

POLITICAL ASPECTS OF THE CIVIL SOCIETY AND RULE OF LAW FORMATION IN CONTEMPORARY AZERBAIJAN

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<p>Article history:</p> <p><i>Received:</i> 29.05.2017</p> <p><i>Accepted:</i> 27.04.2018</p>	<p>Abstract: The political aspects of the formation of the civil society and the rule of law in modern Azerbaijan coincide with the general trends in the development of globalization and political processes in the modern world. The nature of the civil society formation in Azerbaijan is inseparably linked with the regional political processes. In particular, the analysis of internal political and regional processes, conducted on the basis of consideration of the legal framework and political structures of the country, the main stages of post-Soviet development, and tendencies in the development of civil society, which are mainly manifested through such forms of social life as the activities of non-governmental organizations, civic engagement, corruption and bureaucracy, authoritarianism in various echelons of power, showed that the civil society in Azerbaijan had not yet met the advanced standards of open society and democratic development. The formation of the rule of law is hampered by the regional contradictions, in particular, the Nagorno-Karabakh conflict, as well as high legal illiteracy of the population, the traditions-bound nature of the social structure, elements of corruption and authoritarianism in management at certain levels.</p>
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<p>Key words: Azerbaijan; civil society; rule of law; regional policy; political priorities; international political forces; social capital</p>	

Introduction

Modern political processes are actively forming the civil society institutions. It is believed that “Modern civil societies, it is argued, can only flourish in the form of a modern state that has undergone a process of internal differentiation in the direction of a power.”¹ This is clearly seen in the case of many developed countries. Similar processes are also taking place in countries that have relatively recently gained sovereignty and the relative independence of political development: “The dissolution of Soviet power in Eastern Europe and the demolition of the Communist Party

has an unprecedented political situation.”² This list of countries also includes the Republic of Azerbaijan, located in the South Caucasus which has relatively recently acquired the possibility of sovereign development, after the collapse of the USSR.

It is important to analyze how some elements, the embryos of the civil society under the conditions of the totalitarian regime, influenced the formation of new political conditions for social development, as well as the creation of a foundation for its further development. To do this, it is necessary to clarify the very concept of the civil society, which has been constantly examined and tested in scientific

¹ Peruzzotti, Enrique. Civil Society and the Modern Constitutional Complex: The Argentine Experience // *Constellations. An International Journal for Critical and Democratic Theory*, 1997, Vol. 4, Iss. 1, pp. 94-104.

² Hirst, Paul. The State, Civil Society and the Collapse of Soviet Communism // *Economy and Society*, 1991, Vol. 20, Iss. 2, pp. 217-242.

circles since the time of Hegel.³ We agree with the opinion of the author “that is better able to take into account the entire range of civil society actors, by placing less emphasis on organizational forms and a stronger focus on the functions and roles of informal associations, movements, and instances of collective citizen action.”⁴

At the same time, it is necessary to define the conceptual framework of the notion of the civil society, inside which we will review the specific problem of the development of this form of society in a particular country. The next important task for obtaining meaningful results on the research topic is to define the notion of the rule of law. As shown by numerous studies, strengthening the country’s legal basis positively affects the pace and quality of development of the civil society.

The current strategy of the Azerbaijani government is primarily aimed at building the civil society’s capacity, participation of its representatives in social activities, as well as in political dialogue in order to strengthen the country’s sovereignty and its foreign policy positions. At the same time, despite all the efforts, the activities of the authorities do not always have a proper impact on the capacity of the civil society organizations to provide services and engage in dialogue on various internal policy issues in key areas. We believe that it’s necessary to strengthen the process of establishing of the basic programs for the development of the civil society institutions in the local context so that the formation of the strong partnerships is prioritized. It is in this way that the country’s civil organizations can take an active part in the successful construction of an independent and democratic state.

Methods

The supposed analysis of the political aspects of the civil society and the rule of law formation in Azerbaijan includes the

³ Kumar, Krishan. Civil Society: An Inquiry into the Usefulness of an Historical Term // *The British Journal of Sociology*, 1993, Vol. 44, No. 3, pp. 375-395.

⁴ Jussi, Laine. Debating Civil Society: Contested Conceptualizations and Development Trajectories // *International Journal of Not-for-Profit Law*, 2014, Vol. 16, No. 1.

consideration of the establishment of civil society institutions and the rule of law in Azerbaijan, as well as the concepts of the formation and development of a democratic society, models of political development of developing countries in the context of globalization.

On the basis of a systemic approach, taking into account such general civilization processes as turnover in foreign exchange. The world is also a more prosperous place than ever before. As the speed, size and integration of the global economy increases, the global community has become smaller and more interconnected. Travel, the Internet and multi-media advances make information more accessible to more people, faster than ever before. Global concerns such as human rights, the environment and the crime of bringing together citizens from diverse backgrounds to work together for a common purpose. As a result, civil society has grown and become more globalized in its membership and agenda,⁵ we will try to determine the main trends of these processes in Azerbaijan. It needs to be kept in mind that basic notions, including that of the civil society are not defined clearly. It’s considered that “civil society is nothing if not independent. If the legal framework and/or its application places improper impediments on free exercise of the rights of association, expression, and assembly, civil society has to operate outside the law.”⁶

For many centuries the idea of civil society has been discussed by the scientific community. Its main indicators are the well-developed relations between people in the economic, political, legal and cultural spheres outside the competence of the state, but in interaction with it. We will review the main trends in the formation of the main indicators of the civil society and the rule of law in modern Azerbaijan, as a sovereign country, which has gone through a complex path towards independence. We will specifically focus on the problem of formation

⁵ Shabbir, G. Cheema, Linda Maguire. Democracy, Governance and Development: A. Conceptual Framework / UN. Mode of access: <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan005781.pdf>

⁶ Fries, Richard. The Legal Environment of Civil Society / *The Global Civil Society Yearbook 2003*, Centre for the Study of Global Governance, London.

of the civil society, depending on the level of development of the rule of law on the example of the Republic of Azerbaijan.

Results

Environment of the formation and development of the civil society in Azerbaijan. The breakdown in social relations that occurred as a result of the collapse of the USSR became the basis for the formation of new political structures and a political system based on the priority of private property and democratic values. All this contributed to the expansion of the individualism frames, its spirit inherent in capitalist society, the breakdown of traditional foundations in society, the debunking of former spiritual values and the formation of new stereotypes and approaches in assessing current events.

This meant the possibility of new approaches to the development of such important social institutions as the family (the number of divorces increased, the age of both males and females entering into marriage and the number of children born out of wedlock increased, as well as the number of people living in civil marriage,⁷ religion (the growth of interest, especially among young people, towards religion, the formation of the social stratum of religious youth, the growth of the number of religious organizations that have the status of a legal entity), art and literature (the emergence of new trends and forms of art, new ways of creative self-expression, directions of literary development, everything that is connected with postmodern trend).

Further, it is necessary to mention the improvement of the management system, especially of the local self-government at the regional level, activation of citizens' participation in governance through the impact on the press and other mass media, social networks, changes in the nature of people's social activity, both socially and individually. The formation of motivation, self-esteem, value orientations has become more individual and conscious.

We also need to review the socio-political factors of the civil society foundations formation

in Azerbaijan. As it is known, after gaining the independence in 1991, "the political structures faced the task of forming a policy of national development to ensure the vital interests of an independent state, including the creation of a mechanism for ensuring national security, the formation of new values and principles of socio-economic, political and moral foundations of the society. Since 1993, under the leadership of President Heydar Aliyev, there began the formation of a new policy of national development and security, where both foreign policy and internal political factors of development were taken into account."⁸

The political and economic development of the country depends on the state of the modern international security system, the nature of the main characteristics of the international, regional and national level of national development and the country's security policy. It is clear that one of the main tasks of Azerbaijan's foreign policy strategy is to ensure national, regional and international security, and to protect the rights of a sovereign state and national interests. The country is located in the intersection of transport and communication lines of Europe and Asia, and is rich in energy resources.

Geopolitically, the location of the country is very important. That is why this region is under the constant attention of the world's leading countries, primarily Russia. The control over this region allows Russia to keep other Eurasian areas in its sphere of influence. One of the problems that the country is experiencing is the need to restore the territorial integrity of the country, the resolution of the Armenian-Azerbaijani conflict, the Nagorno-Karabakh conflict, ensuring the security of borders and territorial integrity.

All this naturally impacts the nature and state of development of both the rule of law and the civil society. The state of war, in which the country has been for more than 25 years, does not provide an opportunity to achieve a higher level of development of democratic values and social activity of people, which would ensure the next stage of the social capital formation. It is known that "the post-conflict state needs

⁷ AZ Statistics. Mode of access: <https://www.stat.gov.az/>

⁸ Hasanov, A. The Policy of National Development and Security of the Republic of Azerbaijan. Baku: Zarbadi LTD. MMC, 2014. 672 p.

an authoritative and capable public security establishment.” But building up the police (and probably some kind of conventional armed forces) is in tension with the goal of empowering and privileging civilian political players. The new state must have an internal monopoly on the means of violence, but this must not be built properly, with mechanisms and norms of civilian supremacy. It takes time to build the norms of deference to civil control and respect for human rights and the rule of law, yet it is precisely what the reviving state does not have. It is namely these processes that Azerbaijan experienced and is experiencing now.

It is clear that “inadequate understanding of the local context—including such vital issues as political leaders and alliances, historical trends and grievances, religious, ethnic and sub-ethnic divisions, the sources of legal and illicit revenue, and the structure and loyalties of private militias – can be crippling.”⁹ Unlike a number of countries in other regions, Azerbaijan has strategic advantages, which lead to the peculiarities of its strategic position and political development. In general, “the adoption of a new Constitution in 1995 reflecting democratic norms and the establishment of a multi-party system, the holding of the first parliamentary elections, the establishment of a democratic parliament, the harmonization of national legislation with European standards, the building of a society of political pluralism, the creation of non-governmental structures, independent press, mechanisms of state regulation and censorship over the media”¹⁰ contributed to the creation of the necessary prerequisites for the formation of the civil society.

Social indicators of civil society in Azerbaijan. The most important one is the existence of private property. This form of ownership began to be actively formed after the gain of sovereignty. To date, the privatization process has come to an end; large, medium and

small owners are represented in the country. The ratio of public and private property is approximately the same: from year to year the ratio of economically active population working in different sectors, that is government and non-government, changes annually in favor of the private sector: thus, the number of economically active population in the public sector decreased by 3 thousand people from 2016 to 2017, but in the private sector it increased by 100 thousand people. This process is also largely stimulated by investments in the economy, including foreign ones. Now the country has 9.898.000 people, including 78 cities, 261 settlements, 1720 villages and 4248 urban settlements. The expected average life expectancy in principle goes along the developing line: from year to year the life expectancy increases.¹¹ At the same time, the opportunities in the non-oil sectors, which include agriculture, infrastructure, many forms of industrial development, etc., have not yet been realized. This is reflected in the standard of living, the involvement of human potential. It is no coincidence that young people mainly seek to get education abroad or, in general, to find the opportunity to work and live in the more developed countries.

The conditions for the existence and successful development of the civil society include the competition of its constituent structures and various groups of people, freely formed public opinion and pluralism, as well as the full provision of human rights and freedoms. Naturally, in a democratic state, the pluralism of public opinion presumes taking into account the point of view of people standing in opposition to the ruling power. Such an opportunity is created on the basis of a multi-party system and freedom of the media. In Azerbaijan, the culture of relations between the ruling authorities and the opposition is not high enough. This level will be achieved upon improvement of the education system and high civil activity of the population. All this rests on legal support, that is, abidance by the law. Here, too, there are a number of unresolved problems, as evidenced by the statements of the opposition (Rule of law means that governmental powers are restricted by certain standards, which includes

⁹ Promoting Democracy in Post-Conflict and Failed States: Lessons and Challenges Prepared for the National Policy Forum on Terrorism, Security, and America’s Purpose September 6-7 Washington, DC By Larry Diamond. Mode of access: <https://web.stanford.edu/>

¹⁰ Hasanov, A. The Policy of National Development and Security of the Republic of Azerbaijan. Baku: Zarbadi LTD. MMC, 2014. 672 p.

¹¹ Azerbaijan: Facts and Figures 2018. A Brief Collection. Baku: 2018.

that citizens are allowed mechanisms to hold government accountable, such as through the media and civil society. These freedoms are greatly restricted in Azerbaijan).¹²

The country is taking comprehensive measures to ensure conditions for the further development of the rule of law and civil society. In particular, the document "Azerbaijan 2020: Look into the Future"¹³ has been approved. It includes the social, economic, legal and spiritual and cultural aspects, which require great joint efforts of both government and non-government structures. Measures are being taken to formulate and implement a socially oriented policy aimed at raising the standard of living of the population, overcoming poverty, increasing the socio-political activity of citizens and the level of their legal culture.

There are two other parameters, the development of which accelerates the process of the civil society formation. This is the existence of democracy in the social sphere, the legal protection of citizens, as well as a certain level of civil culture. It is a rather complicated process. For the formation of these factors, a more general basis is needed, connected with the development of science and culture. The events of recent decades in Azerbaijan (the collapse of the USSR, the acquisition of sovereignty, the problem of the reconstruction of the economy and agriculture in the conditions of the Karabakh conflict, etc.) have adversely affected the country's science sector and continue to affect it: priority areas related to the economy, are studied mainly at the applied level, for which there is also insufficient funding.¹⁴

The development of science is directly connected with the education system, which still has a lot of pending issues of reforming, material and scientific and technical base.

¹² The Rule of Law and Civil Society in Azerbaijan. Thursday, November 05, 2015 Cannon House Office Building, Washington, DC, United States / CSCE. Mode of access: <https://www.csce.gov/international-impact/events/rule-law-and-civil-society-azerbaijan-0>

¹³ "Azerbaijan 2020: Look into the Future" / Concept of Development. Mode of access: <https://president.az/articles/3689>

¹⁴ Shiriyev, Zaur. Betwixt and between: the Reality of Russian Soft-Power in Azerbaijan. Mode of access: <https://ge.boell.org/en/2017/10/16/>

The level of teaching in secondary and higher educational institutions, the organization of the educational process as a whole is still lagging behind the indicators of the leading countries of the world. Apparently, among the cultural institutions, it is science and education that are most affected by the international integration processes; the latter, in turn, regularly regulate the development of almost all socio-cultural entities, to the best of their abilities (which are still rather limited).

An essential element of culture is the Islamic religion; it has for hundreds of years regulated (with the help of the Sharia) the relationship of people with each other and their attitude to the world. So far, religious ideals are an important part of the worldview and mentality of Azerbaijanis. However, these ideals and their practical applications in the form of Shariah norms are more popular in the countryside; in the city, religious rituals and customs are more of a conditional and formal character.

A significant part of the religious followers are elderly people, mostly women. The values associated with religious faith reflect the ideas of unity and development in the world; believers support these ideas, propagate and popularize them. Ironically, the deepening of secularization, especially in connection with globalization, has sharpened public attention to the problems of religion. Obviously, this is due to the process of the formation of civil society, the development of rights and freedoms, including freedom of conscience.

Finally, there are two more conditions for the full development of civil society: a multi-layer economy and a large share of the middle class society. In this direction, the work is quite successful. With the development of the non-oil sector, the multi-layer economy is becoming ever wider. As for the middle class, as the standard of living grows, so does the number of its representatives. Thus, according to the statistics for the country, the gross domestic product is steadily growing, as well as its volume per capita.¹⁵

All this created the necessary prerequisites for the domestic relations to be adapted to

¹⁵ AZ Statistics. Mode of access: <https://www.stat.gov.az/>

European standards, as a result of which it became possible for Azerbaijan to join the Council of Europe in 2001, and subsequently integrate into international democratic institutions.

Socio-political foundations of the rule of law formation in Azerbaijan. This, we believe, includes the following measures: the adoption of the new Constitution in 1995 containing democratic norms and the principle of multi-party system, the holding of new parliamentary elections on the basis of the Constitution and the establishment of a democratic parliament, bringing national legislation in line with European standards, political pluralism, the creation of non-governmental structures, independent press, the elimination of mechanisms of state regulation and censorship over the media. All this contributed to the creation of the foundations of a market economy, a civil society based on free competition, and, of course, the foundations of the rule of law.

A rule of law exists on the basis of observance of national interests. This concept includes continuity in the implementation of foreign and domestic policies, consideration of geographical and geopolitical position, preservation of national and historical traditions, etc. The priority should be put on the urgent socio-economic and political-legal reforms.¹⁶

It should be noted that the reforms in the system of state administration are conducted permanently. The institution of civil servants has been created and is being improved. The legislative basis for the functioning of all levels of government is being improved. The state of war in which the country has been for already a quarter of a century is affecting the limitation of rights and freedoms: since the state of war itself already has a restriction on the rights of people to move, expression of freedom of speech and other rights, there is a threat of development of authoritarianism, etc.

Strengthening of the legal basis for state development will also contribute to the

expansion of the possibility of independent use of natural resources, their development and application. It primarily concerns the hydrocarbon and energy resources.¹⁷

An important element in the realization of citizens' rights and freedoms is the fight against corruption. A number of anti-corruption reforms are being implemented in the country, which lay the foundation for healthy competition and compliance with legislation. This is evidenced by the data of international monitoring, in particular, one of the conclusions is the following: "The report urges Azerbaijan to strengthen its central body for the prevention of corruption and implement comprehensive, evidence-based anti-corruption policy, addressing high corruption risks sectors."¹⁸

Discussions

The formation of the rule of law and civil society is quite complex in any society, including Azerbaijan, which has a complex historical past and geopolitical position. The process of the formation of an independent state is burdened by an international conflict connected with the territorial claims of neighboring Armenia, the intervention of a number of leading states in the internal affairs of the country. The development of economic structures also has its contradictions. This is an accelerated development of the oil sector, associated with the sale of crude oil and natural gas, and their transportation to neighboring countries. The problem of the development of other branches of industry, agriculture, and infrastructure has not yet been fully solved. The correlation between the public and private sectors has not yet reached the necessary balance that could ensure prosperity and civil peace.

There are a number of issues to improve the management and training of professional staff. The analysis shows that "Azerbaijan still does not have clear and comprehensive conflict

¹⁶ Civil society in Azerbaijan: Challenges and Opportunities in Transition Civicus Civil Society Index Report for Azerbaijan An International Action-Research Project Coordinated by CIVICUS: World Alliance for Citizen Participation. Written By: Rajab Sattarov, Tair Faradov and Ilham Mamedzade Baku, December 2007 International Center for Social Research (ICSR).

¹⁷ Hasanov, A. The Policy of National Development and Security of the Republic of Azerbaijan. Baku: Zarbadi LTD. MMC, 2014. 672 p.

¹⁸ Anti-Corruption Reforms in Azerbaijan. 4th Round of Monitoring of the Istanbul Anti-Corruption Action Plan / OECD. Mode of access: www.oecd.org

of interest rules for civil servants and effective mechanisms for their implementation. A draft law on anti-corruption reforms.”¹⁹

There are also pending problems related to the improvement of the relationships between different political interests, in particular, between the opposition (in its various manifestations) and the ruling power. The level of development of education and science also does not allow to form civil culture and civic activity at a sufficiently high level. The level of legal culture of the population is low.

Conclusions

Azerbaijan is situated in a region of great geopolitical and strategic importance. This, as well as the objective situation in the republic over the past decades, leaves its imprint on the formation of the civil society institutions, and management structures based on the rule of law and legislation. There are certain prerequisites for the formation of civil society: these include the improvement of the environment for the broad participation of stakeholders in overcoming corruption, strong political will, the growth of skills and capabilities of professional personnel in the management of the country, the increased participation of citizens in political and social initiatives to establish non-governmental organizations, coordination of their activities with state bodies and international structures.

At the same time, there is a need to stimulate work on the further development of civil society. To this end, it is necessary to use the capabilities of certain managerial structures, in particular, the Council of State Support of Non-Governmental Organizations under the President of the Republic of Azerbaijan, which was established by the Decree of the President of the Republic of Azerbaijan as of December 13, 2007. As it is known, this Council forms a new model of relations, modernizes the institutions of civil society, promotes the growth of civil initiative, encourages the activities of NGOs in the field of protecting national interests, finances the programs and projects important for the development of the state and society.

¹⁹ Ibid.

In addition, it is important to reform entrepreneurial activities to improve the investment climate in the country, to encourage medium and small businesses. This will help improve people's livelihoods, social activity and civic initiatives of people. An important role is played by the democratization of public life, the improvement of self-government and the increase of civil and political culture of citizens, which will contribute to the strengthening of social solidarity of people. It is important to promote the universal and mental values, strengthening their ideological basis. All this should happen against the background of favorable foreign policy conditions, first of all, the resolution of the long-standing Nagorno-Karabakh conflict.

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ПОЛИТИЧЕСКИЕ АСПЕКТЫ СТАНОВЛЕНИЯ ГРАЖДАНСКОГО ОБЩЕСТВА И ВЕРХОВЕНСТВА ПРАВА В СОВРЕМЕННОМ АЗЕРБАЙДЖАНЕ

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<p>Информация о статье: <i>Поступила в редакцию:</i> 26 июля 2018 <i>Принята к печати:</i> 5 декабря 2018</p>	<p>Аннотация: Политические аспекты формирования гражданского общества и верховенства права в современном Азербайджане совпадают с общими тенденциями в развитии глобализации и политических процессов в современном мире. Характер формирования гражданского общества в Азербайджане неразрывно связан с региональными политическими процессами. В частности, анализ внутренних политических и региональных процессов, проводимых на основе рассмотрения правовой базы и политических структур страны, основных этапов постсоветского развития и тенденций развития гражданского общества, которые в основном проявленные в таких формах общественной жизни, как деятельность неправительственных организаций, гражданское участие, коррупция и бюрократия, авторитаризм в различных эшелонах власти, показали, что гражданское общество в Азербайджане еще не достигло передовых стандартов открытого общества и демократического развития. Формированию верховенства закона препятствуют региональные противоречия, в частности, нагорно-карабахский конфликт, а также высокая правовая неграмотность населения, связанный с традициями характер социальной структуры, элементы коррупции и авторитаризма в управлении на отдельных уровнях.</p>
<p>Об авторе: к.полит.н., научный сотрудник, кафедра современной философии политики, Институт философии, Национальная академия наук Азербайджана e-mail: q.abbasova@mail.ru</p>	
<p>Ключевые слова: Азербайджан; гражданское общество; верховенство закона; региональная политика; политические приоритеты; международные политические силы; социальный капитал</p>	

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