

Legal Basis of Political Participation in Azerbaijan

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Abstract

Political participation is the activity of citizens taking part in political processes in order to influence the political power in various forms and to achieve their political goals. As the basis of political participation of citizens in democratic states is formed by a number of laws, mainly international conventions and the constitution of countries, in the Republic of Azerbaijan, which has chosen the path of democratic development, a strong normative-legal basis for political activity and participation of citizens has been formed. The subject of this study is the study of the legal bases and the legal base necessary for the political participation of Azerbaijani citizens, either individually or collectively, and determining the dynamism of its development. For this purpose, a number of legal documents, especially the Constitution of the Republic of Azerbaijan, which entered into force in 1995, were analyzed, and based on these documents, an attempt was made to determine the necessary conditions for citizens' political participation.

The methodological basis of the research is the examination of normative-legal documents based on specific articles. For this purpose, legal documents such as the Constitution of the Republic of Azerbaijan, the election code in force in the country, the law of parties, as well as scientific research works on the topic, and the results of the elections organized in the country were used. The main scientific innovation of the research is that the documents included in the normative base, which form the legal basis of the political activity and political participation of Azerbaijani citizens, and the changes in these documents were studied.

The results of the research is that political participation, which includes a number of activities such as voting in the referendum, elections for the election of the country's president and members of parliament, as well as members of local self-governing bodies, monitoring their activities, is widely regulated in Azerbaijani legislation, and citizens are active subjects of political processes. Improvements have been made in the legislation for its transformation. There are all legal grounds for the political participation of citizens in democratic conditions at the individual or collective level.

Keywords: democracy, political participation, political action, human rights, right to vote

Правові основи політичної участі в Азербайджані

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Анотація

Політична участь – це діяльність громадян, які беруть участь у політичних процесах з метою впливу в різних формах на політичну владу та досягнення своїх політичних цілей. Оскільки основу політичної участі громадян у демократичних державах складають низка законів, головним чином міжнародні конвенції та конституції країн, в Азербайджанській Республіці, яка обрала шлях демократичного розвитку, створена міцна нормативно-правова база для формування політичної активності та участі громадян. Предметом даного дослідження є вивчення правових основ і правової бази, необхідної для політичної участі громадян Азербайджану, як індивідуальної, так і колективної, та визначення динамізму її розвитку. З цією метою було проаналізовано ряд правових документів, особливо Конституцію Азербайджанської Республіки, яка набрала чинності в 1995 році, та на основі цих документів зроблено спробу визначити необхідні умови для участі громадян у політичному житті.

Методологічною основою дослідження є експертиза нормативно-правових документів на основі конкретних статей. З цією метою використовуються правові документи, такі як Конституція Азербайджанської Республіки, чинний в країні виборчий кодекс, закон про партії, а також науково-дослідні роботи на цю тему та результати виборів, організованих в країні. Основна наукова інновація дослідження полягає в тому, що були вивчені документи, що входять до нормативної бази, яка є правовою основою політичної діяльності та політичної участі громадян Азербайджану, а також зміни в цих документах.

Результатами дослідження є те, що політична участь, яка включає низку заходів, таких як голосування на референдумі, вибори президента країни та депутатів парламенту, а також членів органів місцевого самоврядування, моніторинг їх діяльності, широко регулюється законодавством Азербайджану, а громадяни є активними суб'єктами політичних процесів. Існують усі правові підстави для політичної участі громадян у демократичних умовах на індивідуальному чи колективному рівні.

Ключові слова: демократія, політична участь, політичні дії, права людини, право голосу

Introduction.

The Republic of Azerbaijan, which gained its independence in 1991, chose the path of democratic development. The rights and freedoms of the citizens were guaranteed by the Constitution of the Republic of Azerbaijan adopted on November 12, 1995, and the state building based on the supremacy of law began to be implemented rapidly. For democratic development based on the interests of citizens and their active participation, it is extremely important to adopt legal documents and relevant laws that include these issues and to improve existing legislation in line with current requirements. The state of the Republic of Azerbaijan has continued to improve the legislative framework in order to form an environment of political participation based on an active citizen position. This, in turn, had a positive effect on citizens' desire to take an active political position and be involved in political processes. In this article, the above-mentioned issues have been extensively explored.

Personal political activity and levels of political participation.

There are certain interests that attract each personality to politics. The range of these interests can be limited or wide. The individual's desire to meet his material needs, in other words, his political interests, is the main factor affecting his political activity and desire for political participation.

The desire and need of the individual to determine his position and place in the political sphere is another factor in terms of political activity. A person's participation in political life is directly related to his level of education. The level of education is also one of the main factors of political activity (Turan, 1977, p. 77). People with a high level of education differ from other people in terms of political activity.

The desire to identify oneself with a certain political force in society, for example, a party or a socio-political movement, directly affects the individual's political activity. Loyalty to the leader at the head of a political movement or state is also a major factor influencing political activism.

Political participation reflects the ability of citizens to directly or indirectly make political decisions, determine a political course or strategy, and influence the activities of a political leader. There are two main purposes of political participation: the first is the realization of the individual's interests in relation to the government, and the second is the desire to influence the decisions of the government.

The nature of the political system, a person's understanding of his own interests, the desire to secure it and gain a new status in society, the individual's high sense of responsibility to society, the attempt to protect the political system, and personal motives are the main factors determining political participation. These factors, as well as other factors mentioned above, determine the forms of political participation. From a practical point of

view, individuals are involved in political participation independently or within various groups. For example, there are forms of political participation, such as those who are completely passive, but only actively use the right to vote, those who deal with local problems, those who actively participate in election companies, those who are fully active, and those who participate based on personal interest. While more active forms of political participation are found in democratic societies, forms of political participation in a limited framework are more evident in democratically backward countries.

According to a number of researchers, the main factor that determines the difference between the forms of political participation is the citizen's desire to participate in elections and whether to vote for a certain program (Baikal, 1970, p. 31-32). A number of researchers who note that the level of participation of citizens in elections is not a determining factor alone, note that it would be more correct to determine the forms of political participation according to the intensity and level of political activity (Akinci, 2014, p. 43). In this regard, Baikar notes that there are three forms of political participation (Baikal, 1970, p. 33-34). These are:

- to observe political events and processes from the outside;
- to demonstrate a position regarding political events and processes;
- to become an active participant in political events and processes.

It is possible to mention the existing legal and legislative framework in the country as the main factor determining the level of political participation.

Constitutional foundations of political participation in Azerbaijan.

The constitution of the country, adopted in 1995, forms the constitutional basis of political activity and political participation of the citizens of the Republic of Azerbaijan. As human and civil rights are regulated in a number of articles of the Constitution of Azerbaijan, clear provisions on political participation of citizens are reflected in articles 2, 55 and 58.

Thus, every citizen of Azerbaijan has the right to participate in the political life of the society and the state without hindrance. Also, citizens of the Republic of Azerbaijan have the right to elect and be elected to state bodies, as well as to participate in the referendum (The Constitution, Article 55).

One of the main forms of political activity and political participation is related to creating socio-political associations and parties, as well as joining and acting in such organizations. Such issues are also regulated in the Constitution of the Republic of Azerbaijan, adhering to democratic traditions. According to Article 58 of the Constitution, every citizen has the right to form or join an association, including a political party, trade union and other public association (The Constitution, Article 58).

In Article 2 of the Basic Law, the principles of political participation in referendum and voting are regulated in the form of "The people of Azerbaijan exercise their sovereign rights through direct national voting - referendum and equal, direct, free, secret, private voting" (The Constitution, Article 2). As can be seen from here, every citizen of Azerbaijan has the right to vote equally in elections, is free to participate in voting, and has the right to express his opinion privately and individually in voting.

Regulation of political participation in the Azerbaijani legislature.

The legislative base, which forms the basis of citizens' political activity, includes a number of legal documents and laws. The framework of these laws is expanding and improving over the years. This is the result of the political processes taking place in the world and in Azerbaijan and the demands of the time. Now let's take a closer look at such legal documents that affect the interest and activity of citizens in political participation and determine the level of their political participation.

The Election Code of the Republic of Azerbaijan is one of the main laws in the legal regulation of political participation. The activities of all political parties in Azerbaijan are regulated by the Law of the Republic of Azerbaijan "On Political Parties". This law, adopted in 1992, has undergone various additions and changes over the past 25 years. All the additions and changes that have been made serve to create fertile conditions for the activity of political parties (Election Code).

The legislative basis for the organization and activity of political parties consists of the Constitution of the Republic of Azerbaijan, the Law "On Political Parties" and other legislative acts of the Republic of Azerbaijan adopted in accordance with them.

The structural formation of the political system of the Republic of Azerbaijan was basically completed on November 12, 1995 with the adoption of the new Constitution of the country. According to the constitution, the state of Azerbaijan is defined as a democratic, legal, secular, unitary republic. The only source of state power in the Republic of Azerbaijan is the people. It is the sovereign right of the Azerbaijani people to freely and independently decide their own destiny and determine their own form of government.

Along with the state, other organizations - political parties and public associations - operate in the political system of the society. To one degree or another, they participate in the political life of the country and thereby act as elements of the political system of the society.

All elements of the political system of the society are in a close, organic unity and operate in interaction with each other. All elements of the political system operate on the basis and within the framework of the laws that constitute the legal basis of the society and the state.

Like all modern political systems, Azerbaijan's political system is characterized by multipartyism

and pluralism. Political parties have the opportunity to participate in the exercise of state power through representation in legislative and local self-government bodies. This opportunity given to political parties is, in fact, to give citizens the opportunity to actively participate in political processes collectively. The main difference between political parties and other social associations is that political parties openly fight for a place in parliament and government. Political parties are the main component of the political system. They actively participate in all stages of the political process (elections, organization of state bodies, adoption of political and state decisions and their implementation) (Mammadli, 2017, p. 10).

Constituent elements of the concept of a political party are the following: a single political idea and goal (a political party must necessarily have a single political idea and goal, social associations also have ideas and goals, but they cannot participate in politics); participation in the political life of the country; voluntary association; that the right to join the party belongs only to the citizens of the Republic of Azerbaijan (Mammadli, 2017, p. 10).

Political party membership, rights and duties of political party members are broadly regulated and legally guaranteed in Articles 20-22 of the current law. Article 20 of the law states that a person who meets the requirements of Article 1.1.7 can be a member of a political party. A person can be a member of only one political party. No one can be forced to join or remain a member of any political party. Membership in a political party cannot be limited by race, ethnicity, religion, language, sex, origin, creed or social affiliation. Foreigners and stateless persons cannot be members of a political party (Law of the Republic of Azerbaijan "On Political Parties", Article 20). Articles 21 and 22 of this law contain the rights and duties of party members. Participation of members of political parties in the activities of political parties is one of the main duties of members.

Another of the laws regulating the participation of Azerbaijani citizens in political processes is the Law of the Republic of Azerbaijan "On Public Participation". This law, which has been in force since November 22, 2013, consists of 21 articles and regulates the participation of citizens in various spheres of public life, including the sphere of governance. According to the law on public participation, "public participation" - in the preparation and implementation of state policy in various areas of state and social life, in the adoption of decisions at the national and local levels, by the central executive power bodies, local executive power and local self-government bodies determined by the relevant executive power body. participation of citizens and civil society institutions in the organization of public control over its activities, consultation with the public of state and local self-government bodies, and consideration of public opinion (Law of the Republic of Azerbaijan "On Public Participation", Article 1). The provisions of this Law do not limit other rights of civil society institutions

and individual citizens regarding the implementation of public participation, not provided for in this Law.

Among the forms of political participation and activities of Azerbaijani citizens, active and passive right to vote occupies an important place. Authorities formed on the basis of democratic elections occupy a leading place in the management of modern democratic societies. This stipulates the democratic elections to those bodies. One of the indicators of the democratic conduct of elections is the active and passive right of election granted to the citizens, and these rights are met in practice. The framework of citizens' right to vote, the sensibilities applied to the right to choose and be elected are factors that directly affect their participation in elections. An Azerbaijani citizen can be deprived of the right to vote only if he is confirmed incapacitated by a court decision in accordance with Part II of Article 56 of the Constitution of the Republic of Azerbaijan. Limiting circumstances related to the right to passive election are defined by Articles 56, 85 and 100 of the Constitution of the Republic of Azerbaijan, as well as by the Election Code of the Republic of Azerbaijan (Election Code, Article 12). Thus, military personnel, judges, civil servants and religious figures cannot be a deputy of the Parliament of Azerbaijan, the President or a member of the municipality during their tenure.

This shows that every Azerbaijani can take part in the process of political decision-making and political administration by using their right to vote in the widest possible framework in democratic conditions. In order to be elected as a member of the Azerbaijan Milli Majlis, it is important for each person to fulfill the conditions mentioned below in order to be able to put forward his/her candidacy. These conditions are reflected in Article 85 of the Constitution of the Republic of Azerbaijan. According to this article:

Every citizen of the Republic of Azerbaijan who has the right to participate in elections can be elected a deputy of the Milli Mejlis of the Republic of Azerbaijan in accordance with the law. Persons with dual citizenship, who have obligations to other states, who serve in the executive or judicial power systems, who are engaged in other paid activities, except for scientific, pedagogical and creative activities, religious figures, whose incapacity has been confirmed by the court, who have been convicted of serious crimes persons, persons serving imprisonment in places of deprivation of liberty by a legally binding judgment of the court cannot be elected as deputies to the Milli Mejlis of the Republic of Azerbaijan (The Constitution, Article 85). The main point that is worth noting here is that the scope of the requirements set in front of citizens' desire to take part in the political decision-making process in a representative manner is very limited, and in this sense, little space has been given to the circumstances that prevent citizens' political participation.

Active involvement of the citizens of the Republic of Azerbaijan in political processes is manifested not

only in the voting process, but also in the form of direct participation in the local self-government process.

The philosophical foundation of the local self-government system is the principle that the municipal population should independently solve local issues. Therefore, the efficiency of the local self-government system is determined by creating favorable conditions for ensuring the active participation of citizens in the implementation of local governance in all countries of the world. These conditions include the following (Gurbanov, Balakishiyeva, & Hajiyeva, 2011, p. 139):

- Existence of elected local self-government bodies;
- Use of direct democracy institutions in the system of municipal bodies;
- Availability of sufficient material and financial base for solving locally important issues.

Thus, local self-government is carried out not only by municipal bodies, but also by the population. There are various forms of public participation in the implementation of municipal government.

Participating in municipal elections is the main form of public participation in the implementation of municipal government. Because local self-government begins with elections. Local elections are the only way to form the representative corps of local self-government and to hold the post of mayor. Elections are an important stage in the formation of local municipal government and bear a number of characteristics. According to Article 27 of the Law of the Republic of Azerbaijan "On the Status of Municipalities", "Municipal elections are carried out through free, personal, secret voting on the basis of general, equal, direct suffrage, ensuring the electoral rights of citizens defined by law" (Law of the Republic of Azerbaijan "On the Status of Municipalities", Article 27).

Participation of citizens in the process of local self-government is not limited only to municipal elections. In addition, the forms of political participation such as local opinion polls, population appeals to municipal bodies and officials, the population's initiative to create municipal acts and the discussion of municipal acts, and citizens' meetings are clearly reflected in the legislation (Gurbanov, Balakishiyeva, & Hajiyeva, 2011, p.146, 149, 151, 153).

As a form of political participation, citizens can hold their meetings in the municipal territory with the aim of expressing their opinion on locally important issues, putting forward proposals, giving collective opinion, adopting, changing and canceling the municipal charter and other decisions. Citizens' assemblies are one of the most massive and ancient forms of direct people's power. Citizens' meetings allow the local population to collectively discuss important issues and make decisions about them.

Conclusions.

The result of the research is that political participation, which includes a number of activities such as voting in the referendum, elections for the election of the country's

president and members of parliament, as well as members of local self-governing bodies, monitoring their activities, is widely regulated in Azerbaijani legislation, and citizens are active subjects of political processes. improvements

have been made in the legislation for its transformation. There are all legal grounds for the political participation of citizens in democratic conditions at the individual or collective level.

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