ВЫНОШУ НА ЗАЩИТУ

DOI: 10.22394/2070-8378-2018-20-3-104-110

# Законодательство и реализация правовых обязательств Азербайджана в отношении этнических меньшинств

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**Аннотация:** Статья посвящена анализу законодательства и реализации юридических обязательств Азербайджана в отношении этнических меньшинств. Автор проанализировала законодательство Республики Азербайджан, которое определяет политику государства по отношению к меньшинствам, такие, как конституция, законы, отражающие политику правительства по отношению к этническим меньшинствам, а также дебаты вокруг реализации юридических обязательств Азербайджана в отношении этнических меньшинств. В статье рассматривается политика государства в отношении защиты языков национальных меньшинств. Соответствующие положения, законы и инструкции предусматривают право людей, которые не говорят на азербайджанском языке, использовать свой родной язык для получения юридической или социальной помощи, а также проведения культурных или религиозных мероприятий. В соответствии с уголовно-процессуальным кодексом Азербайджанской Республики, лица, участвующие в уголовном процессе, в частности, свидетели, жертвы, подозреваемые и обвиняемые, имеют право давать показания на своем родном языке.

Кроме того, автор рассматривает законодательную защиту гражданских прав меньшинств. Существуют разные мнения о практическом применении законов и договоров, касающихся этнических меньшинств Азербайджана. Таким образом, правительство предполагает, что этнические меньшинства не испытывают трудностей. Однако, согласно некоторым сообщениям в средствах массовой информации, активистов в области прав человека и неправительственных организаций, эти меньшинства подвергаются дискриминации. Дебаты вокруг реализации правовых обязательств Азербайджана перед этническими меньшинствами создают впечатление непримиримых разногласий.

**Ключевые слова:** этнические меньшинства, законодательство, права человека, национальная политика, конституция

Статья поступила в редакцию 15 декабря 2017 года.

*Абдуллаева А.Б. кызы.* Законодательство и реализация правовых обязательств Азербайджана в отношении этнических меньшинств. *Государственная служба*. 2018. № 3. С. 104–110.

## LEGISLATION AND IMPLEMENTATION OF AZERBAIJAN'S LEGAL OBLIGATIONS TOWARDS ITS ETHNIC MINORITIES

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**Abstract:** The article is devoted to analysis of the legislation and implementation of Azerbaijan's legal obligations towards its ethnic minorities. The author analysed the legislation of the Republic of Azerbaijan, which determines the state's policy towards minorities, such as the Constitution, laws reflecting the government's policy towards ethnic minorities and also the debates around the implementation of Azerbaijan's legal obligations towards its ethnic minorities. The article explains the state's policy towards protection of languages of national minorities. The relevant provisions, laws, and instructions provide for the right of the people who do not speak the Azerbaijani language, to use their native languages in places where they receive legal or social aid or hold cultural or religious events. In accordance with the Criminal Procedural Code of the Republic of Azerbaijan, persons participating in the criminal process, particularly witnesses, victims, suspects, and defendants shall have the right to testify in their mother tongue.

In addition, the author looks at legal protection of human rights of minorities. There are different opinions about practical application of the laws and treaties concerning Azerbaijan's ethnic minorities. Thus, the government assumes that ethnic minorities experience no problems. However, according to some media reports, human rights activists and reports from non-governmental organizations, these minorities are subjected to discrimination and attempts of assimilation. Debates around the implementation of Azerbaijan's legal obligations towards ethnic minorities create the impression of irreconcilable differences.

**Keywords:** ethnic minorities, legislation, human rights, policy towards ethnic minorities, Constitution

The article was received on December 15, 2017.

*Abdullayeva A.B. qizi*. Legislation and implementation of Azerbaijan's legal obligations towards its ethnic minorities. *Gosudarstvennaya sluzhba*. 2018. No. 3. P. 104–110. In Russian

**Introduction**

The Republic of Azerbaijan always declared that protection of the rights and freedoms of its citizens was the main aspect of a democratic society. Azerbaijan's basic legislative documents declare the equality of all citizens, their rights, obligations, and freedoms, regardless of their ethnicity.

The Constitution Act on the State Independence of the Republic of Azerbaijan is the first legislative document of sovereign Azerbaijan. It was made public on 18 October 1991. The Constitution Act sets forth: "All citizens of the Republic of Azerbaijan are equal before the law. The Republic of Azerbaijan, as a party to the Universal Declaration of Human Rights, the Final Act of the Helsinki Accords, and other generally recognized international law documents, ensures the observation and unrestricted realization of all the rights and freedoms set forth in them, regardless of gender, race, nationality, religion, social origin, political convictions, and other factors."[1]

**Legal protection of national minorities**

In 1992 the president of Azerbaijan (at that time, Abulfaz Elchibey) issued a decree "On defense of the rights and liberties of national minorities, small-numbered peoples and ethnic groups living in the Republic of Azerbaijan and on rendering state assistance to the development of their languages and cultures". Among other things it purported "to charge the apparatus of the President of the republic of Azerbaijan, the Cabinet of Ministers of the Republic of Azerbaijan, the ministries and organizations of the Republic of Azerbaijan, heads of local executive bodies as a task with the mission of the state assistance and government policy in the following directions: to safeguard and develop cultural, linguistic and religious specification of nations in minority, small numbered peoples and ethnic groups; to perform religious rituals and ceremonies in complete freedom; to develop independently national crafts, professional and amateur arts, national trades; to protect historical and cultural monuments of all nations; to protect and preserve lands, reservations, parks and other objects of nature which are important for the population."[2] Eldar Zeynalov, the head of Azerbaijan Human Rights Centre, states that the majority of provisions of this decree were never implemented.[3] Ilham Murtuzayev, a human rights activist from Baku, testifies that: "Even though in Europe Azerbaijani authorities demonstrate the fact that there is such a law, where its existence is not admitted and its provisions are not realized at all."[4]

At the same time, a nationalities policy department was added to President's Administration. A similar structure was established in Parliament. Institute of Archaeology and Ethnography of the Academy of Sciences of Azerbaijan has a department working on the problems of local ethnic groups.[5]

The basic law of the Republic of Azerbaijan is its Constitution adopted on November 12, 1995 by popular referendum. It carries the "highest legal force" according to article 147. The Constitution states: "Art. 5. The Republic of Azerbaijan shall wholly and indivisibly be Homeland for all the citizens of the Republic of Azerbaijan;" "Art. 25. Every citizen shall enjoy inviolable, undeniable, and inalienable rights and freedoms from birth, regardless of race, nationality, religion, language, gender, origin, property status, social position, convictions, and affiliation to political parties, trade unions, or other public organizations. There shall be no limitations on or recognition of rights and freedoms due to race, nationality, religion, language, gender, origin, convictions, or political and social affiliation."[6]

**Protection of languages of national minorities**

Azerbaijan's legislative documents guarantee non-discrimination of languages of minorities in Azerbaijan. The relevant provisions, laws, and instructions provide for the right of the people who do not speak the Azerbaijani language, to use their native languages in places where they receive legal or social aid or hold cultural or religious events [Garibova, Askerova, 2008]. The Constitution states: "Art. 21. The Azerbaijan language shall be the State language of the Azerbaijan Republic. The Azerbaijan Republic shall ensure the development of the Azerbaijan language. The Azerbaijan Republic shall guarantee the free use and development of other languages spoken by the population.", "Art. 45. Every person shall have the right to use his or her native language. Everyone shall have the right to be raised and get an education and to be engaged in creative activities in a native language. No one can be deprived of the right to use his or her native language", "Art. 127. Legal proceedings in the Azerbaijan Republic shall be conducted in the official language of the Azerbaijan Republic or in the language of the population, which constitute the majority in the area concerned. Persons, who participate in court proceedings and who do not know the language in which legal proceedings are held, shall be guaranteed, via an interpreter, the right to get fully familiarized with the materials of the case, participate in legislative enactments and speak the native language in the court."[7]

On December 22, 1992 the "Law on the state language" was adopted. According to this law the state language was the Turkic language. It says "Art. 1. All governmental establishments

1 Gidaiat Orudzhev, "Azerbaijan's national minorities today". CA&CC Press. Sweden, 2003. www.ca-c.org.

2 Decree of the President of the Republic of Azerbaijan "On defense of the rights and liberties of national minorities, small numbered peoples and ethnic groups living in the Republic of Azerbaijan and on rendering state assistance to the development of their languages and cultures", Baku, September 16, 1992. http://files.preslib.az/projects/remz/pdf_en/atr_dil.pdf

3 Interview with Eldar Zeynalov. The head of Azerbaijan Human Rights Centre. March 29, 2014. Baku. E-mail.

4 Interview with Ilham Murtuzayev. A human rights activist. February 19, 2014. Baku. Skype.

5 Rauf Guseinov, "Azerbaijan in the mirror of its ethnic composition: past, present, future and recommendations". CA&CC Press. Sweden, 2000. www.ca-c.org

6 Constitution of the Republic of Azerbaijan. http://www.caa.gov.az/index.php?option=com_k2&view=item&id=93:constitution-of-the-republic-of-azerbaijan&Itemid=173&lang=ru

7 Constitution of the Republic of Azerbaijan. http://www.caa.gov.az/index.php?option=com_k2&view=item&id=93:constitution-of-the-republic-of-azerbaijan&Itemid=173&lang=ru

run their work in the Turkic language. The Turkic language as the state language of the Republic issued in all spheres of political, economic, public, scientific and cultural life and functions for international communication on the territory of the republic. The learning of the Turkic language by the representatives of other nationalities is appreciated and they get support for it". However, this law gave ethnic minorities of Azerbaijan the right to choose the language of their education: "Art. 3. The citizens of the Republic of Azerbaijan are guaranteed the right to choose the language for education. Nationalities and ethnic minorities, living on the territory of the Republic of Azerbaijan have the right by means of governmental bodies of the republic to organize the preschools, secondary schools or separate classes, and groups in their native language. In the educational establishments with the study in any other language, the learning of the Turkic language which is the state language, as a necessary subject is provided." "Art. 5. Jurisdiction matters and notary actions are run in the Turkic language. Persons, participating in the case, who do not know the language, have the right to invite the translator and to participate in the court through the interpreter and take part in their native language." "Art. 8. The sessions Supreme Council of the Republic of Azerbaijan shall be carried out in the Turkic language. The deputies of the Republic of Azerbaijan of other nationalities, in case of not knowing the state language of the Azerbaijan Republic, have the right to make statements in their own language."[8]

Rauf Guseinov states that by passing this law the Milli Mejlis (the National Assembly) contributed to growing ethnic tensions. According to him, this law has jolted ethnic minorities of Azerbaijan into an awareness of their ethnic identity. The discontent caused by unequal treatment of ethnic minorities, previously well controlled, now became obvious. On top of this, people did not like the title Turks to call the nation and they wanted to call the republic's leaders to account for this. Guseinov thinks the presidential decree of September 1992 "On Protecting the Rights and Freedoms, and State Support for Languages and Cultures of Ethnic Minorities, Small Peoples and Ethnic Groups Living in Azerbaijan" failed to produce the desired effect for these reasons. According to him, brilliant contents and great ideas of that decree were downplayed by the language law.[9]

On September 30, 2002 a new "Law on the State Language" has been adopted by the Milli Mejlis, (The National Assembly). This law stipulates that all state services and procedures and by non-government agencies must be in Azerbaijani or with translation into Azerbaijani. No provisions in the new law ensure the right of national minorities to use their native languages in public life. [Gerber, 2007]. However, the law recognizes the right of minorities to use their languages in some official instances, such as courts, administrative organs, notary offices, etc. [Garibova, Askerova, 2008]. For example, article 11.3 of the Law specifies: "Office-work on notary activities of the Azerbaijan Republic is carried in a state language. If the person, who has applied for carrying out notary actions according to the Law of the Azerbaijan Republic, doesn't know the state language or asks to carry notary action in any other language, the notary, whenever possible, makes texts of documents processed in a desirable language, or has the text translated by a translator". The Law also states that the total amount of programs in non-Azerbaijani languages in electronic media cannot exceed 1/6 of on-air broadcasting time. It stipulates the impossibility of creating a public or private local TV and radio stations broadcasting wholly or partly in minority languages [Gerber, 2007].

Education Law of the Republic of Azerbaijan adopted on 19 June 2009 by the President of the Republic of Azerbaijan, states that: "Art. 5.2. The State secures the creation of equal opportunities for each citizen and does not tolerate for any discrimination, regardless of the individual's gender, race, language, religion, political views, nationality, social status, background, and state of health." "Art. 7.1. Language of instruction in educational institutions of the Azerbaijan Republic is the state language – the Azerbaijani language. Art. 7.2. In exceptional cases (international treaties, or based on the agreement with a respective executive authority), at the request of citizens and founders of educational institutions, the instruction can be delivered in other languages under respective state standards of education on condition that the Azerbaijani language, literature, history, and geography will be instructed, as well."[10]

On July 12, 1999 "The Law of the Republic of Azerbaijan on Mass Media" was adopted. According to Article 6 of the law, mass media has to use state language on the territory of the Republic. However, while composing and disseminating information, citizens of the Republic of Azerbaijan may use other languages that the population of the Republic of Azerbaijan speaks, as well as widespread world languages. According to Article 14 of this law, any citizen of the Republic of Azerbaijan has the right to establish a media outlet.[11]

On July 20, 2001, President of the Republic of Azerbaijan issued the Decree on the Establishment of the National Council on the Press, TV, Radio, and Internet as well as the Decree on Increasing the State Protection of Mass Media.[12]

The Law of the Republic of Azerbaijan on Courts and Judges adopted by the President on June 10, 1997, states that: "Art. 14. Court proceeding shall be carried out in the language specified in part X Article 127 of the Constitution of the Republic of Azerbaijan. The persons who do not know the language of court proceedings shall not be restricted in his/her right. In cases provided by the legislation of the Republic of Azerbaijan, each person shall have one's right to avail oneself of translator/interpreter's services guaranteed."[13]

8 Law of the Republic of Azerbaijan on the state language in the Republic of Azerbaijan, Baku. December 22, 1992. http://www.azerb.com/az-law-language.html

9 Rauf Guseinov, Op.cit

10 Education Law of the Republic of Azerbaijan. 19 June, 2009. http://www.edu.gov.az/view.php?lang=en&menu=72&id=5244

11 The law of the Republic of Azerbaijan on Mass Media, July 12, 1999. http://www.azerbaijan.az/portal/Society/MassMedia/massMedia_e.html

12 U.S. English Foundation Research, Azerbaijan, 21.08.2007. http://www.usefoundation.org

13 Law of the Republic of Azerbaijan on Courts and Judges, Baku. June 10, 1997. http://www.coe.int/t/dlapil/codexter/default_EN.asp

The law on TV and Radio broadcasting adopted on June 25, 2002, has no special provisions on languages usage except article 21 providing an unlimited choice of language for TV and radio broadcasting.[14] However, Azerbaijan's National Council for Television and Radio adopted the Regulations on the Use of the State Language (Azerbaijani) in Television and Radio Broadcasts. The Council ruled that a minimum of 75 percent of all programs, announcements, and advertisements on both state-controlled and privately owned television and radio stations must be in Azerbaijani. It also stipulated that announcers and moderators must speak fluent and well-articulated Azerbaijani.[15]

Article 11 of the Law of the Republic of Azerbaijan on Culture adopted on February 6, 1998, guarantees safety and development of national culture (original culture of the Azerbaijani people, including cultures of all ethnic groups historically living or lodged in the territory of the Azerbaijan Republic). The activities which are realized in the sphere of national culture are under the auspices of the state.[16]

The law of the Republic of Azerbaijan "On Freedom of Religious Belief" adopted on August 20, 1992, ensures the right of any human being to determine and express his view on religion and to execute this right.[17]

**Criminal Procedural Code of the Republic of Azerbaijan**

Article 11 of the Criminal Procedural Code of the Azerbaijan Republic states: "On civil and economic disputes the court proceedings are conducted in the state language of the Republic (Azerbaijani) or in the language of the majority of the population in this locality. For the persons, participating in the case, but not speaking the language of the court proceedings, their right to get acquainted with all the case files, to make statements, to give explanations and testimonies, to address the court, to file a petition, to make complaints in mother tongue, as well as to use the services of a translator, is provided and explained. The court documents are handed over to persons, participating in the case, in the language in which the court proceedings are conducted."[18]

According to Articles 90.7.11 and 90.7.12 of the Criminal Procedural Code of the Republic of Azerbaijan, a suspected person has the right to testify in the mother tongue and to use the assistance of a translator free of charge. According to Articles 91.5.11 and 91.5.13 of the Criminal Procedural Code, a defendant enjoys the same rights. Parties in the criminal proceedings have a similar right to select the language. This right is stipulated in Article 26 of the Criminal Procedural Code. In accordance with the Criminal Procedural Code of the Republic of Azerbaijan, persons participating in the criminal process, particularly witnesses, victims, suspects, and defendants shall have the right to testify in their mother tongue. These persons are provided with a translator, whose services are paid for by the State.[19]

The Criminal Code of the Republic of Azerbaijan from December 30, 1999, states that:

"Art. 6. The persons, who have committed crimes, shall be equal before the law and shall be subject to criminal liability regardless of race, nationalities, creeds, language, origin, property and official position, belief, belonging to political parties, trade unions and other public associations, and other circumstances."

"Art. 109. Prosecution of any group or organization on political, racial, national, ethnic, cultural, religious motives, motives of sexual belonging or on grounds of another motive forbidden by norms of international law, that is rough infringement of human rights for belonging to these groups or organizations, connected with other crimes against safety of mankind shall be punished by imprisonment for the period of five to ten years."

"Art. 154.1. Infringement of equality of citizens depending on race, nationalities, creeds, language, an origin, property or official position, belief, belonging to political parties, trade unions and other public associations, with causing harm to rights and legitimate interests of citizens is punished by fine of hundred up to five hundred of nominal financial units or by correctional labor for the period of up to one year."

"Art. 283.1. Actions, directed at excitation of national, racial or religious hostility, humiliation of national advantage, as well as actions directed at restriction of citizens' rights, or establishment of the superiority of citizens on the basis of their national or racial belonging, creeds committed publicly or with use of mass media is punished by the penalty at a rate from one up to two thousands of nominal financial units, or restriction of freedom for the period of up to three years, or imprisonment for the period of two to four years."[20]

**Protection of human rights and freedoms of national minorities**

On December 28, 2006, President of the Republic of Azerbaijan, Ilham Aliyev, adopted the degree "On Approval of the National Action Plan on Protection of Human Rights in the Republic of Azerbaijan".[21] In the third FCNM country report

14 "Televiziya və radioyayımı haqqında" Azərbaycan Respublikasının Qanunu, Baku. June 25, 2002. http://www.ntrc.gov.az/az/content/news/15.html

15 U.S. English Foundation Research, Azerbaijan. August 21, 2007. http://www.usefoundation.org

16 Mədəniyyət haqqında Azərbaycan Respublikasının Qanunu,. Baku. February 6, 1998. http://www.wipo.int/wipolex/en/details.jsp?id=9560

17 Law of the Republic of Azerbaijan "On Freedom of Religious Belief", Baku, August 20, 1992. http://files.preslib.az/projects/remz/pdf_en/atr_din.pdf

18 U.S. English Foundation Research, Azerbaijan, August 21, 2007. http://www.usefoundation.org

19 Code of Criminal Procedure of the Azerbaijan Republic, Baku, July 14, 2000. http://www.legislationline.org/download/action/download/id/1659/file/dddecee81440fa5295fc11e6b2b1.htm/preview

20 Criminal Code of the Azerbaijan Republic, Baku, December 30, 1999. http://www.carim-east.eu/media/legal%20module/natfr/AZ_1.2%20Criminal%20Code%20of%20AR_EN.pdf

21 "Decree of the President of the Republic of Azerbaijan on Approval of the National Action Plan on Protection of Human Rights in the Republic of Azerbaijan", Baku, December 28, 2006. http://www.msk.gov.az/en/serencamlar/430

the National Action Plan on Protection of Human Rights was mentioned as an important evidence of protection, rendered by the state to ethnic minorities.[22]

On January 18, 2014, President of the Republic of Azerbaijan Ilham Aliyev issued a decree "On additional measures for the increased promotion of religious culture, tolerance, interreligious and cross-cultural dialog in Azerbaijan". The Decree earmarked the allocation of 3 million manats to the "Development of Religious Culture" fund.[23]

There are different opinions about practical application of the laws and treaties concerning Azerbaijan's ethnic minorities. Thus, the government assumes that ethnic minorities experience no problems. However, according to some media reports, human rights activists and reports from non-governmental organizations, these minorities are subjected to discrimination and attempts of assimilation.

Elmira Suleymanova, Commissioner for Human Rights (Ombudsperson) of the Republic of Azerbaijan denies such charges, stating that there is no discrimination against representatives of ethnic minorities in Azerbaijan. According to her, in places of compact living of ethnic minorities, all conditions for normal life have been created for them. She noted: "During all nine years of existence of the Ombudsman Institute we have not received any complaints of an ethnic nature; and it provides stability and development of Azerbaijan".[24]

However, according to Shorena Kobaidze, spokesperson of the Minorities Rights Group (MRG), an International non-governmental organization, there are strong indications that individuals engaged in the protection of human rights in Azerbaijan, including minority rights, are accused of disloyalty and targeted in criminal proceedings. Such charges can be based on the wish of the minorities' representatives to express their identity and to enjoy their rights. This is perceived as creating a negative public image of the minorities, which further limits their access to rights. Kobaidze states that there is no effective consultative mechanism to ensure that concerns of ethnic minority communities in the regions and in the capital are brought to attention of various ministries that deal with such issues.[25]

European Commission against Racism and Intolerance (ECRI) notes that between 2002 – the year when the Ombudsmen Institute was established, and 2009, the Ombudsperson received over 51 000 complaints. The Ombudsperson has indicated that none of these multiple complaints included allegations of racial or ethnic discrimination. However, the Ombudsperson does not have any statistical record of complaints which is broken down according to the complainant's ethnic origin, religion or other criteria relevant to ECRI's work. Nonetheless, the information the ECRI is provided with points out to certain trends. Thus, most of the complaints received by the Ombudsperson concern access to social rights, but many complaints lodged by individuals of Armenian origin concern, inter alia, problems in obtaining identity documents. In the past there were also complaints about the ban on certain work of religious nature, and, in 2010, complaints were received regarding the non-recognition of conscientious objection on religious grounds. The ECRI regrets that there is no systematic collection of data on the correlation between complainants' origins and the nature of the complaints lodged, as this would make it possible to detect tendencies that disproportionately affect certain groups. It would also allow identifying effective rectification faster. The ECRI recommends that the Ombudsperson introduce a system of statistical records which breaks down complaints by category and complainants by ethnic origin, nationality, religion, and language. Such information should in all cases be collected in full conformity with the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group.[26]

Azay Guliyev, deputy of Milli Mejlis and chairman of the Council of State Support to Non-Governmental Organizations which acts under Azerbaijan's President declared in his speech at the fifth session of the General Assembly of European Jewish Parliament in Brussels: "In Azerbaijan ethnic and religious tolerance is promoted at the state level, and the government provides equal rights and equal opportunities, as well as peaceful and comfortable living conditions for all religious and ethnic minorities". According to him, all ethnic minorities, along with Azerbaijani, freely enjoy all their rights, including the right to education in their native languages."[27]

Speaking in Geneva, at the 5th session of the Forum on Minorities' Issues of the Council for Human Rights, Ali Gasanov, head of Social and Political Issues Department of the President's Administration, noted that the state policy towards ethnic minorities in Azerbaijan was rendering the appropriate support to languages and cultures of all ethnic minorities living in the country. According to him, in a number of regions, where ethnic minorities lived, branches of higher educational institutions and colleges were opened, national radio and television had channels broadcasting in languages of ethnic minorities and some of these territories had their local TV channels; minority language newspapers and magazines were published. Gasanov also mentioned that a Coordination Council of Ethnic Minorities operated at the Ministry of Culture and Tourism that Azerbaijan's Academy of Sciences had a special department for the study of languages, cultures, history, and ethnography of ethnic minorities, and that alongside mosques, Catholic churches and synagogues

22 Interview with Shorena Kobaidze. MRG International. February 12, 2014. Georgia. E-mail.

23 "Order of the President of the Republic of Azerbaijan on additional measures to strengthen the propaganda of religious culture, tolerance, interreligious and intercultural dialogue in Azerbaijan «, Baku, January 18, 2014. http://ru.president.az/articles/10843

24 "Azerbaijan has no discrimination on a national basis" - the Ombudsman, June 16, 2011. www.news.az, www.qusarnews.ucoz.ru

25 Interview with Shorena Kobaidze. MRG International. February 12, 2014. Georgia. E-mail.

26 ECRI Report on Azerbaijan. CRI (2011) 19. http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/azerbaijan/AZE-CbC-IV-2011-019-ENG.pdf

27 "Azərbaycanda etnik və dini tolerantlıq dövlət səviyyəsində təbliğ edilir", December 16, 2013. http://sia.az

functioned in Baku. He thought that Azerbaijan was known as a multicultural space throughout Azerbaijan.[28]

However, academician Valery Tishkov was quoted as stating that Azerbaijan was one of the biggest assimilators among the former Soviet republics (the other two being Georgia and Uzbekistan). [De Waal, 2003].

It should be pointed out that there is generally very little information on ethnic minorities in Azerbaijan. The information that exists is often contradictory, especially when it concerns the number of these minorities. According to human rights activists, ethnic minorities are not satisfied with the population numbers of their minorities. They argued that the number of ethnic minorities, especially in the case of indigenous peoples, have been reduced several times. Svante E. Cornel, Swedish scholar on Eurasia wrote: "Whereas officially the number of Lezgins registered as such is around 180,000, the Lezgins claim that the number of Lezgins registered as Azerbaijani is many times higher than this figure, some accounts showing over 700,000 Lezgins in Azerbaijan. These figures are denied by the Azerbaijani government but in private many Azeris acknowledge the fact that Lezgins – for that matter Talysh or the Tat population of Azerbaijan – is far higher than the official figure." [Cornell, 2001]. Hema Kotecha finds a different explanation for that. According to her, in the Soviet period, many Lezgins concealed their ethnicity in an attempt to benefit from educational and social programmes that they felt excluded from. She wrote: "It was generally acknowledged that many ethnic groups are underrepresented by their censuses, not entirely because of current discrimination (as often claimed) but as a result of former Soviet policies." [Kotecha, 2006].

In November 1999, a group of officials from the Council of Europe came to Azerbaijan to acquaint themselves with the situation and status of local ethnic minorities in light of the state's decision to sign the Convention. It stated the following: the status of ethnic minorities, which recognize the country's constitution and enjoy the rights and freedoms guaranteed by it, and which also perform their constitutional obligations, does not differ from that of the titular nation, the Azeris; national minorities have the opportunity for cultural advancement based on the country's Constitution and presidential decree of September 1992 "On the Protection of Rights and Freedoms, and State Protection of the Advancement of the Languages and Cultures of the National Minorities, Minority Nationalities, and Ethnic Groups Residing in the Republic of Azerbaijan," as well as the set of corresponding laws adopted by the Milli Mejlis and the decrees issued by the country's president that apply to national minorities, including their financial support from the President's Foundation.[29] Georges Clerfayt, an official of the Parliamentary Assembly of the Council of Europe, met people from over 100 ethnic minorities of Azerbaijan. His comment was: "We have become convinced that the authorities do everything they can for ethnic minorities. I believe that in Azerbaijan we have found the best situation with ethnic minorities across the entire post-Soviet territory." He expressed hope that Azerbaijan would join the Convention on ethnic minorities' protection.[30]

Valeriy Novoselskiy, a human rights activist from Israel, after his visit to Azerbaijan, stated that Azerbaijan could teach tolerance to Europe. According to him, there were no problems with rights and freedoms of ethnic minorities in that country. He said: "The situation with tolerance in Azerbaijan is even better than it is in Europe. This conclusion is based on my numerous trips across Europe. I know the situation with tolerance and protection of human rights there. Azerbaijanis really can be proud of their country in this sense."[31]

The second report of Azerbaijan's government to the Council of Europe on the implementation of the Framework Convention for Protection of National Minorities stated that the Republic of Azerbaijan is a multinational and multi-religious country. It also asserted that the nationality policy of the country has been determined on the basis of principles of coexistence and tolerance of different nationalities, ethnic groups, and religious minorities.[32]

But Parliamentary Assembly of the Council of Europe (PACE) noted cases of intolerance towards ethnic minorities in Azerbaijan. As an example, they quoted the demolition of the Narimanov Cemetery in Baku, where the majority of graves belonged to Russians, Jews, Georgians, and Armenians. "On August 17, 2007", their report ran, "under the guise of constructing a new highway, the Azerbaijani authorities took the decision to demolish the Cemetery. In spite of the Azerbaijani authorities' pledge to conduct the demolition and subsequent exhumation and reburial of the remains with full respect for the relevant ethnic and religious traditions, in reality, the demolition was carried out in grave violation of these customs and universal human values. The demolition raised a wave of protests by local public organizations and representatives of ethnic minorities. In particular, leaders of the Russian and Jewish communities of Azerbaijan appealed to the authorities of Azerbaijan to cease this act of effective vandalism. Unfortunately, demolition of the Narimanov Cemetery is not an exceptional case of intolerance towards ethnic minorities living on the territory of present-day Azerbaijan."[33]

Rauf Guseinov states: "The Azerbaijan Republic as a member of Council of Europe, assumed the obligation to adopt "The Law on Ethnic Minorities". However such Law has not

28 Ali Hasanov. "Rights and freedoms of ethnic minorities are protected at the state level in Azerbaijan", November 28, 2012. www.1news.az

29 Gidaiat Orudzhev, Op.cit.

30 Anar Veliev. "Kurds in Azerbaijan: a threat or a game that power plays?" CA&CC Press. Sweden, 2001. www.ca-c.org

31 Valery Novoselsky. "Azerbaijan can teach tolerance to Europe", September 09, 2013. www.vestikavkaza.ru

32 "Second report submitted by Azerbaijan pursuant to article 25, paragraph 2 of the Framework Convention for the protection of national minorities", Strasbourg, January 10, 2007. http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_2nd_SR_Azerbaijan_en.pdf

33 Parliamentary Assembly. Violation of obligations undertaken by Azerbaijan in respect of protection of the rights of national minorities. Doc. 11421. October 5, 2007. http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=11698&Language=EN

been adopted by the Republic yet. Thus, this obligation has not been executed by Azerbaijan."[34]

**Conclusion**

According to Eldar Zeynalov, the state policy towards ethnic minorities in Azerbaijan is fulfilled insufficiently and it does not meet European standards.[35] Elnur Melikov, a human rights activist from Baku, states that norms of International law and of the Constitution are not realized at all. "The authorities in Azerbaijan are ruthless to the people of Azerbaijan and especially to indigenous peoples of Azerbaijan."[36]

Arzu Abdullayeva, the chairwoman of the Helsinki Citizens' Assembly Azerbaijan also stated that Azerbaijan's official policy towards ethnic minorities in Azerbaijan was not consistently implemented and even not implemented at all. In her view, this was not a big problem with ethnic minorities in Azerbaijan generally. The exception was the Armenians because of Karabakh conflict. Despite this rather positive assessment, Abdullayeva argued that problems of ethnic minorities in Azerbaijan could easily explode if there were interested forces in using them. She also said that the problem with minorities' rights was not unique in Azerbaijan, as there were bigger problems with democracy and human rights in general. "When there is democracy in Azerbaijan, ethnic minorities' problems will be soon resolved as well."[37]

Ali Abasov, an academic and civil society activist stated: "There is no such a thing as official policy towards ethnic minorities in Azerbaijan. There is a belief that all people in Azerbaijan are the Azerbaijanis. However, there is no special pressure upon ethnic minorities here either."[38]

The research shows that the only official document which specific concern is ethnic minorities was the decree of the President of the Republic of Azerbaijan "On defence of the rights and liberties of national minorities, small-numbered peoples and ethnic groups living in the Republic of Azerbaijan and on rendering state assistance to the development of their languages and cultures" adopted in 1992 by Abulfaz Elchibey. Although in its reports to International Organizations Azerbaijan often refers to this decree, human rights and civil society activists state that many of its provisions are not realized. According to them, attempts to realize they did not last long.

As for the Constitution, the basic law of the Republic of Azerbaijan, it does not contain any articles devoted to ethnic minorities; it speaks about citizens of Azerbaijan in general, and minorities are mentioned very rarely. The same can be said about other laws of the Republic.

Debates around the implementation of Azerbaijan's legal obligations towards ethnic minorities create the impression of irreconcilable differences. Participants of these debates can be divided into three groups:

1. Those who fully support and propagate official policy. They state that Azerbaijan has no problems whatever with the implementation of its legal obligations towards ethnic minorities.

2. Those who state that Azerbaijan has a problem with its human rights record in general, and this problem concerns everybody, irrespective of their ethnic identity.

3. Those who criticize the authorities and maintain the opinion that the rights of ethnic minorities are violated more than those of other citizens.

According to some human rights activists, the attitude towards indigenous people differs from the attitude towards other ethnic minorities; the state pays attention to cultural development of ethnic minorities selectively. For example, such ethnic minorities as Jews, Russians, generally have no or few complaints. Indigenous peoples, such as Talysh, Dagestanis, face and experience violations of their cultural, language and some other rights. For example, many of Dagestanis in Azerbaijan have no opportunity to learn their native languages at schools. And there is neither a Sunday school nor other provisions for learning their native languages in Baku. Human rights activists are worried about the fact that there is no Faculty of the Dagestanian Languages at any tertiary institution in Azerbaijan, which could train the Dagestanian languages teachers. Ilham Murtuzayev asks: "Who will teach these languages in 10 years when all existing teachers retire?"

However, the recently issued decree "On additional measures for the increased promotion of religious culture, tolerance, the interreligious and cross-cultural dialog in Azerbaijan" shows that the President of the Republic of Azerbaijan, Ilham Aliyev, does not leave ethnic minorities without attention. The question is, again, how this decree is realized.

Though human rights activists state that not all ethnic minorities get support from the government, it should be pointed out that when reconstruction of towns and cities takes places, the state does not distinguish, which population inhabits them, Azerbaijanis or ethnic minorities. All new construction development in Azerbaijan, including the regions where ethnic minorities live compactly, is equally nice and comfortable.

34 "Within three years after the accession, adopt the law on national minorities, supplementing the provisions on non-discrimination contained in the Constitution and the Criminal Code, and replacing the presidential decrees on national minorities", October 21, 2005. http://www.tt-ipd.info

35 Interview with Eldar Zeynalov. Head of Azerbaijan Human Rights Centre. March 29, 2014. Baku. E-mail.

36 Interview with Elnur Melikov. A human rights activist. February 18, 2014. Baku. Skype.

37 Interview with Arzu Abdullyaeva, the chairwoman of the Helsinki Citizens' Assembly Azerbaijan. March 20, 2014. Baku. Skype.

38 Interview with Ali Abasov, an academic and civil society activist. May 15, 2014. Baku. Telephone.

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