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THE DOCTRINE OF MODERN CONSTITUTIONAL LAW OF THE REPUBLIC OF AZERBAIJAN  
AS AN AXIOLOGICAL PHENOMENON IN THE PARADIGM SYSTEM  
OF THE WORLD CONSTITUTIONALISM

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**Abstract.** As the axiological phenomenon in the paradigm of the world constitutionalism, the features of the doctrine of the modern constitutional right of the Republic of Azerbaijan. The aim of the study is to define the scientific foundations of the doctrine of the modern constitutional law of the Republic of Azerbaijan, the scientific-methodical evaluation of its constitutional bases, the study of the theories connected with the constitutional right doctrine and summarizing the results of scientific researches related to their application in practice. The amendments and additions to the Constitution of the Republic of Azerbaijan, as well as other normative legal acts containing constitutional legal norms were investigated. The article discusses the main concepts and some features of constitutional reforms in modern times. The main purpose of the research is the scientific and methodological assessment of modern constitutional reforms, the study of theories related to constitutional reforms and the generalization of the results of scientific research related to their application in practice. There is also a study of amendments and additions to other normative legal acts, including constitutional law. As a result of the research, both local and foreign experience on the subject was studied, and attitudes to the existing problems in this field were expressed. The doctrine of the modern constitutional right of the Azerbaijan Republic has been studied as an axiological phenomenon in the paradigm of the world constitutionalism. Both domestic and international experience on the subject has been studied, and attitude to the current problems has been reported. The current legal literature, a normative legal base has been analyzed; some recommendations and suggestions have been made.

**Keywords:** constitution; constitutional law; legal reform; human and civil rights; rights and freedoms; the law

СОВРЕМЕННАЯ ДОКТРИНА КОНСТИТУЦИОННОГО ПРАВА АЗЕРБАЙДЖАНСКОЙ  
РЕСПУБЛИКИ КАК АКСИОЛОГИЧЕСКИЙ ФЕНОМЕН В СИСТЕМЕ  
ПАРАДИГМЫ МИРОВОГО КОНСТИТУЦИОНАЛИЗМА

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**Аннотация.** В статье исследована доктрина современного конституционного права Азербайджанской Республики как аксиологический феномен в парадигматической системе мирового конституционализма. В контексте теории и практики современного конституционализма изучался как местный, так и зарубежный опыт конституционной реформы и модернизации в Азербайджанской Республике, и было высказано мнение о существующих проблемах в этой области. Также рассмотрены основные понятия и некоторые особенности конституционных реформ в современную эпоху. Основной целью исследования является научно-методическая оценка современных конституционных реформ, изучение теорий, связанных с ними и обобщение результатов научных исследований, связанных с их применением на практике. Также изучены изменения и дополнения в другие нормативные правовые акты, в том числе в конституционное право. Был изучен как местный, так и зарубежный опыт в данной области, и было выражено отношение к существующим проблемам в этой области. Проанализирована существующая юридическая литература, нормативная правовая база, предложены некоторые рекомендации и предложения. Также были отражены рекомендации по совершенствованию правовой базы для процесса модернизации в области конституционного права в Азербайджанской Республике.

**Ключевые слова:** конституция, конституционное право, правовые реформы, права человека и гражданина, права и свобода, закон, законность.

## I. INTRODUCTION

The Constitution of the Republic of Azerbaijan adopted on November 12, 1995, as the first Basic Law of the independent state, was a new impetus for the establishment and development of modern Azerbaijani statehood, as well as the evolution of the constitutional law of the country. Undoubtedly, the Constitution has given a powerful impetus to the development of the entire legal system of the country and the legislation of the Republic of Azerbaijan, as well as created favorable conditions for the development of the constitutional law in the light of new legal values [1].

As in the developed countries of the modern world, the constitutional law in the Republic of Azerbaijan is a leading area of law. Exactly the constitutional right includes all the directions of development of state building without exception. Its provisions are an important ideological support for the development and improvement of the socio-economic, political, legislative, legal and judicial systems of the country. The constitutional law, being the leading legal sphere, forms the basis of theoretical and practical measures taken by all other areas of law to strengthen the statehood in the country.

## II. ANALYSIS OF NATIONAL LEGISLATION

The constitutional law of the Republic of Azerbaijan constitutes the most basic public relations complex which

includes the constitutional structure of the state, the forms and methods of the implementation of state power in the country, the basis of the legal status of the personality, the rule of formation and system of state power and local self-government (including voting right), the principles of their organization and operation.

The constitutional law of the Republic of Azerbaijan regulates the social relations mentioned above and promotes their development. The constitutional law is legally the driver of the doctrine of state administration [2].

It has been acknowledged to refer to the constitutional legal relations or constitutional - political relations as a matter of constitutional law of the Republic of Azerbaijan. These are the basic relationships for society, the state and all other public relations and are distinguished by their importance.

The constitutional law of the Republic of Azerbaijan is the area of law, through which the basic principles of human and civil life are defined in society and the state, and the effective management of public affairs and state affairs is ensured. The following tasks of constitutional law draw attention:

1) Defining the basics of society and state structure, the nature of power in the country, and the status of the personality;

2) The most detailed regulation of the basic mechanisms

of state government and local self-government.

Consequently, much of the social relationships that constitute the subject of constitutional law are related to state establishment, the legal status of the state, personality and the exercise of state power. In addition, one of the main directions is the efficient use and application of the assurance system in the implementation of the aforementioned tasks. It is with the help of the system of assurances that the most important constitutional directions of the state policy find its vitality and reality [3].

The constitutional law of the Republic of Azerbaijan studies constitutional law, in other words, the field of constitutional law. The constitutional law is a field of law that is more closely related to politics than in other legal sciences and is influenced by ideologies that dominate society. It is no coincidence that the constitution of each state is a political and legal document. It also stems from the peculiarities of its subject. The constitutional right defines the directions of political and legal development for all other legal fields in the country [8, p.76]. On the basis of the provisions of the constitutional law, fundamental provisions in all other areas of law are prepared. These principles cannot conflict with the provisions of the constitutional law. Since the constitutional law of the Republic of Azerbaijan is fully independent in the doctrinal level, we think it is advisable to directly concentrate on the notion of law. Law is a very complex and multifaceted social phenomenon, and its analysis is also multifaceted. In the broadest sense, the law is understood as both a means of regulating social relations (as a set of norms) and fundamental science that studies the tool of social regulation. More precisely, the law is regulated and enforced by legislation, and it is studied and taught.

In a broader sense, law is a philosophical category that directly affects human freedom and thought. Law is a combination of norms and rules that, in the context of philosophical problems, define the behavior of people as a means of social regulation, in general, give legal support to the progress of mankind, and in some political regimes slow down progress and bring misery to people. In real life, law acts as a rule of law, which is defined in the necessary documents, enforced by the power of the state, and sanctioned and ideologically regulated by the state. These rules define the factors that determine the freedom and liberty of a person, the existence of a person as a social individual and a member of society.

When the law is positively enforced by the state, it acts as a whole system of rules that interact with each other. These rules affect all spheres of public and state life without exception. Such power is one of the inherent qualities of the law. Otherwise, the law would not be different from other social norms operating in society such as ethical, religious, technical and corporate norms.

The original cell of the law is the norm. The state creates the norm of law, not the law itself for its activities. These norms have accumulated over the years and can create a certain area of law after a certain period of time. Of course, this is a long process [4].

Legal norms are concentrated in the normative acts, which are a form of law, and as a result, the legislative system is created. Characteristics of issues that are relevant also go to the rule of law and regulatory acts. The norms of law differ sharply from one to another because of its structure, act (legal force) and content. As a result, there is a specialization of law in separate relations, and, ultimately, the horizontal relations of the legislative system are formed.

As already noted, the constitutional right has a certain subject and method. As a legal area, the constitutional law regulates the interrelation of personality, society and the state. However, this is a general guideline. More precisely, the constitutional law regulates different group relations. This group of relationships includes:

- Social bases of the state and society;
- Economic bases of the state;
- Political system and legislative system;

- The main socio-political and legal processes in the state and society;

- A number of spiritual and ideological relationships (ethics, religion, education, culture, etc.) [5].

These relationships themselves are further divided into smaller and more precise subgroups. All these relations involve state and state bodies, citizens and their various associations (political parties, public organizations, social and political movements, non-governmental organizations, etc.), and various societies. In the constitutional law, these relations are governed by the following aspects:

- Fundamentals of state management - basic state bodies, principles of their organization, power organization;
- Fundamentals of the legal status of the person - the basic rights and obligations of a person, citizen;
- Local self-government - basics of self-organization of the society;
- People's authority - the relationship between society and the state.

It is important to note that the constitutional law does not regulate these relations in their entirety, in detail. It regulates the core of the relationship, which is especially vital to the individual, society and state, while the rest of the relationship rests with other areas of law. It is only a feature inherent in constitutional law [6].

Constitutional law and its norms thus regulate the basics and basic framework of the most important relations.

It has become clear that the constitutional law of the Republic of Azerbaijan, unlike other legal spheres of the country, regulates only the most basic relations. These relationships are primary and basic compared to other legal relationships. This, in turn, creates certain features that distinguish constitutional law from other areas of law as an independent legal field.

Not all constitutional legislation, but the constitution itself plays a key role in transforming constitutional law into the leading field of law. It should be taken into consideration that constitutional law is a broader concept in comparison with constitutional law. On the other hand, the highest level in the legislative system is not any constitutional act, but the constitution itself as the main law.

A number of aspects of the 1995 Constitution of the country are reflected in the doctrine of constitutional law of the Republic of Azerbaijan. It would be advisable to review them.

First, the new Constitution of the Republic of Azerbaijan is the first major law of a young independent republic. Previous constitutions were adopted during the existence of the USSR and were developed under the influence of a completely different ideology. Therefore, these constitutions of Azerbaijan do not pay enough attention to the local features, national-moral values and customs of the people.

In this regard, the Constitution of 1995 draws attention because of its innovations and in more detail the national-moral values and local characteristics inherent in the Azerbaijani people. First of all, in the preamble of the Constitution, the remarkable provisions are unique to reflect the principles of democracy and humanism. The preamble of the Basic Law states:

"The Azerbaijani people, continuing their centuries-old traditions of statehood, based on the principles reflected in the Constitutional Act" On the State Independence of the Republic of Azerbaijan, "wishing the well-being of the whole community and everyone, desiring to establish justice, freedom and security, recognizing their responsibility to the past, present and future generations, solemnly declaring the following intentions, using sovereign rights:

- To protect the independence, sovereignty and territorial integrity of the Azerbaijani state;
- To guarantee the democratic structure within the Constitution;
- To achieve the stabilized civil society;
- To create a legal, secular state that will ensure the rule of law as an expression of the will of the people;

- To ensure decent living standards in accordance with fair economic and social policies;

- To live in a friendly, peaceful and tranquil environment with all the peoples of the world and adhere to this purpose, adhering to universal values" [6].

Secondly, the Constitution of the Republic of Azerbaijan in 1995 has led to qualitative changes in the social policy of the state, as in all spheres of life of the country and its population. The current Basic Law of the Republic of Azerbaijan eliminates the class approach to different segments of the population. At present, words such as the workers, the peasants and the intelligent class cannot be found in Azerbaijan. There is only one approach: "Citizen of the Republic of Azerbaijan" [1].

Thirdly, the Constitution of the independent Republic of Azerbaijan established the institutions of private property and free enterprise. Undoubtedly, this is a typical provision for an economy based on a free market economy. In addition, the state guarantees the protection of private property and the smooth development of free enterprise. Article 13 of the Constitution of the Republic of Azerbaijan states:

I. Property in the Azerbaijan Republic is inviolable and protected by the state.

II. Property can be state, private and municipal.

III. The property cannot be used against human and civil rights and freedoms, the interests of society and the state, and against the dignity of the individual [1].

Fourth, it is noteworthy that the rights and freedoms of a person and a citizen are recognized and guaranteed not only in accordance with the Constitution of the Republic of Azerbaijan but also in accordance with generally accepted norms and principles of international law. Part II of Article 12 of the Constitution defines the provision of decent living standards as the highest priority of the state [7].

The constitutional law of the Azerbaijan Republic defines the theory of separation of powers as a principle. This principle is already the entry point for the administrative law that regulates the administration, functioning of the executive branch, and defines the scope of the relations and the issues that are governed by administrative law.

The Constitution of the Republic of Azerbaijan directly defines that the heads of local executive authorities are appointed by the President of the Republic of Azerbaijan. Administrative law can no longer define any other procedure for the formation of executive authorities, and hierarchical relationships must be studied and improved within the framework of these provisions.

The constitutional law of the Republic of Azerbaijan considers protection and guarantee of human rights and freedoms one of the priority tasks of the state. Particular emphasis on identity is a striking example of the Constitution of the Republic of Azerbaijan, its democratic and humanistic position.

In addition, the constitutional law considers the protection of the rights and freedoms of an individual and a citizen as an important duty of the public authorities. Thus, pursuant to Article 71 of the Constitution of the Republic of Azerbaijan, it is the duty of the legislative, executive and judicial authorities to maintain and protect human and civil rights and freedoms. This provision provides alternative and effective ways to protect human rights and freedoms in the activities of the executive power [8].

The constitutional law of the Republic of Azerbaijan consists of a real set of legal norms as an independent area of law. As in all other areas of law, the constitutional law has some similarities with the norms of other legal fields. However, the constitutional law differs in some original ways. These are some of the areas that are not covered by other legal norms.

In general, there are the following features and types of constitutional legal norms of the Republic of Azerbaijan:

1) Constitutional law norms are constitutional (i.e. they are basically the only norms stated in the constitution). The constitutional norms determine the basis of the sphere or

the issue in which it applies. The constitution establishes the basis for any matter governed by the law, defines its general parameters and limits. All other norms act according to the guidelines of these norms and regulate other issues. The constitutive norms regulate the relations between the people and the state, determine the fundamental rights of the individual along with the system of state bodies and the legislative system. The constitutive norms also include requirements for other acts in the legislative system;

2) Constitutional norms do not usually have a traditional "three-element structure". As it is known, the legal norms by their structure consist of the following:

a) Disposition of norm;

b) Hypothesis of norm;

c) Sanction of norm [6, p. 56].

Not all norms of the Constitution of the Republic of Azerbaijan contain these elements. Thus, even if some of the norms contain only disposition and hypothesis, but not sanctions. However, there are norms where all three elements are present. There are norms that their elements cannot be distinguished. For example, Article 1 of the Constitution states that "the sole source of state power in the Republic of Azerbaijan is the Azerbaijani people". It is difficult to say whether this is a disposition or hypothesis of the norm. Sometimes it is possible to distinguish that the constitutional legal norms provided by the current legislation are three-dimensional in terms of the structure;

3) The constitutional norms are definitive and defining principles. A certain part of the constitutional law sets out the principles concerning a particular issue. Those principles apply to all current legislation, and all legal norms must be adhered to with strict adherence to these principles. For example, Article 149 of the Constitution states that "Regulatory legal acts must be based on law and justice (in the same way as equal interests). Regardless of the area, all other legal provisions must comply with these.

Norms - in many cases require the submission of numerous legislative acts and the implementation of large-scale measures of the state. For example, the election principles enshrined in Article 83 of the Constitution must be implemented not only by law but also by a number of organizational measures;

4) Constitutional norms are often the norm with a specific mechanism of implementation. Some of the constitutional legal norms, as in other areas of law, are not directly enforced in the specific law. The implementation of such norms requires extensive multidisciplinary action. Some of these norms are directly related to the state structure and the level of democracy in the country. For example, Article 83 of the Constitution provides that "no one has the right to represent the people, to speak on behalf of the people, or to act on behalf of the people, except the authorized representatives of the people" [1].

Thus, a representative body should be established to enforce this norm, its powers must be defined, cases in which it is in contravention of the law must be established by criminal law, a theory of representation must be developed and implemented in practice;

5) The constitutional norms are the norms which differ according to the source of their identification. The main constitutional legal norms are reflected in the Supreme Law of the Republic of Azerbaijan - the Constitution. These norms are more important than other constitutional law norms because the most promising and basic issues are governed by these norms and are directly based on the will of the people;

6) The constitutional norms are the norms which differ in their legal force. The highest legal standards are enshrined in the constitution. Then norms come which are prescribed by law. The norms stipulated by the legal acts cannot contradict the laws. Such acts are either changed or amended, or when desired results are not achieved, those acts are revoked;

7) The constitutional legal norms are subdivided into authoritative, compulsory, forbidding norms according to the nature of the instructions given therein. As the name implies,



subordinate norms are the norms that allow the subject of law to take certain actions (inaction). For example, Articles 94, 95 and 109 of the Constitution are the authority's norm. Obligatory norms define an active duty as an obligation for a subject to carry out a particular act of conduct. The subject must enforce the rule set in the norm. The constitutionally mandated duties of citizens are binding norms. Prohibitive norms encourage the subject not to do anything. For example, Article 6 of the Constitution prohibits the exercise of power by the authorities;

8) The constitutional norms are also different from the rules for giving the subject the freedom to act. On this basis, norms are divided into dispositive and imperative norms. Imperative norms do not give the subject any independence in relation to the behavior prescribed by the norm, and the subject does not have the opportunity to choose an additional behavioral option. For example, Article 145 of Part III of the Constitution directly states that "local taxes and payments decisions are made by a two-thirds majority of municipal members" [5, p. 98]. This norm clearly defines the rules for municipalities to make local payments and tax decisions. The decision of the municipality on any grounds related to the local taxes and payments for exclusion and consideration of these norms is already considered illegal;

9) The constitutional legal norms are also divided into different groups according to their function in the mechanism of legal regulation. The norms are hereby subdivided into material law norms and procedural norms. Material legal norms directly determine the movement itself and its content. The procedural norms, on the contrary, determine the procedure for the implementation of that action or any other provision in the norm. The freedom of assembly as defined in Article 49 of the Constitution of the Republic of Azerbaijan determines the content of human rights [4]. The procedure for exercising this right is provided by a special law. In order to hold a rally or a march, the relevant executive authority must first select appropriate place. This is already a procedural norm.

The constitutional legal norms unite in a particular group for their own relations. The combination of norms in such a group is called the Law Institute. However, the mechanical union of legal norms does not create and cannot create an institution of law. To do this, these legal norms must unite similar, close relationships. These norms overlap with their subject matter in terms of regulatory features.

As it is known, Parliament is formed on the basis of the majority system as the single-legislative body in the Republic of Azerbaijan [4, p.102]. Of course, this does not mean that the law of the Republic of Azerbaijan studies institutions and problems that are not reflected in specific constitutional legislation. On the contrary, such issues as legal institutions, which can be applied in a comparative manner and in the perspective of improving the state system in the Republic of Azerbaijan, are studied by the scientific law of the Constitutional law of the Republic of Azerbaijan [3].

The constitutional law institutions differ from each other in terms of the relationships that they have created, in the nature of their implementation [9]. While some institutions are implemented at the level of the entire legal system and various legislative acts, some establish specific legal relationships. The main constitutional law institutes include the basics of the constitutional structure, the basics of the legal status of the identity, the management of state power, the management of local self-government and the legal system.

Each constitutional law institute is closely linked with the other. Separating or isolating them can only cause negative consequences. Sometimes one principle is reflected in several constitutional law institutes. For example, the principle of separation of powers finds its expression in the institution of the foundations of the constitutional system by defining a compact basis. At the same time, this principle has already been developed and clarified in the form of government relations in the form of relations between state

bodies.

The constitutional law institutes refer to different criterias when distinguishing them from others. This usually applies to the following criterias:

- Legal implementation mechanism of the Constitutional Law Institute;
- Subjects involved in legal relations;
- Functions implemented by the Constitutional Law Institute;
- The peculiarities of the norms of the constitutional law institute and etc.

Constitutional law institutions are dynamic. These institutions are constantly evolving and undergoing certain changes. The degree of their reflection in the legislation and in separate legal acts is not the same. While some institutions are fully represented in the constitution (the foundations of the constitutional system), others are only partially reflected (local self-government). A number of institutions (for example, the basics of the legal status of the identity) are regulated mainly by the law, and some, on the contrary, is implemented by means of more legal acts. An example of this is the institution of local executive bodies. The dynamics of development of the main institutions of constitutional law are not the same.

As every area of Azerbaijani law, the constitutional law is exercised through social norms governed by its norms. It is through these norms that mutual rights and obligations of the subjects of legal relations are regulated. Consequently, legal relations must be treated from the aspect of its structure. Each legal relationship, in its structure, has the following parts:

- The object of legal relationship;
- Subject of legal relationship;
- Content of legal relationship [6, p. 54].

The content of the legal relationship is usually comprehended as the right and obligation of parties of legal relationship. Each legal relationship arises from the combination of the above sections. Regardless of the area of legal relationship, the contents of the relationship also differ from each other. For example, civil law relationships, as a rule, to some degree or other tangible objects along with administrative legal relations mainly involve intangible assets - human activities or the behavior of a particular individual.

In contrast, the object of criminal law refers to the relationship between the health of human being and inviolability of his or her health. The constitutional legal relationship, as well as the other legal fields, has certain characteristics arising from the field [10]. The constitution differs from the object of legal relationships in the breadth and absence of concessions. This set of relationships includes a wide range of issues that are reflected in the daily activities of people, from the specific set of measures required for the management and functioning of government agencies.

The rights and duties of a person and a citizen are also the object of constitutional legal relations. These rights and responsibilities constitute not only the content of the constitutional law, the behavior of legal entities in relation to the object as well as act as an object, get effected by the subject on the account of other rights and responsibilities

The content of the constitutional legal relationship refers to the mutual rights and duties of the parties. These rights and duties are closely intertwined. It is traditionally accepted as such. The duty of one of the parties is consistent with any other party's rights. For example, the right of a person to file a complaint is the duty of a state body to review and respond to a complaint within the timeframe established by law, or, on the contrary, a citizen's right to file a tax on a timely basis.

The subjects of constitutional legal relations also have subjective rights and duties. These rights and duties mean the ability of individuals to behave in relation to a particular object and always have certain legal consequences. For example, the withdrawal of citizenship of the Republic of Azerbaijan causes the termination of his rights and duties of citizenship.

The rights and duties of the subjects of the constitutional legal relations are not always so clear and concrete as in other relations. For example, many rights and duties arising from citizenship are reflected in the entire legal system. These are constantly evolving and undergoing change. It is not possible to clearly define the rights and duties of the subjects.

It should be noted that legal relations arise, change and terminate on the basis of certain legal facts. Legal facts, however, cover a fairly wide spectrum of constitutional law. This applies to many categories, from concrete cases to abstract concepts.

The doctrine of constitutional law, which has taken its history from the ancient times, refers to a guarantee of human rights and freedoms through their democratic means, establishment of higher authorities, balanced and mutual operation of their activities along with the fundamental basis in the practice of power of all countries of the world in terms of the impartial functioning of the state mechanism, and this importance is still manifesting itself today. Thus, the doctrine of constitutional law acts as a prerequisite for the rule of law.

Nowadays the doctrine of constitutional law is developing in most countries of the world, including the Republic of Azerbaijan. The doctrine of the constitutional law emerges in societies where elements of civil society exist and, in this case, the functional division and specialization of power. Realization of the organizational and legal potential of the general principle of power in the society allows only defining the functions of public administration and to create and develop a system of state bodies that constitutes a single complex of state power.

The doctrine of the constitutional law of the Republic of Azerbaijan is a clear indication of the current state of the country, including the development prospects for the near future. This doctrine is remarkable in its commitment to democratic and humanistic universal values. The goal here is to provide a decent standard of living for the people of Azerbaijan, to address the socio-economic problems and to implement the main directions of the state's domestic and foreign policy.

### III. CONSLUSION

The current socio-economic and political situation in the Republic of Azerbaijan once again proves that our country is at the highest stage of development, and this development is characterized by intensive progress. With its achievements as a multicultural and tolerant country, the Republic of Azerbaijan can be an example for some of the world's most developed countries. Establishing a legal state in accordance with the regulations of the era of globalization, Azerbaijan is one of the leading countries, and even the first leading country practicing modern integration processes.

Political stability and sustainable development in Azerbaijan have made Azerbaijan one of the most advanced countries in the world. The successes achieved in all other scientific and cultural fields in Azerbaijan indicate that the country's future progress will be even higher. Undoubtedly, the principles contained in the Constitution of the Republic of Azerbaijan in this way will be a valid aid to the successful realization of these perspectives.

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