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THE EVOLUTION OF THE CONSTITUTIONAL AND LEGAL REGULATION OF LAW-MAKING IN THE REPUBLIC OF AZERBAIJAN

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Azerbaijan has a rich history. Given that the Republic of Azerbaijan is the successor of the Republic of Azerbaijan that existed from May 28, 1918 to April 28, 1920, we believe that consideration of the historical aspects of the constitutional and legal regulation of lawmaking in the Republic of Azerbaijan from this period is more appropriate.

The period of existence of the Azerbaijan Democratic Republic will be marked as an important stage in the history of the law of our state. Despite its short existence, the republic was based on a modern form of government. A democratic republic was formed in the state, meeting the requirements of that time. State building was based on law.

The first political document of the Azerbaijan Democratic Republic is the Declaration of Independence. The political and legal essence of this document lies in the fact that it reflected the foundations of the political system of the state, the state with a parliamentary form of government and a democratic regime, the supreme bodies of state power, the responsibility of the government to parliament, the formation of parliament, domestic foreign policy, the legal status of the individual.

The legislative activity of the ADR began in June 1918, even before the formation of the Parliament, in the work of the National Council.

The ADR Parliament arose at a very difficult historical time. But despite such a difficult situation both in the region and within the country, the law-making activity of the ADR left its mark on the history of our country. Since its formation, the Parliament has taken an important place in the political life of the country and played a major role in shaping the political system of the country.

Not only the political sphere, but also socio-economic and cultural relations were built on new principles. and this, in turn, increased the role of legal regulation, legislation. The formation of separate legal branches was facilitated by intensive lawmaking.

The legal form of the activity of the Parliament was expressed in the acts adopted by it.

After the formation of the Parliament, the legislative process of the Parliament gained wide scope. The activities of the supreme legislative body in this area were built in two directions:

1. adoption of new laws
2. improvement of laws that retain temporary force through additions and changes that correspond to the state and people's interests.

The second direction provided for the gradual mixing of old laws with completely new laws.

According to the decision of the Council of Ministers of January 18, 1919. "On the rules for publishing decrees and orders of the Government" decrees and orders of the Government should be published in the collection "Information of the Azerbaijani Government". This normative act



provided for the rules for publishing not only legislative acts of the Council of Ministers, but also acts emanating from the Parliament and individual ministries. Each of the ministers had the power to issue resolutions and orders within their powers. These normative acts were adopted with the special permission of the Council of Ministers on these issues and were equated in legal force with the resolution of the Council of Ministers.

It should be noted that the system of ADR legislation was made up of numerous and variously named legal acts. Most of them were adopted during the period of Tsarist Russia and the Provisional Government: the Law of 1845 on crime and corrective punishments (as amended in 1885 and changes until 1917), the Criminal Law of 1903, a decree on punishments imposed by the Conciliation Courts from 1885, the Military Penal Code of 1875, the regulations of 1868 on the Military Court, the Naval Regulations of 1886, as well as acts relating to various legal branches. [5;402

The main essence of all the amendments made is to bring the imperial legislation in line with the requirements of the new state building. At the same time, it should be noted that the improvement of the legislation of tsarist Russia was of a complex nature. As you can see, the Azerbaijan Democratic Republic, in addition to the reception of Russian legislation, has improved in accordance with the requirements of the era. Given the different nature of the amendments, we consider it appropriate to divide them into four groups:

- Restoration of the legislative act in the previous version.
- Elimination of groups of articles or individual provisions
 - Adopted by the former state authorities
 - Submission of individual articles in a new edition

In general, the legislative process in the ADR had specific features. Thus, under various ministries, commissions were carried out to prepare bills.

A positive feature of the legislative process in the ADR was that it consisted of several stages:

- introduction of a bill or legislative initiative
- discussion
- Adoption

- publication

Laws were considered in commissions, and unlike the modern legislative process, they received feedback from the Council of Ministers and the bill was adopted in one reading.

The preparation of the text of the bill began after the need arose to adopt any legal norm or change in the norm, and all bills were accompanied by the issuance of an "Explanatory Note", substantiating this requirement.

During the period of activity of the Parliament, 315 bills were submitted to the Parliament, of which one part was adopted, 10-12 were rejected, while others were discussed in the commission. Of these projects, 32 were provided by the Ministry of Finance, 32 - by the Ministry of Justice, 24 - by the Ministry of Internal Affairs, 19 people's entities, 12 - Land, 10 - Social. Security.

As is known, the development of ADR legislation consisted not only in the improvement of imperial laws, but also in the adoption of normative acts by independent state bodies. Most of these acts have been codified. But during this period, many provisions were adopted, which were often equated with codified ones.

Thus, after analyzing the law-making activities of the ADR, we can conclude that the legislation of our country has developed in two directions:

- full reception of the codified acts that existed in tsarist Russia and their improvement to the requirements of the era
- adoption of separate legislative acts reflecting the foundations of new state building

The Azerbaijan Democratic Republic fell in April 1920, Soviet power was built in Azerbaijan. In December 1922, the Union of Soviet Socialist Republics was created, and Azerbaijan joined this Union.

After the construction of the Soviet socialist state in the AR, the renewed "revolutionary legality" became the ideological basis of society. By "revolutionary legality" is meant the expediency and enforcement of the rule of law on the part of the supreme organs of the proletarian dictatorship. The main source of law is considered to be the decisions of the courts, despite the fact that in



the 20s. lawyers paid great attention to decrees.

In this period, the formation of a legal framework began. On May 19, at the 1st All-Azerbaijan kurultai, the first Soviet Constitution was adopted, consisting of 5 sections, 15 chapters, 104 articles.

During these years, the formation of a unified legal framework began. Despite the fact that the codification activity was aimed at preventing shortcomings in the legislation, this activity was one of the stages in the implementation of revolutionary legal consciousness. This period of history was marked by the adoption of the following codification laws: Civil Code, Criminal Code, Correctional Labor, Marriage, Criminal Procedure.

Formed and founded in the 30s. XX century on the Marxist-Leninist ideology, the doctrine of "Socialist legality" reflected normative views on law. Despite the fact that in the 20s. primary psychological and sociological theories were abolished, the victory of normativist theory meant the victory of the rule of law. Such principles of law as expediency and impartiality were preserved. In practice, there were legal problems.

According to the supreme law of the Constitution, all power belonged to the Supreme Council. As a bourgeois principle, the "principle of separation of powers" was abolished. Among the sources of law, the main role was assigned to the law. In the formal sense, the law meant any act adopted by the representative body, in the material sense, the norms defining the rule of conduct, regardless of whether it was adopted by the legislature.

From the analysis of the provisions of the Constitution, we can conclude that at that time the formal and material meaning of the law coincided.

During the session, the functions of the Supreme Council were transferred to the Presidium. Ensuring the party-political unity of state-power structures facilitated the process of transferring the legislative function of one body to another. The governing bodies of the party actively participated in the formation of laws. At this time, the adoption of government resolutions together with the leading party became widespread. Party resolutions were of a normative nature. The Council of People's Commissars also passed resolutions

on the basis of and in pursuance of the law.

The legal system formed before the war was preserved even after the war. But the formation of emergency bodies, institutions and relations could not but affect the legal system and legal regulation. The sphere of contractual legal relations came to naught, there was centralization, civil law methods were inferior to economic and administrative-legal methods.

In the post-war period, there was a need to adopt a number of important laws and regulations. The legal department of the Supreme Council, the Plenum of the Supreme Court, the prosecutor's office, ministries and central departments, and some scientific departments took part in the preparation of the bills. Until the 1970s legal commissions of the Council of Ministers participated in this process. The government also made decisions. The local Council, within the limits of its authority, adopted resolutions that had coercive force in the respective territory. [3;325]

In the 50-60s. In the twentieth century, in connection with the improvement of legislation, codification work was carried out. The laws adopted 30-40 years ago did not meet the requirements of the time, and it became necessary to adopt new laws. On the other hand, the adoption of new codes was due to technical and legal reasons, and also numerous legislative material required systematization.

In 1958-1961. the codification work of criminal and criminal procedural law ended, in subsequent years - other codifications. In addition to codification works, the following type of systematization was used - incorporation. Legislative foundations for many branches of law were adopted. During incorporation, acts that had lost and contradicted each other were liquidated, this function was performed first by the legal commission under the Council of Ministers, in subsequent years - by the Ministry of Justice.

In 1988, the union authorities put forward the idea that the new law should serve not the state, but society. At the same time, the need for the formation of a legal framework for the protection of human rights was noted. In this regard, in 1988-1990. a number of laws and decrees "On



State Security", "On the Media", etc. were adopted. The concept of "Welfare legal state" was formed and this document noted the superiority of law and the separation of powers. These innovations were envisaged to be carried out as part of the overall reform process.

Most of the legislative changes took place in 1990. This was manifested in the adoption of the following laws: "On the establishment of the post of President", "On the popular vote", "On the division of powers between the USSR and the subjects of the federations"

For more than 70 years, the people of Azerbaijan, forced to live as part of the Soviet empire, although they lived with the dream of restoring independence, but for objective reasons, were able to achieve this only at the end of the last century. On October 18, 1991, the "Constitutional Act on State Independence of the Republic of Azerbaijan" was adopted. This Act officially proclaimed our republic the successor of the Azerbaijan Democratic Republic and independent. This act also reflects that the people of Azerbaijan have an inalienable right to choose their own form of government, determine their relations with other peoples and develop their political, economic and cultural life in accordance with their historical and national traditions, in accordance with universal values.

Article 12 of the "Constitutional Act on State Independence of the Republic of Azerbaijan" reflects the fact that the people of Azerbaijan create an independent, secular, democratic, unitary state, whose sovereign power in internal matters is limited only by law, and in external matters - only by provisions arising from treaties and agreements to which the people of Azerbaijan freely expressed their consent. The "Constitutional Act on the State Independence of the Republic of Azerbaijan" officially proclaimed the ownership of power and natural resources by the people, the equality of all forms of ownership, the right to choose citizens, the provision of a multi-party system, and the general principles of human and civil rights and freedoms. Despite the proclamation of the independence of our republic on October 18, 1991, independence was of a declarative nature.

Fundamental changes in the political and economic foundations during the period of independence led to changes in the legal system. On the other hand, the intensity of social changes included the emergence of new legal relations and the improvement of legal norms. According to the Constitutional Act adopted in 1991, all acts valid until the restoration of state independence, not contradicting the sovereignty and territorial integrity of Azerbaijan, acts not repealed in the manner prescribed by law, were valid on the territory of the Republic of Azerbaijan. In this regard, on October 28, 1992, a law was passed, which determined the list of the above-mentioned laws.

The adoption of the new Constitution of an independent state was one of the important steps along this path. The definition of new provisions related to the legislative system in Section V, entitled "Law and Right" of the Constitution, was a progressive development. It is noted here that the legislative system of the AR consists of the Constitution, acts adopted at a referendum, laws, decrees of the President, resolutions of the Cabinet of Ministers, acts of central executive authorities.

In December 1998, President Heydar Aliyev issued a decree on the preparation of a program for reforms in the public administration system. A commission was formed, a program was drawn up based on the experience of a number of states and began to be implemented. The purpose of the reform is the improvement of the legal system, the formation of a legislative framework based on progressive and democratic values. The first task of the constitutional reforms was to prepare the necessary laws in various branches of law.

The adoption of many sectoral regulations, the introduction of many changes to previous codes and, first of all, the need for new codification acts - all this gave impetus to urgent measures.

Thus, the first codification was carried out during the period of independence and the third one in the entire history of our country, starting with the ADR. The difference between these codification works was that when adopting these laws, we used the experience of Soviet codification, and also tried to comply with European stan-



dards. Codification work has gone through several stages of its development:

- preparation 1992-1995.
- development 1995-2000
- improvement and adoption of new codes after 2000.

The following codification laws have been adopted:

- Criminal Code (adopted on 12/30/1999, entered into force on 09/01/2000)
- Civil Code (adopted on 12/28/1999, entered into force on 09/01/2000)
- Code of Administrative Offenses (adopted on 07/11/2000, entered into force on 09/01/2000)
- Family Code (adopted on 12/28/1999, entered into force on 06/01/2000)
- Labor Code (adopted on 02/01/1999, entered into force on 07/01/1999)
- Forest Code (adopted on 12/30/1997)
- Water Code (adopted on 26.12.1997)

▪ Code on the Execution of Punishment (adopted on 07/14/2000, entered into force on 09/01/2000)

▪ Criminal Procedure Code (adopted on 07/14/2000, entered into force on 09/01/2000)

In subsequent years, the Electoral Code was adopted on May 27, 2003

(although it is a consolidation), the Migration Code of 07/02/2013, etc. As can be seen, the peak of the adoption of codes falls on 1999 and 2000s.

The holding of referendums in 2002, 2009 and 2016 played a positive role in the law-making of the Azerbaijan Republic. An example is the changes made in 2009 to Art. 96 of the Constitution of the Republic of Azerbaijan, where it is clearly stated that the right of legislative initiative is the people (although no law on this matter has been adopted).

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Эльмира Газвинова

Историческое развитие конституционно-правового регулирования законодательства Азербайджанской Республики

В статье автор попытался охарактеризовать период законотворческой деятельности Азербайджанской Демократической Республики как важный этап в правовой истории нашей страны. Также была проанализирована законотворческая деятельность в историческом аспекте.