns with regard to sexual violence against women and girls with disabilities in Azerbaijan and provide recommendations to increase access to justice and support services. This submission covers issues particularly relevant to Azerbaijan’s obligations under the Convention and specifically with reference to Article 6 (Women with disabilities), Article 13 (Access to justice) and Article 16 (Freedom from exploitation, violence and abuse).

**Information about the authors of the submission:**

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<sup>1</sup> In particular, <https://www.adb.org/sites/default/files/institutional-document/546166/azerbaijan-country-gender-assessment-2019.pdf> and <https://www.usaid.gov/sites/default/files/Women-with-Disabilities-EE-Region-FINAL-2012.pdf> (this report highlights that “Azerbaijan and Moldova have the smallest amount of existing information”)

2. **Equality Now**<sup>2</sup> is an international human rights organisation with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992, including through our network of individuals and organisations in every region. Ending sexual violence, ending sexual exploitation, ending harmful practices and achieving legal equality are the main areas of Equality Now's work. This submission is in reference to Equality Now's 2019 report, "Roadblocks to Justice: How the Law is Failing Survivors of Sexual Violence in Eurasia"<sup>3</sup> which identified gaps in the law, thereby allowing for actual and potential impunity for perpetrators of sexual violence crimes. In addition, in May 2023, Equality Now and two Kyrgyzstan NGOs, the Union of Persons with Disabilities "Ravenstvo" (Equality) and the Bir Duino Human Rights Movement, published a report titled "Sexual Violence and Disability in Kyrgyzstan: Law, Policy, Practice and Access to Justice".<sup>4</sup> The issues identified in that report also informed the present submission because of the similarities in legal and procedural barriers for survivors of sexual violence with disabilities.
3. **Public Union "Clean World" Aid to Women**<sup>5</sup> is a public union for assistance to women and is one of the first non-governmental organisations in Azerbaijan to fight all forms of violence against women and promote women's rights. It was established in May 1998 and officially registered on September 29, 2006. In 2002, the organisation created the first women's shelter in Baku for survivors/ victims of gender-based violence and trafficking. The shelter was officially registered in 2006 and accredited by the Ministry of Labor and Social Protection of the population of the Azerbaijan Republic (MLSPP) in 2014. The organisation works in the field of protecting the legal rights and freedoms of women. The main activities and services of the organisation are the provision of legal, psychological, social, and moral support and specialised medical assistance; research and planning; centre for reintegration and rehabilitation (asylum) for victims of gender-based violence and their children; distribution of condoms; distribution of information materials; social support; outreach work; trainings and seminars.
4. **Rovshana Rahimova** is a member of the Bar Association of the Republic of Azerbaijan, and a women's rights defender.
5. **Independent Living Center for People with Disabilities**<sup>6</sup> in Azerbaijan is a charitable, non-political, non-governmental, non-profit organisation which was registered by the Ministry of Justice of Azerbaijan on December 29 2004, with registration number 1104-Q3-1677. The main goal of the organisation is to support the economic development of people with disabilities and help them solve their social problems creating equal opportunities for them. Our mission is to provide people with disabilities access to all areas of public life and improve their standard of living through the following tasks: change existing stereotypes and negative attitudes towards people with disabilities in society; increase the efficiency of public organisations; help people with disabilities and their families gain access to the skills and abilities necessary for full participation in public life, to inclusive education and employment; conduct training on disability issues for

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<sup>2</sup> <https://equalitynow.org/>

<sup>3</sup> Available at: [https://www.equalitynow.org/resource/roadblocks\\_to\\_justice/](https://www.equalitynow.org/resource/roadblocks_to_justice/)

<sup>4</sup> Available at: <https://equalitynow.org/resource/sexual-violence-and-disability-in-kyrgyzstan-law-policy-practice-and-access-to-justice/>

<sup>5</sup> [https://www.instagram.com/qadin\\_ve\\_usaq\\_siginma\\_evi/](https://www.instagram.com/qadin_ve_usaq_siginma_evi/)

<sup>6</sup> <https://www.facebook.com/independentlivingazerbaijan/>

specialists, government officials, parents and other members of society to remove the physical and psychological barriers that people with disabilities face.

### Previous recommendations of the Committee in relation to Azerbaijan:

6. In 2014, in its concluding observations<sup>7</sup> (para. 17) on the initial report of Azerbaijan, the Committee recommended Azerbaijan to:
  - Adopt effective measures to guarantee equality and prohibit multiple forms of discrimination against women and girls with disabilities (para. 17).
  - Adopt a twin-track approach to mainstreaming a disability perspective into its gender legislation and policy, including with respect to addressing violence against women;
  - Facilitate advocacy by and on behalf of women and girls with disabilities.

### Data collection on sexual violence against women and girls with disabilities in Azerbaijan

#### Summary of the section:

Official statistics in Azerbaijan lack specific data on women with disabilities, and there's a lack of information on sexual violence against women and girls with disabilities, as the government has yet to start collecting disaggregated statistics on this issue. An extremely limited number of reported judgments (the government of Azerbaijan reported only 13 sentences were passed from 2014 to 2018) on sexual violence against women and girls with disabilities reveal significant barriers to their access to justice.

7. In its concluding observations, the Committee was concerned at the lack of disaggregated data on persons with disabilities<sup>8</sup> and recommended to “expedite the creation of a database and systematize the collection, analysis and dissemination of data, disaggregated by sex, age and disability, as well as region; enhance capacity-building in this regard; and develop gender- and age-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring and reporting on the progress made with regard to the implementation of the various provisions of the Convention, taking into consideration the changes from the medical- to the human rights-based approach to disability”.<sup>9</sup> However, there are not only properly disaggregated statistics, there are no available statistics on the number of people with disabilities at all.
8. As of 2017, the Union of Disabled People’s Organizations estimates the number to be 200,000 or approximately one-third of all people with disabilities in Azerbaijan.<sup>10</sup> In 2023, according to official statistics, 488,774 people with disabilities received pensions. However, this number does not reflect the real number of people with disabilities as not all people with disabilities receive social support. Additionally, after the application of the new assessment of disability on the basis of the International Classification of Diseases (ICD), some people were denied disability determination for a number of reasons (wrong

<sup>7</sup> CRPD Concluding observations on the initial report of Azerbaijan, 12 May 2014, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2FCO%2FAZE%2FCO%2F1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2FCO%2FAZE%2FCO%2F1&Lang=en)

<sup>8</sup> CRPD/C/AZE/CO/1, para. 49

<sup>9</sup> CRPD/C/AZE/CO/1, para. 50

<sup>10</sup> Available at: <https://oc-media.org/features/the-invisible-living-with-disability-in-azerbaijan/>

diagnosing, incorrect completion of mandatory paperwork by medical organisations, etc.).<sup>11</sup>

9. At the same time, little is known about the scale and extent of gender-based violence and in particular about sexual violence against women and girls with disabilities. The government has yet to start collecting disaggregated statistics on the scale and prevalence of sexual violence specifically against women and girls with disabilities in the country. Also, there is no statistical data on acquired disabilities as a result of gender-based violence.
10. In 2021, in its Combined second and third reports, the government provided statistics for the period from 2014 to 2018 (paras. 62-65), i.e., over this period of time 13 sentences were passed under Chapter 20 of the Criminal Code ("Crimes against sexual inviolability and sexual freedom"), in which women and girls with disabilities were recognised as victims (3 sentences in 2014, 3 sentences in 2015, 3 sentences in 2016, 2 sentences in 2017, 2 sentences in 2018); 5 of the 15 victim women with disabilities under the above sentences were underage at the time of the crime. The Ombudsman's Office did not receive any complaints regarding sexual violence against women and girls with disabilities.
11. These statistics, showing a limited number of adjudicated cases of sexual violence, strongly suggest that women and girls with disabilities face significant barriers to access to justice for sexual violence. Globally, almost one in three women have been subjected to physical and/or sexual intimate partner violence, non-partner sexual violence, or both at least once in their life.<sup>12</sup> For women and girls with disabilities, the risk of experiencing sexual violence is even higher. According to research by the UN Population Fund Sexual & Reproductive Health Agency, between 40% and 68% of girls with disabilities experience sexual violence before the age of eighteen, including by family, intimate partners, caregivers and institutional facilities.<sup>13</sup> Some women and girls, including those who are deaf or deafblind or who have intellectual disabilities, may be at particular risk due to isolation, dependency and oppression.<sup>14</sup> In Azerbaijan, women with disabilities face additional barriers to mobility and physical security due to gender stereotypes and attitudes that limit their opportunities.<sup>15</sup> They also face a greater risk of domestic and sexual violence.<sup>16</sup>

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<sup>11</sup> Available at: <https://www.stat.gov.az/source/healthcare/?lang=en>, Societal Security - Number of invalids receiving pensions or benefits

<sup>12</sup> Available at: <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>

<sup>13</sup> Management Sciences for Health & UNFPA, We Decide Young Persons with Disabilities: Equal Rights and a Life Free of Violence (May 2016).

<sup>14</sup> CRPD Committee, 'General comment No.3 (2016) on women and girls with disabilities', CRPD/C/GC/3, para. 33

<sup>15</sup> G. Burchell. 2016. Women with Disabilities in the E&E Region: Report on Research Findings: Azerbaijan. Washington, DC. USAID.

<sup>16</sup> *ibid*

## Legal Barriers

### Summary of the section:

Azerbaijan's laws lack explicit protections for persons with disabilities, including for survivors of sexual violence. The legislation in Azerbaijan lacks a consent-based definition of rape contrary to international standards, in particular those of the CEDAW Committee.

Sexual violence against persons with disabilities and marital rape are not considered as aggravating circumstances. Azerbaijan has yet to ratify the Council of Europe's Istanbul Convention.

12. The Constitution of Azerbaijan does not explicitly mention the right to equality for persons with disabilities. The Law No. 150-IIIQ of the Republic of Azerbaijan on State Guarantees of Equal Rights for Women and Men of 2006<sup>17</sup> prohibits discrimination on the basis of sex, but this law provides no specific protections for women with disabilities. The Law No. 1058-IIIQ of 22 June 2010 on Prevention of Domestic Violence<sup>18</sup> prohibits domestic violence against women and children but does not refer to women or girls with disabilities.
13. The legislation of Azerbaijan also fails to provide a consent-based definition of rape. Contrary to international human rights standards,<sup>19</sup> the definition of rape (Criminal Code Article 149<sup>20</sup>) and other sexual violence crimes (Criminal Code Articles 150<sup>21</sup> and 151<sup>22</sup>) under Azerbaijani law focuses on the use of force, threat of force, abusing the helplessness of the victim, and various forms of coercion, rather than centring the definition on the absence of the free and voluntary consent that should be assessed in the context of the surrounding circumstances.
14. Marital and intimate partner rape are not explicitly criminalised (though the law punishes rape irrespective of the identity of the perpetrator and victim), and marital rape is not treated as an aggravating factor as required by human rights instruments.<sup>23</sup> Society and law enforcement do not take marital rape seriously, resulting in many acts of sexual

<sup>17</sup> <https://leap.unep.org/en/countries/az/national-legislation/law-no-150-iiiq-republic-azerbaijan-state-guarantees-equal-rights>

<sup>18</sup> [https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3\\_isn=86667](https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3_isn=86667)

<sup>19</sup> CEDAW Committee, General recommendation No. 35; CEDAW Committee, *Vertido v Philippines*, Merits, Communication No. 18/2008, UN Doc CEDAW/C/46/D/18/2008; Article 36 of the Istanbul Convention (2010); *R.P.B. v Philippines*, Communication No. 34/2011, UN Doc. CEDAW/C/57/D/34/2011 (2014).

<sup>20</sup> Article 149 – *Rape, i.e. sexual intercourse with the use of violence or threat of violence against the victim or other persons or with the use of the victim's helpless state.*

<sup>21</sup> Article 150 – *Violent acts of a sexual nature, i.e., sodomy or other acts of a sexual nature with the use or threat of violence against the victim or other persons or with the use of the victim's helpless state*

<sup>22</sup> Article 151 – *Coercion to acts of a sexual nature, i.e., coercion of a person to sexual intercourse, sodomy or other acts of a sexual nature by threatening to destroy, damage or seize property, or by using the victim's material or other dependence*

<sup>23</sup> The CEDAW Committee's General Recommendation No. 35, updating No. 19, explicitly calls for the criminalisation of marital rape and other acts of sexual violence as crimes against women's right to personal security and their physical, sexual and psychological integrity (para. 33). Article 46 of the Istanbul Convention also states that a crime committed against a former or a current spouse or a partner should be treated as an aggravating factor.

violence within intimate partnerships to remain unpunished. This is exacerbated when a woman has a disability. Local experts confirm discriminatory attitudes on the part of law enforcement authorities when women with disabilities report sexual violence, with comments recorded such as, “who would want to have sex with a woman with a disability?”, or even “be thankful that he paid attention to you. Who would have looked at you otherwise?”.

15. Sexual violence against women and girls with disabilities is not explicitly treated as an aggravating factor in Chapter 20 of the Criminal Code (“Crimes against sexual inviolability and sexual freedom”. Article 61.1.7 of the Criminal Code provides that “committing an offence against a woman known to the perpetrator to be pregnant, as well as against a minor, elderly or helpless person or a person dependent on the perpetrator” is an aggravating factor. However, disability is not explicitly provided for in this provision.
16. Abusing the helpless state of the victims is considered the constituent element of the definition of rape. While this is one avenue through which rape of people with disabilities can be prosecuted without needing to prove force, lack of clarity in the law and practice coupled with a lack of a consent-based definition, results in many acts of rape going unpunished. In addition, it is important that people with disabilities be treated with dignity and that automatic assumptions are not made regarding their capacity. An evidence-based, gender-sensitive approach should be taken to assess the capacity of a victim to give consent.
17. Although Azerbaijan has neither signed nor ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), it is helpful to note that para. 87 of the Explanatory Report to the Istanbul Convention states that disability is one of the vulnerability factors that should guide a State’s particular actions with respect to the prevention of violence against women.

### **Procedural barriers and gender stereotypes against women and girls with disabilities**

#### **Summary of the section:**

Inadequate implementation and enforcement of legal frameworks in relation to sexual violence remains a problem. Burdensome evidentiary standards, including the requirement for physical injuries and biological evidence, hinder prosecution in cases of sexual violence, especially for victims with disabilities. Patriarchal attitudes among law enforcement and judicial officials contribute to underreporting, and the lack of gender-sensitive protocols leads to the re-traumatization of survivors.

18. Addressing sexual violence against women poses significant challenges due to the inadequate implementation and enforcement of legal frameworks. Local lawyers explain that Azerbaijan maintains burdensome and discriminatory evidentiary standards in cases of sexual violence, and this is further exacerbated when the victim has a disability. In the overwhelming majority of cases, sexual violence crimes are prosecuted only when physical injuries are found on the body of the victim, as well as biological materials associated with a sexual act. Investigators and judges are inclined to base their decisions solely on the outcomes of forensic examinations. If a forensic examination does not identify injuries on a victim’s body or signs of violence (including, for example, if a long

time has passed since the abuse was committed), the victim's testimony may not be believed or considered credible.

19. Additionally, under Article 264.2 of the Code of Criminal Procedure, the appointment of a psychiatric expert examination is mandatory in order to establish the following circumstances: "the inability of a witness or victim to correctly perceive and describe the circumstances to be established in a criminal case due to his or her chronic mental illness, temporary disorder of mental activity, mental retardation or other mental illness". Moreover, under Article 95.2.1 of the Code of Criminal Procedure, a person who "due to physical or mental impairment cannot correctly perceive and recount the circumstances to be investigated" shall not be interviewed or interrogated as a witness. The Committee recommended Georgia repeal Article 50.2 of the Code of Criminal Procedure of Georgia equivalent to Article 95.2.1 of the Code of Criminal Procedure of Azerbaijan.<sup>24</sup>
20. As a result of existing stigma and ableism associated with different forms of disabilities and laws failing to provide procedural accommodation, disability often leads to the denial of justice for sexual violence, even where the disability does not affect the person's ability to comprehend the events that happened to them.
21. There is no effective social support system which could help identify, monitor and provide support to women and girls with disabilities who are at risk of or suffer from gender-based violence, in particular sexual violence.
22. The lack of a gendered perspective among law enforcement and judicial officials is a serious issue. Local experts inform that mediation is often substituted for formal legal processes, complicating efforts to prosecute perpetrators.
23. Patriarchal attitudes prevalent among law enforcement, judicial officers, and community leaders contribute to the underreporting of cases, further compounded by the low representation of women in the criminal justice sector (e.g., access to same-sex police officers and forensic experts and diversity of experience to inform a gender-based approach). Victims encounter hurdles throughout the criminal procedure, including inadequate information about their rights and encountering discriminatory language and attitudes from prosecutors and judges.
24. Women and girls with disabilities face additional stigma and credibility issues. Law enforcement personnel often hesitate to pursue cases involving such individuals, lacking an understanding of how age and disability impact victims' participation in criminal proceedings. Gender and disability biases within the criminal justice system perpetuate discriminatory treatment, hindering progress even in reported cases. As a result, perpetrators frequently act with impunity, perpetuating a cycle of abuse and invisibility for women and girls with disabilities.
25. The law enforcement and judiciary lack age-, gender- and disabilities-sensitive protocols which then contribute to the re-traumatisation of survivors:
  - a. According to the Asian Development Bank's country gender assessment of Azerbaijan (2019), prosecution of a sexual assault places the burden of proof on the victim while at the same time, the victim's testimony alone is not considered

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<sup>24</sup> CRPD/C/GEO/CO/1, paras. 27-28

sufficient as evidence. While the alleged perpetrator should be innocent until proven guilty, it should not be the victim who is on trial. In contrast, prosecution of other offences, such as common assault, may rely only on a victim's testimony alone. This difference suggests that victims in trials of sexual offences are viewed as a particularly unreliable class of witness. Such a provision discriminates against women and reduces the likelihood of victims of sexual assault coming forward to report the crime.<sup>25</sup>

- b. Women face social and cultural challenges in reporting sexual violence, and few programs are in place to sensitise the police and legal system on how to support women who are victims of violence.<sup>26</sup>
- c. According to local lawyers, there are many practices that can leave victims vulnerable or retraumatized. For example, survivors are often asked to testify in front of third parties as not all police stations have private rooms for taking a statement. Therefore, generally, interviews take place in the office of duty investigators, and there are likely to be several people working and present in one office; victims could be interviewed simultaneously with the suspect by the police, and there is a risk of victims and the suspect meeting in corridors or waiting areas of the building; the accused's family members can attend the court hearing; the police may take victims to the scene of the crime to get more details on the incident, forcing a victim to re-create her traumatic experience, often rejecting recollections that do not exactly tally with the original report.

### Lack of victim support services and protection

#### Summary of the section:

There is a serious lack of victim support services and protection. Very few shelters for women victims exist, lacking also specialised disability support. Access to justice is impeded by physical barriers in justice system facilities, with inadequate accommodations such as wheelchair access, braille indications, or enlarged print documents, creating barriers to justice.

26. There is a lack of shelters for women victims of violence,<sup>27</sup> and they largely lack specialised disability support. As a result of the lack of reasonable accommodation, victims cannot practically access help, and existing support services are limited.
27. The situation is particularly challenging when sexual violence is committed by a family member or when the victim lives in a residential institution. In these cases, survivors are often forced to live with their abuser and/or endure ongoing abuse and may fear reporting the abuse because this might lead them to lose the caregivers on whom they depend.

<sup>25</sup> <https://www.adb.org/sites/default/files/institutional-document/546166/azerbaijan-country-gender-assessment-2019.pdf> p. 45

<sup>26</sup> <https://www.adb.org/sites/default/files/institutional-document/546166/azerbaijan-country-gender-assessment-2019.pdf> p. 43

<sup>27</sup> <https://www.adb.org/sites/default/files/institutional-document/546166/azerbaijan-country-gender-assessment-2019.pdf> p. 44

28. Even when women and girls with disabilities decide and seek to report sexual abuse, it is frequently difficult for them to do so. A lack of accessible transportation prevents women with some physical disabilities, especially wheelchair users, from travelling to a police station, a hospital, or a crisis centre in case of need. A journalist reported that in Azerbaijan, the bus system is largely unable to accommodate people with disabilities, with the exception of maybe a dozen routes—but these are limited to central Baku. If you live in the suburbs, parts of the city where these lines simply do not run, or if you don't live in Baku at all, your only real options are walking, driving, or taking a cab".<sup>28</sup>
29. There are challenges in providing reasonable and procedural accommodation in the context of access to justice. Physical access to buildings for persons with physical disabilities represents a significant barrier to access to justice. In its report of 2020, the European Commission for the Efficiency of Justice referred to interviews conducted in courts in Azerbaijan highlighting that effective physical access to court can only be ensured in relatively new court buildings (interview at the Narimanov District Court). There were no measures at the court level (Sabail and Nasimi District Courts, and the Baku Appeal Court) to reduce physical barriers for persons with physical disabilities (e.g. wheelchair access; info point; brail indications in elevators etc.; enlarged print of documents for persons with visual impairment). It was reported that buildings are old and that persons with physical disabilities would not attend the hearings but would rather be represented by their lawyer. Where courtrooms are situated on different floors (e.g. Baku Court of Appeal), and there is no elevator, cases involving persons with disabilities (e.g. wheelchair users) should be notified in advance to plan the hearings on the lower floor; but this does not always happen.<sup>29</sup> Additionally, on a symbolic level, lack of physical accessibility (or segregated accommodations for persons with disabilities, for instance, a ramp at the back of a building) can make persons with disabilities feel excluded, and thus discourage them from pursuing justice. Disability advocates thus argue for universal design of physical spaces.<sup>30</sup>

## Recommendations

**We respectfully urge the Committee to recommend to the government of Azerbaijan the following:**

### **Key recommendations:**

1. Align the definition of rape with international human rights standards, focusing on the lack of consent;
2. Put in place comprehensive manuals and guidelines for criminal justice professionals, in line with CRPD and CEDAW standards, and provide trainings for law enforcement and the judiciary to effectively respond to and address sexual violence against women and girls with disabilities;

<sup>28</sup> <https://globalvoices.org/2021/02/25/what-keeps-people-with-disabilities-indoors-in-azerbaijan-the-answer-is-not-covid-19/>

<sup>29</sup> <https://rm.coe.int/access-to-justice-for-vulnerable-groups-in-azerbaijan-eng/1680a31544>, p. 22

<sup>30</sup> <https://rm.coe.int/access-to-justice-for-vulnerable-groups-in-azerbaijan-eng/1680a31544>, p. 21

4. Establish victim-centred support services and provide reasonable and procedural accommodation for women and girls survivors of sexual violence during criminal justice processes;
6. Remove burdensome evidentiary standards and abolish discriminatory provisions preventing women and girls with disabilities from testifying.
7. Collect and analyze administrative data on sexual violence disaggregated by sex, age, disability and other characteristics.
8. Develop and adopt a comprehensive strategy at the level of the Government of Azerbaijan to overcome negative gender and disability stereotypes and harmful practices and build zero tolerance for all types of violence in order to achieve gender equality.

## **Detailed recommendations on addressing sexual violence against women and girls with disabilities**

### **Substantive law**

- Introduce a consent-based definition of rape in accordance with international human rights standards, including the ones developed by the CEDAW Committee.
- Explicitly define sexual violence against persons with disabilities and marital rape as aggravating factors in punishment determinations.
- Review the Law on Prevention of Domestic Violence 2010 to include specific protections for women and girls with disabilities, survivors of violence, including sexual violence.

### **Practice and procedural changes**

- Ensure that all cases of sexual violence against women and girls are investigated, prosecuted and adjudicated with a victim-centred approach and from a gender-, age- and disability perspective.
- Ensure that women and girls with disabilities are given priority to be regularly visited by adequately trained social services with the purpose of, among others, detecting risks and instances of abuse and neglect.
- Remove burdensome evidentiary standards and corroboration requirements in relation to sexual violence crimes.

### **Training of professionals**

- Ensure victim-centred procedures for sexual violence and eliminate burdensome evidentiary standards, while putting in place appropriate manuals and guidelines for the investigation, prosecution, and adjudication of sexual violence. Ensure law enforcement and judiciary receive relevant and continuous training;
- Provide targeted, mandatory, capacity-building activities on the prevention and detection of, and the response to, all forms of violence against women and girls, including sexual violence, for law enforcement and judicial officials, health and social workers and other professionals who deal with sexual violence and interact with victims, including in rural areas.

### **Collecting and maintaining data on cases of sexual violence**

- Improve data collection on violence against women and girls by authorities. Disaggregate data based on disability, sex, age, ethnicity, case outcomes, complaint numbers, investigations, prosecutions, sentences, and attrition rates, among others.

**Stereotypes**

- Develop and adopt a comprehensive strategy at the level of the Government of Azerbaijan to overcome negative gender and disability stereotypes and harmful practices and build zero tolerance for all types of violence in order to achieve gender equality.

**Support services**

- Provide reasonable and procedural accommodation for women and girls with disabilities survivors of sexual violence, including by putting in place victim support services and protection, adequate accessible shelters, medical treatment, psychosocial counselling, measures for rehabilitation, social reintegration, and economic support throughout Azerbaijan;
- Put in place measures and programmes inspired by international best practices, to ensure effective access to justice system facilities for persons with disabilities in remote areas and physical access to justice system facilities for persons with a physical disability.