

Main Stages of Electoral System Formation in the Republic of Azerbaijan

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Abstract.

An electoral system is a set of laws that govern how elections and referendums are conducted and how their results are determined. Although political electoral systems are determined by governments, businesses, non-governmental organizations and informal organizations may also organize elections based on a particular electoral system. Election systems include all aspects of the election process: when elections are held, who can vote, who can run for office, how ballots are marked and counted, what the limits are on election company spending, and more. Electoral systems are defined by constitutions or electoral laws and are often implemented through electoral commissions. Different electoral systems can be used for different purposes. One of the main human rights in the world is to participate in the political life of society and the state. The development of the electoral system has been going on for more than a century. Elections are the most democratic way of formation of representative and executive bodies. Gradually, a democratic electoral system was established in the vast majority of states, and the majority of citizens had the right to vote. Every year, the application of certain innovations related to scientific and technological progress, legislation, and culture affects the election process. The legitimacy of established power structures depends on the degree of democracy and openness of the electoral process. As an independent state, the Republic of Azerbaijan, as an integral part of the modern world, established an election system in accordance with international legal standards. In the direction of the general issues mentioned above, a comprehensive research was conducted in the article. During the preparation of the article, the works of local and foreign authors were referred to, and suggestions were noted by the researcher at the end. We hope that this article will be a contribution to future researchers in this field. Observations made during the research show that the article is of great importance due to its fundamentality. The presented article is a study of the evolution of the electoral system in Azerbaijan from the beginning of the 20th century until today.

Keywords: Constitution, election system, Azerbaijan, elections, election process, reforms, national development, statehood, democratic institutions, political-legal processes

Основні етапи становлення виборчої системи в Республіці Азербайджан

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Анотація.

Виборча система – це сукупність законів, які регулюють порядок проведення виборів і референдумів та визначення їх результатів. Хоча політичні виборчі системи визначаються урядами, підприємства, неурядові та неформальні організації також можуть організувати вибори на основі певної виборчої системи. Виборчі системи включають усі аспекти виборчого процесу: коли проводяться вибори, хто може голосувати, хто може балотуватися на посаду, як позначаються та підраховуються бюлетені, які обмеження на витрати виборчих компаній тощо. Виборчі системи визначаються конституціями або законами про вибори і часто впроваджуються через виборчі комісії. Різні виборчі системи можуть використовуватися для різних цілей. Одним із головних прав людини у світі є участь у політичному житті суспільства та держави. Розвиток виборчої системи триває вже понад століття. Вибори є найбільш демократичним способом формування представницьких і виконавчих органів. Поступово в переважній більшості штатів утвердилася демократична виборча система, право голосу мала більшість громадян. Щороку на виборчий процес впливає застосування тих чи інших інновацій, пов'язаних з науково-технічним прогресом, законодавством, культурою. Легітимність створених владних структур залежить від ступеня демократичності та відкритості виборчого процесу. Як незалежна держава, Республіка Азербайджан, як невід'ємна частина сучасного світу, встановила виборчу систему відповідно до міжнародних правових стандартів. У напрямі зазначених вище загальних питань у статті проведено комплексне дослідження. Під час підготовки статті посилалися на праці вітчизняних та зарубіжних авторів, а пропозиції занотувалися дослідником у кінці. Ми сподіваємося, що ця стаття стане внеском для майбутніх дослідників у цій галузі. Спостереження, зроблені під час дослідження, показують, що стаття має велике значення через її фундаментальність. Представлена стаття є дослідженням еволюції виборчої системи в Азербайджані з початку 20 століття до сьогодні.

Ключові слова: Конституція, виборча система, Азербайджан, вибори, виборчий процес, реформи, національний розвиток, державність, демократичні інститути, політико-правові процеси

Introduction.

A prerequisite for the establishment and development of juridical entities with a republican form of government is to ensure the holding of autonomous democratic electoral processes for state power. Legally, this is the only legitimate approach to delegate governance to state bodies representing power. The degree of development of democracy in the country is determined by the completeness of the selection of state power through popular vote from top to bottom. In accordance with international standards, periodic, free and unbiased elections have become an attribute of Azerbaijani statehood. Undoubtedly, the more open and honest the elections are, the more irreversible the country's transition to a true people's democracy will be. In this regard, the importance of the right to vote, which creates a solid legal basis for the functioning of the institutions of the representative democracy system and the functioning of the "election system" created by the state, is increasing. The above-mentioned explains the great interest in election issues in political science.

The urgency of this problem is primarily due to the high importance of the electoral system as the main factor in the development of democracy. That is, democracy and the electoral system are dialectically connected to each other as a political-legal process. Changing one of them necessarily leads to changing the other. The second is the improvement of the electoral system through state building and fundamental reform of modern Azerbaijan starting from the early 1990s. The third is the need to improve democracy through the electoral system.

Research methods.

The basis of the study is the universal dialectical method of knowledge, a set of general scientific research methods such as comparative analysis; special-historical: statistical, comparative-historical and structural-functional analysis, as well as: comparative-legal, formal-legal, system-structural, technical-legal special scientific methods.

Discussion.

The process of the strengthening of national consciousness and the formation of national ideology in Azerbaijan coincides with the beginning of the 20th century. As in other national provinces of the Russian Empire, the political and economic relations in Azerbaijan affected the dynamics of the enlargement of citizens' rights and manifested themselves in the issue of political rights, especially the right to vote. Azerbaijani deputies in the State Duma of the Russian Empire "national equality, education, agrarian issues, etc. they proposed the demands of "radical changes" in the field. In fact, they were endeavor to implement bourgeois constitutional reforms.

Following the February revolution of 1917, broad prospects for socio-economic, political and national development were opened for the people of Azerbaijan, similar to other peoples of Russia. The experience gained

in the process of participation in the Russian State Duma allowed the leading representatives of Azerbaijan to unite their efforts, create the Azerbaijan Democratic Republic and implement these measures that could not be implemented before (Seyidzadə, 1991, s.125).

After the fall of the empire, despite facing serious internal and external problems, the Azerbaijan Democratic Republic succeeded in creating effective state institutions and, above all, in establishing a legislative body - the democratically elected Parliament of Azerbaijan - the Constituent Assembly. The political situation in Azerbaijan, as well as the absence of a new electoral law, the complexity of the previous electoral system did not allow the convening of the legislative body on the basis of general elections. Due to this reason, a system consisting of delegations from various political parties, national committees, city self-government bodies, village communities, and national minorities was introduced. By creating the Parliament and following the example of many newly formed states, including Georgia and Armenia, the Azerbaijani leadership believed that the people's representation could be the representative of the will of the Azerbaijani people, assuming full responsibility for the results of the most important issues of the country's state life (Azərbaycan Demokratik Respublikası, 1998, s. 8).

"To all the people of Azerbaijan!" In his address, announcing the establishment of the Constituent Assembly of the National Council, he informed the people of Azerbaijan: "All citizens of Azerbaijan, regardless of nationality and sect, are children of one motherland. They should reach out and give a hand to each other in order to build their common life in the common homeland and prepare the happiness of the village in equality. In this regard, the greatest responsibility and the heaviest task will ultimately fall on the Turks of Azerbaijan and the Muslim community. They should be more self-sacrificing and more tolerant than the majority of people living on this earth." (Azərbaycan Demokratik Respublikası, 1998, s. 8).

The population, showing great interest in the future destiny of their homeland, actively participated in the elections held under the slogan of the independence of Azerbaijan. The Law "On the Formation of the Parliament of Azerbaijan", adopted by the National Council of Azerbaijan on November 20, 1918, took into account the multi-ethnic composition of the country's population and ensured the creation of all necessary conditions for the integration of representatives of both numerous and minority groups into the governmental structures of Azerbaijan (Balayev, 2009, p. 150). On December 7, 1918, the still-unrecognized independent Azerbaijan Democratic Republic opened the first Parliament in the Muslim East, reaffirming its unwavering commitment to the principles of democracy. Prominent politician Alimardan Bey Topchubashov was elected the Chairman of the Parliament of Azerbaijan (Azərbaycan Demokratik Respublikası, 1998, s. 9-10).

Thus, for the first time in the Muslim East, universal suffrage, including women's right to vote, was implemented. 120 seats in the parliament were distributed as follows: Muslim population - 80, Armenians - 21, Russians - 10 and Germans, Jews, Georgians and Poles - 1 seat each. The multinational composition of the legislative body of Azerbaijan paved the way for the creation of a coalition government with the participation of various political forces and representatives of national minorities (Azerbaijan Democratic Republic of Azerbaijan, 1998, p. 10). Multinational and multi-party representation aimed at protecting the rights of the country's citizens in the parliament has won the trust of the international community by providing the image of a democratic and secular state to the young republic.

The main goal of the legislative body was to protect the independence and territorial integrity of Azerbaijan, national and political rights, establish the solidarity of the Azerbaijani people with other peoples, create a legal democratic system in the republic, implement extensive social reforms, and organize a combat-ready army. The intensive activity of the Constituent Assembly is aimed at solving socio-economic and financial issues, ensuring the political and territorial integrity of the republic, protecting the rights of citizens, strengthening the democratic and legal foundations of the state, creating favorable conditions for the recognition of Azerbaijan's independence on a world scale, its relations with the outside world and, above all, the most addressed to the development of political, economic and commercial cooperation with its close neighbors and the most urgent problems of the life of ADR.

The "Election Law", which contains 4 chapters and 116 clauses, which reflects the right of women to elect and be elected to state bodies, adopted by the Constituent Assembly deserves special attention. Chapter I of the law stated that "The Constituent Assembly consists of members elected by the population regardless of gender and on the basis of equal suffrage, through direct and secret voting, ensuring the basis of proportional representation." Chapter II of the law stated that "Citizens of both sexes who have reached the age of 20 before the voting day have the right to participate in the elections to the Constituent Assembly" (Nasirova, p.92). As we have seen, the Act contained revolutionary provisions for women's suffrage at the time. The creation of the Central Election Commission, which carried out the elections provided for in the law, was one of the rules considered progressive for our modern times. It was planned to create an election commission consisting of 21 members of parliament and representatives of political parties and organizations that submitted a list of candidates.

The Parliament of Azerbaijan also adopted the Law "On the Procedure for Conducting Elections to City Dumas". According to that Law, the right to vote was extended to all citizens who had reached the age of 20 and had lived in the relevant city for 1 year, regardless

of their gender, religious beliefs and nationality. They were to be elected for a period of 2 years on the basis of equal, independent, secret ballot. In accordance with the law, the residence requirement was applied to the dumas to enjoy the right to vote actively, but the residence requirement was not provided for the right to passive election. As an exception, a 5-year residence permit was applied to foreigners (Ismayilov, p. 422). Of course, it had an impact on the establishment of the electoral law and system that meets legal and international standards in modern Azerbaijan as well (Nuri, p.34). In total, more than 270 draft laws were submitted for consideration to the parliament during its activity, and 228 of them were approved.

Although the Constitution was not adopted, the legislative body managed to pass laws on citizenship, press, court proceedings, general military service, establishment of the National State Bank, improvement of customs and post-telegraph services, opening of Baku State University and many other laws in a short period of time. One of the main concerns of the parliament was the creation of a strong army capable of protecting the political independence and territorial integrity of Azerbaijan. Financial issues reflected in one third of all approved draft laws, implementation of social reforms, labor protection, raising the salaries of civil servants, and lowering the prices of necessary products took an important place in the activities of the parliament (Nuri, p.34). The main value of democratic reforms was the announcement of the principle of separation of powers in the legal system. The law "On Incompatibility of Duties" contained the basic conditions for the separation of powers, which meant the complete separation of executive power from legislation.

However, after the violent seizure of power by the Bolsheviks in Azerbaijan and the creation of the USSR, the republic's democratic development and parliamentarism came to an end. During the 70 years of Soviet dominance, 4 Constitutions were adopted in Azerbaijan SSR (in 1921, 1927, 1937 and 1978). All of them were virtually formal in nature and did not directly affect law enforcement practice. In practice, these Constitutions repeated the Constitutions of the USSR. Despite the fact that each of these Constitutions contained articles related to the right to vote to one degree or another, the socio-political structure of the Soviet state did not envisage the right to vote that met international standards either theoretically or practically.

The 1921 Constitution reflected political rights such as freedom of speech, press, freedom of conscience, assembly, rally, gathering in public organizations, etc. as equal rights regardless of nationality and religion (Constitution, 1921). Part III of this Constitution was entirely devoted to the right to vote. All employees who reached the age of 18 were given the right to vote actively and passively. The population elected only the village and city councils, as for the elections to the All-Azerbaijan

Congress of Soviets, they were multi-stage. Despite universal suffrage, certain categories of citizens were deprived of it. These categories are: clergy, former police officers and agents, representatives of the gendarmerie and security services, self-employed people, trade and commercial intermediaries, etc. It is specified in Article 80. At the same time, all restrictions were removed for women, youth, military personnel, national minorities and those without residency rights (Ismayilov, p.459).

The main parameters of the 1921 Constitution regarding the right to vote are reflected in Chapter VII of Section III of the 1927 Constitution. The creation of an institution such as the Central Election Committee deserves attention (Constitution, 1927).

The 1937 Constitution was significantly different from the previous ones in terms of content and legal quality. Chapter XII is also dedicated to the rights and duties of citizens. The main innovations were related to the right to vote. In particular, all authorities began to be elected through general and secret elections. As in the previous Constitutions, in this Constitution, the right to vote began at the age of 18, and citizens who reached the age of 21 were allowed to be elected as deputies to the Supreme Council of the Republic. All previous restrictions in the electoral law have been removed. Another innovation was the speeches of the deputies in front of the voters. The events that took place in the Soviet society in the 1970s, the demands for qualitative and meaningful changes brought the issue of preparation and adoption of the new Constitution to the agenda. The new, 1978 Constitution reflected new regulation methods in various areas of state and social life, including the field of electoral rights (Allahverdiyev, 2005, p. 2).

The most important of them was the establishment of new forms of democracy - popular discussion and referendum. This is indicated in the separate article 5 of the chapter on the political system (Azərbaycan Sovet Sosialist Respublikasının Konstitusiyası, 1978).

Although no serious changes have been made in the direction of democracy, the inclusion of this institution in the legislation can be considered as an important step.

The dissolution of the Soviet Union and the beginning of the process of the formation of Azerbaijan as an independent state, including the creation of a renewed system of government institutions on the basis of elections, required the adoption of a draft law defining new election rules. In the early 1990s, the formation of the election system in Azerbaijan took place in very difficult socio-political conditions. On the one hand, this was related to the end of the systemic crisis of Soviet statehood, the period of reforms and political changes, and on the other hand, the aggression of Armenia, military operations in Nagorno-Karabakh, separatist mood in some other regions of the country, serious political disagreements between newly created parties, caused clashes between the armed opposition and the authorities.

Since the beginning of the 1990s, the legal system of

Azerbaijan has been undergoing radical transformation. The general directions of the reforms were the same as in the entire post-socialist space: ideological and political pluralism, socially oriented market economy, expansion of individual rights and freedoms and empowerment of their guarantees. Despite the fact that the basic principles, structure and legal technology are still similar to post-Soviet countries, the legal system of Azerbaijan began to acquire individuality. The search for the best model of modern election legislation has been going on for almost 30 years.

In the first stage (1991-2001), the basic foundation of the electoral system and the rules of political competition were laid. In the early 1990s, the most important changes to the electoral law and the electoral process were to move from a one-party political system without an alternative to a system based on openness, to the transparency and competitiveness of the electoral process in the developing multi-party system. In 1990, the monopoly of the Communist Party was abolished. This fact spurred the creation of new parties and their active integration into the electoral process.

On August 30, 1991, the Declaration of the Supreme Council "On the restoration of state independence of the Republic of Azerbaijan" was the beginning of the formation of an independent legal system. But the creation of an independent legal system and the formation of independent government institutions was a more complicated process, because the independence of the state was at stake. The government had to switch to an effective mode of operation, be strengthened, and the law should be protected. In such a crisis situation, the people expressed their political will in 1993 and elected Heydar Aliyev, a professional and experienced politician, social and political figure, as the chairman of the Supreme Soviet.

One of the first measures to strengthen the foundations of the constitutional structure was the attempt to adopt the Basic Law. By the decision of the Milli Mejlis of the Republic of Azerbaijan dated December 6, 1993, the intention to prepare the draft Constitution of the Republic of Azerbaijan was established. However, during this period, the temporarily created commission could not cope with the task because the republic was going through complicated and difficult times. Several coup attempts were thwarted in 1993-1995. The Nagorno-Karabakh conflict grew, social problems deepened.

On May 2, 1995, by the decision of the Milli Majlis, the composition of the Commission for the preparation of the draft of the new Constitution was approved. Under the chairmanship of Heydar Aliyev, the commission included well-known social and political figures, scientists and professional lawyers. In a short period of time, the constitution-making experience of a number of developed countries was studied and analyzed. The finished draft was presented in a referendum held on November 12, 1995, where the Constitution was adopted by popular vote.

The adoption of the new Constitution helped to increase the urgency of constitutional and legal reforms, but they were postponed because the text of the Constitution of the Republic of Azerbaijan provided for the mechanism of change only through a referendum. Clause 5 of Article 156 of the Constitution states that "Constitutional laws are an integral part of the Constitution of the Republic of Azerbaijan".

Azerbaijan's political system has been formed on a multi-party basis since the ADR period. During the period of Soviet Azerbaijan in 1920-1991, there was a single-party system of the Communist Party of the Azerbaijan SSR. After the restoration of independence, new political parties appeared in the political arena.

The second stage of the development of the electoral system (2002-2016) can be considered the period when significant changes were made to the electoral legislation. Rules were adopted to help transform the electoral system into a single institution. The codified normative act regulating the election process—the Election Code was adopted in June 2003. This code stipulates the procedure for the election of the President, deputies of the Milli Majlis, municipal elections, and holding a referendum.

Constitutional and legal reforms in the Republic of Azerbaijan were carried out in referendums in three stages - August 24, 2002, March 18, 2009 and September 26, 2016.

In the referendum held in 2002, 24 amendments and additions were made to the Constitution in order to improve the mechanism of protection of human and civil rights and freedoms. Giving everyone the right to apply individually to the Constitutional Court to restore their violated rights and freedoms was an important change for the legal system. Article 12 of the Constitution states that "the provision of human and civil rights and freedoms" is the supreme goal of the state. After the 2002 referendum, some changes and additions were made to the Constitution, regarding such as taxes and the state budget, formal pardon and amnesty, the election, appointment or confirmation of officials, and the possible replacement of alternative service with actual military service.

The 2009 referendum was about strengthening the human rights and welfare state through protection mechanism. There was a provision in the constitution that the economic development of Azerbaijan should be socially oriented. These reforms were practically a transition to a new stage of development of the social state.

In the 2016 referendum, 29 amendments to the Constitution were proposed to voters, including: increasing term of Presidency from 5 to 7 years, introducing the duties of the first vice-president and vice-president position, reducing the right to vote to the parliament to 18 years, etc.

The third stage of the development of the electoral system of the Republic of Azerbaijan (since 2017) was the reason for the expansion of the electoral space and

the democratization of the political process. Currently, the Republic of Azerbaijan is at the peak of digitalization and information technology development. There are prospects for the development of suffrage in accordance with the trends of the modern world.

On February 9, 2020, extraordinary parliamentary elections to the Milli Majlis were held for the first time in Azerbaijan, and these elections were marked by unprecedented political activity. The main purpose of the extraordinary parliamentary elections was to create a legislative framework for the prompt implementation of new tasks in the provision of legislative initiatives to support reforms. Voter turnout in the elections was 47.81% or 2 million 547,982 thousand people. 246 candidates from 19 political parties were registered. The ruling "New Azerbaijan Party" won 70 out of 125 constituencies and maintained its leading position in the country's parliament. The main reason for the party's success is, without a doubt, its organizational functioning, public reputation and, most importantly, the continuity of the successful policy of President Ilham Aliyev, the successor of National Leader Heydar Aliyev.

Conclusions.

According to the statement of the Central Election Commission of the Republic of Azerbaijan (CEC), 883 international observers from 59 international organizations and 58 countries observed the parliamentary elections (Central Election Commission, 2020). The two largest observation missions were the International Election Observation Mission established by the OSCE, the OSCE Parliamentary Assembly and the PACE (358 observers) (Elections Lacked, 2020) and the CIS observation mission (252 observers). Other observers are individual international observers, such as Shanghai Cooperation Organization, Organization of Islamic Cooperation, TürkPA, Black Sea Cooperation Organization, etc. were representatives of such organizations. The vast majority of international observers positively assessed the parliamentary elections held in Azerbaijan.

Scientific novelty of the research:

- 1) Detection of stable relations between the elements of the "election system";
- 2) Justifying the electoral system of state-legal integrity for the elections of all state authorities;
- 3) Revealing the role of the "election system" as a factor in the formation and development of democracy;
- 4) Justifies the necessity of strengthening the democratic institutions of modern Azerbaijan.

Summarizing the above, it can be concluded that the electoral system of the Republic of Azerbaijan, which has rich historical, theoretical and practical roots, continues to develop today. Advancement of new forms and methods of the civil election process and inclusion in the election system, application of election procedures, use of various information technologies allow us to continue democratic reforms in this field with complete transparency and openness. The ongoing reform process

even after the restoration of the independence of our country raises certain questions, the answers of which must be understood. The main question is, how reasonable is it to take only the Western analogue of the "democracy" and "election" system? Undoubtedly, while using the rich

foreign experience gathered in this field, the traditions of Azerbaijan cannot be ignored. The future development processes of modern Azerbaijan depend on the selection of ways to carry out reforms in state building, democracy and electoral system as a whole.

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