

# **GENDER ASSOCIATION “SYMMETRY”**

## **NGO SHADOW REPORT**

### **WOMEN POSITION IN LABOR MARKET**

**(ARTICLE 11 of CEDAW)**

**and**

**Violence Against Women**

**(General Recommendation 19)**

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## Table of contents:

Acknowledgements _____	3 page
Introduction and methodology _____	3 page
Executive summary _____	3 -4 pages
Women position in labor market, DeJure analysis of Article 11 _____	4-6 pages
Women position in labor market, De Facto analysis of Article 11 _____	6-11 pages
Reccommendations _____	11 page
Violence against women issue in Azerbaijan _____	11 page
Sexual violence _____	13 page
Reccommendations _____	13 page

## **Acknowledgements:**

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## **Introduction and methodology:**

This report examines the status of women’s rights development in labor market of Azerbaijan through a review of national laws relevant to the issues and assessment of their implementation in practise. It also highlights areas of concern. This study was conducted in 2009 using CEDAW Assessment tool developed by ABA CEELI. A working group consist of Gender Association “Symmetry” staff conducted de jure and de facto analysis during which lawyers and experts of several local NGOs were interviewed and filled out questionnaires for de jure analysis which consulatnts extracted relevant to article 11 from the CEDAW Assessment Tool. Consultants also reviewed and anlized existing NGO reports and state statistic.

## **Executive Summary:**

This Shadow Report on the process of realization of the Convention on Elimination of all Forms of Discrimination against Women in the Republic of Azerbaijan, which was ratified by the Parliament of Azerbaijan in 1995, was developed by initiative of the Gender Association “Symmetry”. The Shadow Report contains research materials offered by Azerbaijani NGOs, such as AREAT Research Center, Gender Association “Symmetry”, reports and research materials of international organizations, interviews of NGO actors such as Oil Workers Human Rights Protection Union, Azerbaijan Young Lawyers Association and in addition, statistical data on women prepared by NGOs and State.

The first version of the Shadow Report was prepared under the financial support of Network Women’s Program, OSI-AF in 2005 and covered the period of 2000-2005 years. The report was published in Azerbaijan and submitted at CEDAW session in 2006. It was the first experience of Gender Association “Symmetry” since it has not prepared any Shadow Report under CEDAW before. It was a comprehensive report reviewed de jure and de facto analysis of implementation of CEDAW in the country.

The aim of this Shadow report is not to criticize or deny effort and progress made by Azerbaijan government to achieve gender equality and equal treatment for women and men in the country, but to point out areas of concern regarding the status of women in the country and comment on some significant changes made in the field since the report was written in 2005.

Generally, in recent years, the government has undertaken a number of positive measures and concrete steps to eliminate discrimination against women in the society. Azerbaijan has joined many International Conventions, and government initiated a significant number of laws, national programs and other national instruments for promotion of gender equality. However, last overview and analysis of NGOs reports and our own experience show that mechanisms of implementation are still not enough effective. The monitoring of its realization is not conducted systematically and in proper manner.

The current Shadow Report was prepared by a Gender Association “Symmetry” and experts working together who decided to review a progress achieved on some issues analysed in this report since 2005 report was submitted.

This is not a comprehensive Shadow report covering the implementation of all the Articles of CEDAW, but it consists of analysis of Article 11 and VAW issues development in Azerbaijan. The selection of topics was mainly concerned with recent changes occurred in these areas requiring specific attention of government and civil society to the issues.

The development of this report is also used to provide women’s rights activists and NGOs contribution to the gender equality development process in the country and stimulate further dialogue with the Government enabling mutual participation of the Government and NGOs in decision-making process.

The report was prepared on voluntary basis, without any international or national financial support. The views and recommendations expressed in this report, belong to the Gender Association “Symmetry” and respective NGO-s who have contributed to the report development, such as AREAT center, Oil Workers Rights Protection Union, Azerbaijan Young Lawyers Association.

## **Article 11: WOMEN POSITION IN LABOR MARKET**

### **Areas of concern:**

- Women’s representation, status of their rights in labor market as well as issue of equal benefit
- Growing number of self-employed women and lack of information about their number, status, work conditions, safety and benefits
- Spreading of sexual harassment and gender discrimination issues in hiring and promotion processes in private and state enterprises including education sphere
- Lack of gender policies and mechanisms to prevent gender based discrimination and promote women in state and private enterprises
- The law on equal rights for women and men does not provide any penal provisions nor does not refer to already existing normative legal documents in case of sexual harassment
- Lack of sufficient attention of NGOs, state and media to issues relevant to status of women in labor market
- Growing patriarchal tendencies and problems connected to economic crisis directly influence on number and status of women in labor market

### **De Jure Compliance:**

Key principles guaranteeing equal rights for men and women in employment and labor such as the right to work, the choice of profession, the payment and safe working conditions, approved

by legislative system of the country: Constitution, Labor Code and Law on Equal rights and Opportunities. The Azerbaijan Constitution, Article 154/16 says that all employees regardless sex, age and other have the right to equal benefits for their work and this benefit should not be less than minimum wage established by the government. Azerbaijan also joined and ratified several Conventions prohibiting discrimination based on gender and one of them is ratified in 2004 ILO Convention on Equal Remuneration and also on Employment and Occupation. Article 9 of Labor Code confirms right of employees to improve their professional skills and get new knowledge.

### **Pregnancy and maternity leave:**

Articles 90-94 of the Azerbaijan Labor Code oblige employers to provide pregnant women and women with young (under 14 years) or disabled children with shortened work days without loss of wages. According to the law, employers cannot require women who are pregnant or with several children to work overtime, night or travel for work without their agreement. Labor Code prohibits refusal to hire pregnant women or women with children (Article 240), to work in night time or in harmful conditions (Article 241-242), prolong her maternity leave or decrease it and to fire her. Article 117 of Labor Code gives additional days off for women with 2 children up to age 14 (2 days) and women having more than 3 children up to age 14 or with disabled child up to age 16 (5 days). It provides the same opportunity for men who bring up children without wives. Article 130 says that men without wives may be granted with unpaid 14 days off and also all other men can get 14 days off while his wife is preparing for birth or during it. Despite, all positive conditions and opportunities created by the state the fact that government does not grant men with an equal opportunity for child care as they do it for women emphasizes a government's vision of responsibilities in families where in complete families women mostly are responsible for childcare.

Articles 125-127 of Labor Code confirms the right of women to get 70 days leave before birth of child and 56 after it and women can receive financial benefit during this time. In addition, if women have health problems after birth, or have 2 children and more, she may be granted additional 70 days off after giving birth. Labor Code also respects the rights of rural women, who can get minimum 140 and maximum 180 days leave connected to birth or childcare.

### **Unemployment and Pension:**

The Constitution of Azerbaijan Republic, Article 35, VII-VIII guarantees the equal right of protection against unemployment and to receive social allowance to those who lost job.

Azeri women have the right to receive a labor pension at the age of 57 when men can get it only at age of 62 with at least 5 years of covered employment; at age of 51 (women with one child), age 50 (women with 3 children), or any age (women with more than 10 children). Early pensions *paid* at age of 52 with at least 20 years of covered employment (women), including at least 10 years of work in unhealthy or arduous conditions. An early pension is also provided for mothers who have raised at least three children or one disabled child from birth until age 8. Beside, the government provide a survivor labor pension to a retired spouse, a disabled spouse, a nonworking spouse, a spouse caring for a child younger than age 8, and children younger than age 18 (age 23 if a full-time student, no limit if a disability began before age 18). The basic

pension is 75 manat and social pension is 45 manat. Maternity benefit is equal to 100% of gross average monthly earnings and is paid for 126 days (70 days before, and 56 days after the expected date of childbirth). A birth grant and child care benefits are provided under Family Allowances Social State Program for unemployed women or low income families. Unemployment benefit can receive those who have at least 26 weeks of covered employment in the 12 months before unemployment. The insured must be between age 15 and the normal pension age, registered with the state employment services, and actively seeking and willing to work. The benefit is suspended for 3 months for refusing two acceptable job offers or for failing to register each month at the employment service without a valid reason. The benefit ceases for filing false or fraudulent claims or for refusing to attend vocational training. The benefit is equal to 70% of average gross monthly earnings in the 12 months before unemployment. The benefit must not exceed the national average monthly wage. The benefit is paid for a maximum of 26 weeks in any 12-month period. The national average monthly wage is 250.40 new manat.

### **Sexual Harassment in the Workplace:**

The Law on equal rights and opportunities bans sexual harassment at the workplace. It puts the responsibility for sexual harassment on the employer, according to articles 17 and 19 of the same law which says:

*“An employer may not subject an employee to harassment on the grounds that the employee has rejected the employer’s sexual advances or has reported the employer for sex discrimination. The employer is responsible for the harassment towards an employee based on the provision 19.1. of the current Law and in accordance with the legislation of the Republic of Azerbaijan”.*

*“The Article 19 says: It shall be prohibited to specify requirements in job advertisements or education opportunities advertisements, giving priority to one of the sexes, and to request information from job seekers about their family status, private life or family plans.”*

However, The law on Equal rights for women and men does not provide any penal provisions and does not refer to already existing normative legal documents in case of sexual harassment.

### **Protection of Health and Safety for Women in the Workplace:**

Article 9 of Labor Code guarantees right for all people regardless gender to work under conditions which meet safety and health requirements and to exercise the right to demand such conditions. Article 241 of Labor Code says “ Use of women workers in Labour intensive jobs, in hazardous workplaces, and also in under ground tunnels, mines, and other underground works is prohibited”. It also prohibits to give any jobs for pregnant women if they assume lifting and carrying in hand things which total weight more than 15 kg. Article 242 limits calling pregnant women workers and employees with small children for night shift, overtime, and weekend jobs, or job related travel.

### **De Facto Compliance:**

An analysis of national legislation highlights that formal equality is guaranteed to all, irrespective of gender. Officially, women and men have equal rights in employment and in all related social benefits. Formal guarantees also codify equality through rights to equal pay for equal work, education, professional development and training. And the law provides employment protection

and paid leave for women during pregnancy, childbirth and a set maternity period. Nonetheless, information collected by NGOs and our organization indicates that in practise discrimination exists throughout the employment sector, demonstrating a gap between de jure and de facto.

### **Equal Employment Opportunities, Unemployment and Criteria for Promotion:**

Unemployment rate among women makes 65.4% and only 34.6% among men.<sup>1</sup> According to research on Situation in Labor market during Transition Period, women who have higher education are more demanded in labor market ( 48.7% ) than women who have not received any higher or professional education. Women with secondary education are face a real difficulties to find any job since they considered as unqualified when men with the same education make 23.4% of employed. Another part of vulnerable women are refugees who represents in official labor market only 12.7%<sup>2</sup> of employed people. This group of people granted by the State with social allowance which consist of average monthly salary. Even analysis of expenses allocated for professional specialized training and retraining of women for further employment shows that costs of professional training of men are rather higher.

Indeed, low level of education and experience, economic crisis and inflation contribute to established unemployment rate for women but patriarchal stereotypes and discriminatory practises further prevent women from equal representation, participation and benefit in national labor market.

The state has not yet created and promoted effective mechanisms for private and state sectors to promote women in decision making, to secure equal payment and prevent sexual harassment at work place that would strengthen the state's gender mainstreaming mechanisms, particularly law on equal rights and opportunities.

Losing its financial value social allowance system, insufficient number of kindergartens and growing expenses related to childcare, education and etc. create additional obstacles for women in labor market and force many families with low incomes, especially in rural areas not to allow women to engage in outside activity and not to leave any other chance for women than to stay housewives. It is important to note that as the cost of education grows, families are more likely to invest in the education of boys, rather than to invest resources in the education of female family members. The lack of state attention to this problem leads to strengthen the traditional vision of women's role in the family. In this case women opportunities are decreasing and they stay far from active participation in development of the society as well as from access and control over resources in the country.

The figures reflected in the report on "Women and economy" prepared by AREAT Research Center shows that percentage of unemployed women is bigger than men in all age categories, especially among 21-40 ages. This tendency is almost the same for city and regions. Moreover, it indicates on gender discrimination and shows importance of marital status for employers in hiring and promotion process existing in labor market, for example, employed married men make 86.41% when employed married women make only 26.8% and single and divorced, 73.2%. Positions taken by women in private and state sectors are usually either administrative or about the provision of social services which are less important and lower or average paid. These

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<sup>1</sup>Main Results of Household Budget Survey in 2005. Baku, 2006. Azerbaijan State Committee of Statistic. P.162.

<sup>2</sup> Information submitted by expert of State Committee on Refugees Issues

positions are rarely considered for promotion and more dependable on other different positions or departments. Therefore, women have minimum chances for capacity building and further professional grow in terms of vertical segregation. The possibility of employment differ with age. As shows NGO statistic women in certain age, usually, within 21-40 fulfil their reproductive function and this is another reason why they accept low paid but providing more free time jobs. An analysis of focus groups conducted in the framework of “Women and economy” research indicates that gender is an informal criteria of professional grow and promotion of women in the workplace. It determines reproduction as one of the major barriers in carrier development for many women. The same factor does not affect men anyhow. Traditionally, women in Azerbaijan families bear full responsibility for child care and even domestic issues.

Geographical and economical situation of women also increase or decrease potential opportunities for women to find a job. For instance, as it has mentioned in “Women and Economy”report, women employment rate in Baku city is 73% higher than in other regions. Searching for work, a regional population settle in the city and increase majority of self-employed population.

The low employment rate among women is in many respects directly related to limitations established by employers in selection criteria given during process. Usually age, marital status, years of required professional experience and fact of having small children or being pregnant play a decisive role for many women who do not meet one of these requirements. Analysis of job announcements for different positions shown that often women are required for assistance positions and preference always given to women within 18-28 age group. Women of 25-35 years old are required for more “adult”positions such as managers (HR, PR, Office). Mostly, the selection criteria for office administrative staff employers describe type, age, appearance and gender. Often described age and gender preferences limit those who are over the age of 35. Women at the age of 45 years old are already commonly considered “old”. During the interview process women very often given questions during interview about their marital status, number of children or if they wish to have them. Men never asked the same question. An expert of the AYLU (Azerbaijan Young Lawyers Association) shares the same opinion: “Although all laws are protecting women and prohibiting employer to refuse pregnant women from work but in practise we see that it is always difficult to find any job for pregnant women”.

Lack of jobs and low opportunities sweep out women into informal sector of employment where women take, as well as in formal market, the most low paying jobs such as retail selling, childcare and different type of house work services. There is no official information on the situation in this unregulated market and it is impossible even imagine extent and character of problems there. The informal nature of this sector reduces the level of employment protection for all workers, particularly women. The state has not taken any steps to investigate situation on informal labor market, women’s status and problems there.

**Economical activity of population segregated by gender and place of living.**

	<b>Employed</b>	<b>Unemployed</b>	<b>Economically unactive</b>
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					<b>population</b>	
<i>City</i>	Female	Male	Female	Male	Female	Male
16-20 age	2,76%	4,60%	8,29%	6,08%		
21-40	25,23%	25,60%	36,46%	20,99%	4,04%	9,09%
41-57 (41-62)	17,13%	20,44%	5,52%	18,23%	9,09%	16,16%
58 and more (63 and more)	2,58%	1,66%	2,76%	1,66%	54,55%	7,07%
<b>Summary</b>	47,70%	52,30%	53,04%	46,96%	67,68%	32,32%
<i>Villages</i>						
16-20	2,91%	2,70%	3,19%	4,26%		
21-40	27,44%	25,16%	36,17%	18,09%	3,66%	2,44%
41-57 (41-62)	17,88%	19,54%	2,13%	34,04%	20,73%	6,10%
58 and more (63 and more)	3,33%	1,04%	1,06%	1,06%	41,46%	25,61%
<b>Summary</b>	51,56%	48,44%	42,55%	57,45%	65,85%	34,15%
<i>General</i>						
16-20	2,83%	3,71%	6,55%	5,45%		
21-40	26,27%	25,39%	36,36%	20,00%	3,87%	6,08%
41-57 (41-62)	17,48%	20,02%	4,36%	23,64%	14,36%	11,60%
58 and more (63 and more)	2,93%	1,37%	2,18%	1,45%	48,62%	15,47%
Summary	49,51%	50,49%	49,45%	50,55%	66,85%	33,15%

### **Equal Remuneration:**

Gender analysis of classification of population by employment, has shown existence of both horizontal (traditional role choice of profession) and vertical professional segregation (different levels of functional positions within the same sphere). As evidence of this, the estimated income

for women vary between 15.000 and 20.000 manat and 25.000-30.000 manat for men. The another evident glass ceiling indicator is a fact that men earn more than 1.000.000 manat when number of women with the same benefit is only 2.25%. World Bank's statistic also indicates existing differences in salaries connected to gender discrimination in labor market. The data shows that in 1995 level of women's salaries hardly exceeded 50% of men.<sup>3</sup> The State Statistic Committee's data confirms that in 10 years this ratio did not change. Major factors leading to inequal payment are "undervalued and low paid" positions taken by women in the market and male domination in power and decision making in private and state sectors. Common stereotypes also direct women to earn less and to be mostly engaged in houses than to be active socially. According to NGO statistic 21.2% of women accept to earn less than men and 61.8 % persuaded that they should receive equal payment, the same survey among men shows that 65.1 % of them accept equal benefit.

### **Protection of Health and Safety in the Workplace:**

According to official statistic women very rarely are among those who disabled while employed, from 240 officially registered by the goverment cases 16 cases are when women injured. Official statistic calculate the cases basing on the number of officially registered employed people, however, since women mostly self-employed it does not allow to show a real picture of problem.

However, as it was mentioned in de jure analysis the goverment made a great efforts to protect officially peoples health and prohibit employers to hire women, especially pregnant one in dangerous for their and future babies health jobs.

### **Pension:**

The fact that women in their majority engaged in civil or budgetary sector or lower paid positions impacts the amount of pension they receive. Civil servants in high position with at least 15 years experience in the past receive a higher pension. Women employed in informal sector have no chance to receive any pension in future. Elderly women are also hit harder by poverty than elderly men. If they live in rural areas, they generally have no pension or other income, and as a group, elderly women show the highest tendency of poverty.

### **Sexual Harassment:**

In 2007 a research on Status of Sexual Harassment Issue in the country found that 33% of women determined themselves as victims of sexual harassment. There was also a clear link between their job position or status they take in education sphere. Women usually were harassed or treated in this way in 53% by supervisor (mostly, private sector), in 26,3% education sphere and in 5,6% from colleagues. Around 80% of these women recognized dependance from the insulter on the moment of incident. The women who refused from indecent proposals recognized that it impacted negatively on their employment-17%, on their education-33%. Victims are often reluctant to appeal to court due to rumours it may lead to, difficulty of proving sexual harassment and discrimination and fear to loose the job. Almost all organizations and companies including state have no gender policy explaining sexual harassment as an issue of employee safety and gender indicators included into monitoring system of labor safety and rights

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<sup>3</sup> Gender in Transition. The World Bank.2003

measuring level of discrimination on gender base and revealing cases in the organizations. The lack of penal provisions strengthening law on equal rights and opportunities, promotion of gender policies and mechanisms of its implementation in private and state sector from one hand. Lack of awareness about rights and laws among population as well as media coverage of these issues from another hand seriously impair women rights and status in the workplace and deteriorate the issue.

### **Recommendations:**

- Adjust the national legislation according to Law on equal rights and opportunities
- Elaborate a complex of measures from study to concrete programs aiming to increase female employment;
- Promote gender policy and quota for women's representation in decision- making and in staff, in the workplace in state and private sectors
- Set up measures increasing number and affordability of care services;
- Initiate awareness raising campaigns and education programs targeting the whole population including representatives of state and private sectors, promoting women's rights for employment, equal treatment and sexual harassment issues;
- Elaborate national programs eliminating gender pay gap in wages and pensions, and increasing social security and allowance for women
- Adopt methods detecting discrimination in the work remuneration and improve gender statistic and indicators in the field of employment
- Study informal employment sphere and status of women rights and realization of their opportunities in in the field.
- Set up permanent capacity building and professional development programs for women around the country
- Make the necessary amendments to the Labor Code provisions pertaining to paternity leave and effective criminalization of sexual harassment at the workplace.
- Set up clear national measures aiming at elimination of sexual harassment in the workplace

### **Violence against women issue in Azerbaijan**

Azerbaijan is one of the countries that recognizes the international legal documents and considers the domestic violence as one of the most severe forms of human rights and one of the forms of a crime against personality. In 1995, Azerbaijan acceded to the Convention on the Elimination of all forms of Discrimination against Women. The greatest attention Azerbaijan paid to the issues of women's status. The State Committee on Women problems was established in Azerbaijan in 1998 and reformed into the State Committee on Women, Children and Family affairs in 2006.

Domestic violence is widespread phenomenon, deeply rooted in traditions where there is inequality between women and men. Domestic violence against women is the most difficult and hardly identifiable part of discrimination chain. Neither government nor society in the country has paid any attention to this problem till the present time. This is a fact that whatever happened in the family, all must remain within the family. Typically, victims of domestic violence generally perceive

it as normal and even prefer not to talk about the most severe forms of violence. Feeling of shame and humiliation, fear of re-experience of moral and physical suffering, a sense of hopelessness because of traditional attitudes not to interfere in family relationships make the violence as one of the common form in the society. In addition, because the family is the place where basic gender stereotypes between women and men are formulated, they can adopt the rules of human behavior on the basis of sex determination.

According to the research, conducted in Azerbaijan by Gender Association “Symmetry” in 1999, 37% of women-respondents accepted that have been subjected to violence and 90% of them were victims of domestic violence. By the forms of domestic violence 59,1% of women have subjected to the physical form of violation, 10% - the sex form of violation and 30,9% - to the physiological form of violation.

The greatest attention in the country at the present time is paid to elimination and prevention the family from the domestic violence. Much work was carried out in the country since 2001 with the support of the OSCE/ODIHR, in order to strengthen the role of law enforcement agencies against domestic violence.

Trainings on domestic violence with participation of international experts (the police from Austria) are held for law-enforcement bodies within the frameworks of this program in Baku and in the regions of Azerbaijan. This work has led to increase activity of the police in protection the victims from the domestic violence.

According to the data from the Ministry of Internal Affairs of Azerbaijan Republic, 3593 cases of violence against women were initiated in November 2008, 1284 of them were related to the domestic of violence.

The Project on domestic violence has been prepared in Azerbaijan in 2007 and submitted to the Parliament for consideration. In accordance to the recommendation of the police the Project (in comparison with the previous ones) defines the role of police in protecting victims of domestic violation and punishment for the executed crimes.

The great value in the country is given to prevent women’s from the domestic violence.

This official discourse has been supported by the state through mainstreaming of gender component into some state programs among which are, the State Program on “Building of Democratic Society and Struggle with the domestic violence”(2006-2015), the program on poverty reduction and economic development as well as other state mechanisms aiming to protect and support the victims of domestic violence.

The national program on reproductive health includes work in sphere of reproductive health and violence over the women.

There are still some questions concerning the strengthening of the role of social services in assistance to the victims of domestic violence. The establishment of the intervention centers in work of law-enforcement bodies and a civil society in the country - still remains the important question

## **Sexual violence**

There is no law on Sexual Violence or Domestic Violence which contains a chapter dedicated to the issue of sexual violence. Lack of understanding and sensitivity of policemen to the issues of sexual violence and sometime difficulty of proving facts of this kind of violence prevent women from appealing to police and opening a case. Another reason preventing them is a fear of rumors it may lead to. Taking into consideration that it is very difficult to victims of sexual violence to apply to the law-enforcement bodies it is recommended to involve more women into work in the police system. This fact will create more beliefs in victims on the one hand and will strengthen mechanisms on their protection on the other hand. In Azerbaijan there are no centers of support of victims of sexual violence as well and establishment of them will significantly contribute toward development of prevention mechanisms and measures and assist many women faced with sexual violence to get rid of problems they met with. From the other hand, development of prevention mechanisms, educational and social programs with the help of social workers may lead to significant elimination of any type of violence in the society and increase awareness of population in harm forms of violence, ways to prevent and fight it.

## **Recommendations**

- 1) To adopt a law on domestic violence and elaborate mechanisms on awareness raising of it
- 2) To establish the intervention centres
- 3) To prepare and retrain social workers (working with victims of domestic and sexual violence)
- 4) To adopt a law on sexual violence or elaborate descriptive and detailed chapter on it in DV law
- 5) To adopt a law on sexual harassment
- 6) To strengthen measures on investigation and punishment for sexual harassment in the workplaces, educational sphere and adopt an appropriate legislation
- 7) To strengthen a role of men in prevention of domestic violence against women