THE FUNDAMENTALS OF THE CONSTITUTIONAL SYSTEM OF THE REPUBLIC OF AZERBAIJAN AS AN OBJECT OF CONSTITUTIONAL AND LEGAL REGULATION

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Modern constitutional values in Azerbaijan have historical roots. The first democratic republic in the Muslim East, established in Azerbaijan in 1918, decentralized state power and introduced liberal values into the country's legal system. During the Azerbaijan Democratic Republic, although a constitution was not adopted, the parliament succeeded in passing numerous constitutional laws. The core value of democratic reforms was the proclamation of the principle of separation of powers in the legal system. The Law of the Azerbaijan Democratic Republic "On the Incompatibility of Offices", adopted on January 25, 1919, contained the basic conditions for the separation of powers and provided for the complete separation of executive and legislative powers. According to this law, members of the Parliament of the Azerbaijan Democratic Republic could not serve as civil servants, with the exception of ministerial positions. The Law "On the Citizenship of Azerbaijan" of August 11, 1919, established uniform citizenship for all permanent residents of Azerbaijan and persons born to Azerbaijani citizens. To ensure the political rights of Azerbaijani citizens, the "Press Charter" was adopted on October 30, 1919, granting freedom to the media. During the Azerbaijan Democratic Republic, women were granted the right to vote for the first time not only in Azerbaijan but throughout the East.

Keywords: Azerbaijan, human rights, legal system, constitution, article.

Since the early 1990s, Azerbaijan's legal system has undergone a fundamental transformation. The general themes of reform are the same as those observed throughout the post-socialist space: ideological and political pluralism, a socially oriented market economy, and the expansion of individual rights and freedoms and the strengthening of their guarantees. At the same time, the legal system of Azerbaijan began to acquire individuality.

The Supreme Council's Declaration "On the Restoration of the State Independence of the Republic of Azerbaijan", adopted on August 30, 1991, marked the beginning of the formation of an independent legal system. However, maintaining independence, creating an independent legal system, and developing independent governing institutions is a more complex process.

Constitutional relations are closely linked to political relations. Regulating constitutional relations required the will of social forces that truly understood the ideology and values of constitutionalism. The government had to transition to an effective operating mode, strengthen itself, and the law had to be protected. In such a crisis, the people expressed their political will.

One of the first steps toward strengthening the foundations of the constitutional order was an attempt to adopt a Basic Law. The Milli Majlis of the Republic of Azerbaijan, on december 6, 1993, approved the drafting of a Constitution for the Republic of Azerbaijan. However, the temporary commission created was unable to complete its task. During this period, Azerbaijan was experiencing difficult and challenging times.

The state authorities aimed to strengthen the country economically and politically. This, in turn, guaranteed the preservation of independence and facilitated the establishment and development of constitutional relations. However, maintaining independence required a flawlessly organized government based on democratic and legal principles.

The development of global constitutionalism demonstrates that one of the first steps in forming a just, modern, strong, and stable government is the creation of a "social contract". Proponents of liberal theory understand the concept of "social contract" to mean the Basic Law. The efforts of Azerbaijani society were directed precisely toward the creation of a new, modern Constitution.

On May 2, 1995, the Milli Majlis (parliament) approved the composition of the Commission for the drafting of a new Constitution. The commission included prominent public and political figures, scholars, and legal professionals. The Constitution was adopted by popular vote at the referendum on november 12, 1995 [3].

Z.A. Asgarov rightly notes that the constitution has high legal force [2, p. 24].

Following the adoption of the new Constitution, the active constitutionalization process contributed to the increased urgency of constitutional reform. However, given that the Constitution of the Republic of Azerbaijan provides for a strict mechanism for amendments (only through referendum) to its text, constitutional and legal reforms were delayed. It was not until 2002 that 24 amendments and additions were submitted to referendum to improve the mechanism for protecting human and civil rights and freedoms. A significant change for the legal system was the granting of the right to individually appeal to the Constitutional Court to restore violated rights and freedoms.

On december 23, 2003, the Law of the Republic of Azerbaijan on the Constitutional Court was adopted [9].

Unlike amendments, additions to the text of the Constitution of the Republic of Azerbaijan are made through constitutional laws. Constitutional laws essentially supplement the Basic Law. Clause 5 of article 156 of the Constitution states that "Constitutional laws are an integral part of the Constitution of the Republic of Azerbaijan".

To strengthen oversight of the executive branch, the Constitutional Law "On Additional Guarantees of the Right to Decide on the Confidence of the Milli Majlis of the Republic of Azerbaijan to the Cabinet of Ministers of the Republic of Azerbaijan" was adopted on december 24, 2002 [4].

To strengthen guarantees and protect the rights and freedoms of man and citizen, the following constitutional laws were adopted: December 28, 2001, "On the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan" and December 24, 2002, "On the Regulation of the Exercise of Human Rights and Freedoms in the Republic of Azerbaijan" [5].

In the modern Constitution of Azerbaijan, we found our reflection of the classic ideas of constitutionalism: the priority of rights and freedom of the person; political pluralism; separation of powers; institute of constitutional supervision and others. The Constitution, being a "social contract", determined the relationship between the state, society and the individual, and established the priority of human rights.

The principle of separation of powers is reflected in the Constitution. The constitutional mechanism allows for mutual control between the branches of power. This mechanism for limiting power primarily serves as a means of protecting human rights. Article 7 of the Constitution of the Republic of Azerbaijan determines that the various branches of government must interact with each other, and within the limits of their powers they are independent. The legislative power belongs to the Milli Mejlis, the executive power to the President of the Republic, and the judicial power to the courts of Azerbaijan. This modern principle of the organization of power is the unshakable basis of statehood and the democratic structure of society.

Along with the establishment of legal freedom of the individual, the Constitution of the Republic of Azerbaijan determines the system and structure of state power and local self-government bodies. Just as in all democratic constitutions in the Constitution of Azerbaijan, the constitutional formulations about state power

are verbose. Article 1 of the Constitution defines that "the people of Azerbaijan are the only source of state power in the Republic of Azerbaijan".

Article 81 of the Constitution states that the legislative power in the Republic of Azerbaijan is exercised by the Milli Majlis of the Republic of Azerbaijan.

The Milli Majlis of the Republic of Azerbaijan is a unicameral parliament elected by universal, equal, and direct suffrage by secret ballot for a term of 5 (five) years. It consists of 125 (one hundred twenty-five) deputies, currently elected on the basis of a majoritarian electoral system (prior to the third convocation of the Milli Majlis (2005), elections of deputies were held under a mixed electoral system. 100 deputies were elected by the majoritarian system, 25 (twenty-five) deputies by the proportional system based on party lists). Deputies carry out general activities within the framework of regular and extraordinary sessions at plenary meetings and committee meetings. They are divided according to professional interests and capabilities into 11 (eleven) committees: on legal policy and state building; Security and Defense; Economic Policy; Natural Resources, Energy, and the Environment; Agricultural Policy; Regional Issues; Social Policy; Science and Education; Culture; International Relations and Interparliamentary Relations; and Human Rights.

The Milli Majlis initiates draft laws and is the sole legislative body. Parliament adopts certain laws on its own initiative. However, taking into account budget expenditures and the subsequent implementation procedures, laws are developed with representatives of relevant ministries and agencies. The Milli Majlis also has certain oversight functions over presidential decrees. In particular, a presidential decree declaring martial law or a state of emergency requires parliamentary approval. Parliament also consents to the use of armed forces, etc.

The Milli Majlis exercises direct control over the country's budget. Parliamentary oversight of the budget is a key issue in the system of checks and balances.

Parliamentary debate on legislative acts submitted by executive authorities also follows a specific communication policy. Amendments and additions to bills are not permitted without the approval of the legislative initiative. This is justified, as legislators can alter the substance of the bill with certain minor amendments, which could entail certain budgetary costs.

Within the executive branch, the Cabinet of Ministers of the Republic of Azerbaijan has been established to organize the implementation of executive functions. The Cabinet of Ministers of the Republic of Azerbaijan is the highest-level executive body of the President of the Republic of Azerbaijan. The Cabinet of Ministers is established by the President of Azerbaijan. However, in accordance with Article 119 (one hundred and nineteen), it enjoys a certain degree of autonomy in budgetary matters, operational matters, economic management, culture, and social affairs. The Cabinet of Ministers of the Republic of Azerbaijan reports directly to the President and is accountable to him.

Justice in Azerbaijan is administered through the courts. The judicial system includes the Constitutional Court, the Supreme Court, appellate courts, local courts of general jurisdiction, and specialized courts. In 2010, the Administrative Procedure Code, which currently governs administrative courts, entered into force [1].

The judicial system carries out the following functions: protection of the rights and legal interests of the person and the citizen; protection of law from criminal and other violations; control (constitutional) for the activity of state bodies.

Judges may be citizens of the Republic of Azerbaijan who have the right to vote, a higher legal education, and at least 5 years of work experience in the legal profession (Article 93 of the Law of the Republic of Azerbaijan on Courts and Judges dated June 10, 1997) [8].

There are no term limits for judges (except for judges of the Constitutional Court, who are elected once for 15 years). Judges may not belong to political parties and are not allowed to engage in entrepreneurial activity. Judges are independent, subject only to the Constitution and laws of the Republic of Azerbaijan, and are irremovable during their term of office.

The foundations of the constitutional order in Azerbaijan also include the second level of public authority - local self-government bodies. Municipalities operate locally alongside

state executive bodies. State and municipal property are separated, including land ownership. Municipalities exercise administrative functions within their territorial communities. In accordance with the Law of the Republic of Azerbaijan dated May 13, 2003, "On the Implementation of Administrative Supervision over the Activities of Municipalities", administrative oversight over the activities of municipalities is exercised by the Ministry of Justice [7].

Local government bodies are elected for five (5) years and are not accountable to state bodies. Municipalities are independent in the exercise of their powers, which does not preclude their accountability to the citizens residing within their territory.

Following the constitutional reforms of 2009, a clause was added to Article 146 of the Constitution stipulating that "in cases and in the manner prescribed by law, municipalities shall submit a report on their activities to the Milli Majlis of the Republic of Azerbaijan".

Azerbaijan's political system is based on a multi-party system. These traditions date back to the period of the Azerbaijan Democratic Republic. Since the restoration of independence, new political parties have emerged on the political scene. The New Azerbaijan Party, which has the largest membership, is also the ruling party.

On May 27, 2003, a codified normative act regulating the election process was adopted – the Electoral Code [6]. This code provides for the procedure for electing the President, members of the Milli Majlis, municipal elections, and holding referendums.

Constitutional and legal reforms in the Republic of Azerbaijan were carried out in three stages through referendums held on august 24, 2002, march 18, 2009, and august 26, 2016.

Following the 2002 referendum, several amendments and additions were made to the Constitution: a list of issues on which a referendum cannot be held was included, such as taxes and the state budget, amnesty and pardon, as well as the election, appointment, or approval of officials whose election, appointment, or approval falls within the jurisdiction of the legislative and/or executive authorities (Part III, article 3); an addition was made to Part II, article 76, stating that active military service may be replaced by alternative service, etc. Most importantly, through the 2002 referendum, everyone was granted the right to appeal to the Constitutional Court of the Republic of Azerbaijan on issues of restoring their violated rights and freedoms.

Summarizing the process of economic and social reforms, the 2009 referendum included a provision in the Constitution stating that Azerbaijan's economic development has a social focus. These reforms effectively marked a transition to a new stage in the development of the welfare state. Overall, it can be noted that the 2009 referendum was associated with strengthening the mechanism for protecting human rights and the welfare state.

Azerbaijan's active economic growth allowed for a tenfold increase in the budget in five years. The state's high rate of economic growth allowed it to focus on ensuring the social rights of its citizens. The Constitution emphasizes that the social nature of economic policy is the foundation of state authority. Therefore, the amendment to article 15, stating that the economy of the Azerbaijani state has a social focus, was a logical step.

To effectively ensure the principle of equality, article 25 of the Constitution was supplemented with the provision that "everyone is guaranteed equal rights in relations with state bodies and holders of state authority who make decisions related to rights and responsibilities". Guarantees for the protection of private life in article 32 were significantly expanded, and guarantees for the protection of citizens' environmental rights were included in article 39 of the Constitution.

The first referendum in 2002 granted the right of legislative initiative to the Prosecutor General of the Republic of Azerbaijan, and the second in 2009 added a group of 40,000 citizens of the Republic of Azerbaijan entitled to vote to this list.

According to the Constitution, the primary source of law is legislative and other normative acts. Article 148 stipulates that the legislative system consists of the following normative legal acts: the Constitution; acts adopted by referendum; laws; decrees; resolutions of the Cabinet of Ministers of the Republic of Azerbaijan; normative acts of central executive bodies; and

international treaties to which the Republic of Azerbaijan is a party.

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