CHAPTER – IV

EVOLUTION OF CONSTITUTIONAL DEMOCRACY IN AZERBAIJAN 1991-2005
Constitutional Democracy indicates a political system which is based on the principles of liberal democracy. These principles are guaranteed by certain set of rules and institutions. These rules are compiled in the form of a constitution. The essence of constitutional democracy is that the constitution guides the manner in which these principles are to be implemented in future. Besides, it also puts some limitations on the government and prevents it from working against these fundamental principles. These principles or values vary country wise. However, there is a broad consensus over the constituencies of constitutional democracy, that includes fundamental rights of the people, freedom of expression, rule of law, a multi party system, a vibrant civil society, independent media and free and fair elections and so forth. Consolidation of these procedures and principles in any society is a time taking process as every society works in its own milieu. Besides, this is an evolutionary process which might also face certain setbacks in the due course.

This task has been more challenging in case of post-Soviet countries as they have lived in an authoritarian-totalitarian system for more than seven decades.

The reinforcing processes of state-building and political consolidation started in Azerbaijan in 1991. In the initial years of independence, central authority had been weakened by a series of developments from both within and from the outside that had largely taken away its ability to rule.

The Emergence of Democratic Leadership

In November, 1989 Moscow dissolved its special Karabakh commission, while maintaining its 6,000 troops in the Nagorno-Karabakh enclave. This angered Armenia, which expelled its ethnic Azeris. Their arrival in Baku led to widespread anti-Armenian riots in January 1990. Popular Front leaders demanded the government’s resignation. Moscow rushed its troops to Baku to quell the uprising, during which 131 Azeris were killed. The discredited Communist Party’s First Secretary, Abdul Rahman Vazirov, gave way to Ayaz Mutalibov, chairman of the council of ministers. Mutalibov resigned after two years, but only after according the Popular Front party parity with the neo-Communists. In September 1990, the Popular Front boycotted the parliamentary poll
because it was held under a state of emergency imposed in January; the Communist Party won 91 per cent of the 360 seats.

Shortly after the failed August 1991 coup attempt in Moscow, the Azeri parliament declared Azerbaijan independent. One week later, at Mutalibov’s initiative, the Communist Party dissolved itself permanently. The Popular Front boycotted the new presidential election because the state of emergency was still in force. Mutalibov, the sole candidate, won 98 per cent of the vote on a 70 per cent turnout. This gave him confidence to ignore the strong anti-Moscow feelings among Azeris, due to the January 1990 events, and join the Russia-led Commonwealth of Independent State (CIS) on December 21 1991 (Swietochowski 1994).

With the break-up of the Soviet Union ten days later, the old Soviet military units posted in Azerbaijan, Karabakh, and Armenia became CIS units. As they withdrew from Karabakh in February 1992, fighting between the Azeris and Armenians escalated. When the Azeris lost Karabakh, the Popular Front rallied popular opinion. Mutalibov dissolved parliament and appointed a 50-member National Council, divided equally between neo-communist and the Popular Front. When the Azeris military performance did not improve; the National Council became embroiled in an acrimonious debate. Mutalibov resigned in March, and the chairman of the National Council became acting president. Moscow disapproved of the rise of the Popular Front at Mutalibov’s expense. With covert backing from Moscow, Mutalibov regained power on May 12 and declared his intention to take Azerbaijan into the Collective Defense Treaty to be signed at the CIS summit three days later. The Popular Front organized demonstrations in Baku. Mutalibov, who had not foreseen popular resistance, fled to Moscow and Isa Gambrov, a Popular Front supporter, became acting president. Now Moscow decided to back fully the Armenians in the Karabakh conflict. Using CIS troops stationed in Armenia and Azerbaijan, it diverted arms and military expertise to Armenia through the Russian-dominated units. Soon the Armenians seized Lachin, halfway in the seven-mile corridor connecting Karabakh with Armenia.

1 For details see, Human Rights Watch, Azerbaijan: Seven Years of Conflict in Nagorno-Karabakh (New York: Human Rights Watch, 1994)
Abulfaz Elchibey campaigned for the Azeri presidency and pledged to liberate Karabakh in six months. He promised democracy, human rights, and new parliamentary and local elections. Favouring defence alliances with Turkey and the US, he pledged to withdraw Azerbaijan from the CIS. He criticized Iran, and vowed to keep the state and religion separate (Hunter 1994). Elchibey won 57 per cent of the vote. Hyder Aliyev, a 69-year-old Azeri politician who was on the Soviet Politburo from 1976-1987, had the potential of winning the election. But he was excluded because of a constitutional provision barring candidates aged 65-plus.

Elchibey, an academic, lasted a year. He showed a lack of administrative, political, and diplomatic skills. He also failed to grasp the geopolitics of Azerbaijan, trapped as it is between powerful neighbours to the north (Russia) and South (Iran) without whose cooperation it cannot export oil and its long-time foe to the west (Armenia). He tried to reorient Azerbaijan in a way that overlooked not only its history since 1917, but also unchanging geostrategic realities. He turned his back on Moscow by trying to integrate his country into the orbit of America and Turkey. He remained committed to pan-Turkism, the political unity of all Turkic lands from the Balkans to China, ignoring the division of the trans-continental Turkic lands by the Zangezur region, allocated to Armenia in 1923.

In October, Elchibey withdrew Azerbaijan from the CIS, destroying the geographical continuity of the organisation, which had since its inception lacked Georgia. Incensed, Moscow resolved to strengthen Armenia. But, inspired by Elchibey, the newly-formed Azeri army regained a quarter of Karabakh by the end of 1992. The economic price, however, proved unbearable, with the military consuming one-third of the national budget. In the first quarter of 1993, aided by Moscow, the Armenians recovered the lost territory and established a second corridor between Karabakh and Armenia. By early June, thousands of Azeri refugees had gathered in Ganja, the base of Colonel Suret Huseinov. Huseinov had earlier been blamed by Elchibey for the military setbacks and was dismissed. On June 4, Elchibey ordered an attack on his forces. Huseinov repulsed the assault and, with the tacit endorsement of Moscow, advanced on Baku (Dawisha and

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To avoid catastrophic internecine violence, Gambrov resigned as the National Council chairman to make way for Aliyev, who was backed by all 25 neo-Communists and nine Popular Front members. Having failed to secure the support of the military hierarchy, Elchibey fled Baku and the National Council gave presidential powers to Aliyev. The political turmoil in Azerbaijan provided fresh opportunity for Armenians on the battlefield. It was not until early September 1993 that, during his visit to the Kremlin, Aliyev was able to establish working relations with his former politburo colleague Russian President Boris Yeltsin.

The price was the Azeri National Council’s decision to join not only the CIS but also its Collective Defense Treaty. It was against this background that a presidential election was held on October 3, 1993. With the Popular Front boycotting the poll, Aliyev secured 99 per cent of the vote with the official claim of 90 per cent voter turnout. If Aliyev estimated that by joining the CIS and the Collective Defense Treaty, and additionally signing a bilateral security agreement with Moscow, he had won Russia’s neutrality in the Karabakh conflict, he was mistaken. When Armenians seized more Azeri territory in later October, raising the total to 20 per cent of Azerbaijan under Armenian control and four times the area of Karabakh, Aliyev appealed to Moscow for help, but in vain. This led Aliyev to devise a complex strategy. To consolidate his power at home he decided to strengthen the Azeri military with foreign expertise and to resist Moscow’s demand to post its troops along the front line as peacekeepers. He also kept the diplomatic door open. During the CIS summit in Moscow in September 1994, he met Armenian President Levon Ter-Petrossian, who refused to vacate the Lachin corridor under any circumstances. To consolidate his political base Aliyev created a new movement, the Party of New Azerbaijan (PONA).

To placate Moscow, he instructed the State Oil Company of Azerbaijan to allocate 10 per cent of the shares of the Azerbaijan International Operating Consortium (AIOC) to Lukoil, a Russian company. In the November 1995 parliamentary election, Aliyev’s PONA captured more than three-quarters of the 124 seats³. The poll, which

coincided with a referendum on the new constitution, was free, but hardly fair, as the state-controlled media gave immense publicity to PONA (Hiro 1995).

Internally, intensifying ethnic tensions, lawlessness, hyperinflation, and lack of a predictable pattern of civil-military relations stunted the birth of indigenous political institutions, which were themselves at the mercy of competing, ambitious politicians. Externally, the collapse of the Soviet Union and Russia's subsequent role as a regional hegemon, Armenia's occupation of the Nagorno-Karabakh district, and rivalries between Iran, Turkey, and Russia only intensified the chaos that prevailed inside Azerbaijan.

Emergence of Hyder Aliyev and beginning of democracy building

Among other things, this turmoil facilitated the rise of a number of ambitious individuals, one of whom, Hyder Aliyev, was able to take advantage of the unfolding events and steadily rose to the pinnacle of power. Once elected as President, Aliyev proved to be a politician with a knack for administration. He systematically purged his opponents by sending them to prison or to exile in Moscow, drafted a Constitution with a strong presidency, and appointed members of his inner circle. After the chaos and political instability of early years after independence, things started taking a definite shape by the year 1995 when a new constitution was adopted and elections were held under the supervision of Organisation for Security and Cooperation in Europe (OSCE).

In this background of such far-reaching changes that the present chapter attempts to take a look at the evolution of constitutional democracy in Azerbaijan. The idea here is to take a stock of the progress of Azerbaijan on the front of emergence of democratic Leadership in a multi-party system, establishment of Constitutional set up and holding of election in a liberal democratic framework. The fundamental parameter of the health of a democracy includes Civil Society, Media and the system of Local Self Government. Accordingly, this chapter has been divided into three sections each dealing with one pillar of a nascent state struggling to put both the nation and its institutions in order.

Azerbaijan gained its independence under the influence of pro- Moscow Communist leadership that initially remained in power. However, popular mass demonstrations in Baku and elsewhere led to the ouster of the Government. The Azerbaijan Popular Front (APF), under the leadership of Abulfaz Elcibey gained power and was elected President
on June, 1992. Elcibey’s government was widely credited with having laid the basis for democracy in the country.

However, the government’s attempts to institute democratic and economic reforms were undermined due to the war with Armenia over Nagorno-Karabakh. The defeats at the hand of Armenia and their Russian supporters led to the coup in Azerbaijan in June, 1993 by Colonel Surat Huseinov. President Elcibey fled Baku and surrendered his position to former KGB Chief and USSR Politburo Member Heydar Aliiev, who proclaimed himself as President of Azerbaijan in June, 1993 with Huseinov as Prime Minister (Kechichian 1995).

In elections of 1993, Aliiev was confirmed as President by officially winning 99.8% of the votes. In March, 1994, he concluded cease-fire with Armenia and consolidated his power and thereby, effectively halted the Azerbaijani process of democratization that begun in 1992. However, Huseinov was removed after attempting another coup against Aliiev in 1994.

The Establishment of Constitutional Democracy

One of the most important steps toward institutionalising political power was taken in the late 1995 with the drafting of a new constitution. Until then, the 1978 Constitution had remained in effect, except as amended by the Independence Act of October 18, 1991.

A Constitutional Commission was convened by President Aliyev in June 1995 that worked on a draft constitution. The Commission released its first draft to the public on October 15 for fifteen days of national discussion, ahead of a popular referendum on the document set for November 12, 1995. Though the document’s final version was supposed to be presented to the public ten days before the referendum, i.e. November 2, but was only released on November 8. The Constitution was overwhelmingly approved four days later and came into force on November 27, 1995. People were given no time to read and express their viewpoints.

Features of the new constitution

The constitution established Azerbaijan as a democratic, legal, secular and unitary Republic. The constitution of the Azerbaijan Republic is the basic foundation of the Legislative system in the Republic and is the highest legal force in the territory of
Azerbaijan. The Azerbaijani law system is based on civil law system. The constitution created the system of Presidential Republic with the separation of powers among the legislative, executive and judicial branches. The constitution implicitly provides for the primacy of international human rights over the appropriate constitutional provisions.

The Constitution in Article 1 stipulates the supremacy of the people and states that “the people of Azerbaijan shall be sole source of state power”. The people can exercise their power through referendum, which is the only method of amending or revising the Constitution (Article 3). Other Articles, for example 4 and 6, provide strong guarantees against the absence of representative government and “usurpation of power” respectively, and Chapter 3, entitled “Major Rights, Freedoms and Responsibilities”, enshrines a whole host of other liberties. At the same time, the Constitution provides for a strong executive with extensive powers.

The President is the Commander-in-Chief of the armed forces (Article 9) and can appoint and dismiss the Prime Minister and members of his cabinet, appoint judges, and appoint or remove the Prosecutor General (Article 109). The President also has the power to declare martial law or a state of emergency (Articles 111 and 112) and to set up “special guard services” (Article 109). The president has “the right of immunity” and his or her “honour and dignity” is protected by law (Article 106). If guilty of a “grave crime”, the President can be removed from office by a vote of a majority of ninety-five deputies in the parliament (out of a total of 125), and the removal resolution must be ratified by the Constitutional Court.⁴ Chapter VI of the Constitution gives overriding executive powers to the post of the President. Article 99 says that the Executive power in the Azerbaijan Republic belongs to the President of the Azerbaijan Republic. Article 100 speaks about the requirements to candidates to the post of the President of the Azerbaijan Republic.

Article 95, lists a number of “issues solved by the Milli Mejlis “upon the representation of the President”; ratification of military doctrine and the state budget, appointment of judges to the Constitutional and Supreme Courts, and removing judges, to name a few. Nevertheless, the legislature, whose members serve five-year terms, can also

initiate impeachment proceedings against the President, upon the recommendation of the Constitutional Court, and its members have personal immunity while in office, unless “caught red-handed” (Article 90). The Constitution also enshrines the principles of judicial independence and immunity (Articles 127 and 128), and makes provisions for a nine-judge Constitutional Court to ensure that the actions of the various bodies of the state conform with the Constitution (Article 130).

Not only provisions for institutions but also rights and liberties of citizens are important components of the constitutional framework of a democracy without which no sustainable political developments can take place. Azerbaijani constitution makes elaborate provisions towards basic rights, liberties, and responsibilities of the citizens. Chapter III extensively discusses and enumerates the basic rights and liberties of a person and citizen.

While the Constitution is tremendously important in outlining the basic institutions of the state and their functions, its practical implementation and interpretation depends overwhelmingly on the actual balance of power among the various institutions of the state, a balance that had already begun to emerge in favour of the presidency at the time the document was drafted. To begin with, the President himself presided over the Commission charged with drafting the Constitution, and many of the articles related to the powers of the executive (99 to 124) seem to reflect Aliyev’s own preferences. At the same time, in addition to the powers officially granted to him by the Constitution, by 1995 the President had already emerged as the dominant power-broker inside the country. (Hunter 1997).

With the overall framework of the state and his own actions and powers legitimized by the Constitution, he now set out to ensure that those institutions on which the state relied for power were not only pliant but, indeed, supportive of his own hold on power. The armed forces, the bureaucracy, and the legislature were the most important of such institutions.

Separation of Power

State power in the Azerbaijan Republic is based on the principle of Separation of Power. The executive power belongs to the President of the Azerbaijan Republic. The legislative powers are exercised by Milli Majlis of the Azerbaijan Republic.
courts of the Azerbaijan Republic exercises judicial power. Though legislative, executive and judicial power interacts, yet each is independent within the limit of their authority.

**The legislative Power**

Legislative power in the Azerbaijan Republic is exercised by Milli Majlis (Parliament). Majlis consists of 125 Deputies, who are elected on the basis of majority voting system and general, equal and direct elections by way of free, individual and secret voting. Term of each calling of Milli Majlis is five years. Any citizen not younger than 25 years of age may be elected the deputy. However it is worth noting that accuracy of result of election is checked and approved by Constitutional Court of Azerbaijan. Elections, the court system, civil law, legal regime of state and determining legislation affecting human and civil rights and freedom are some of the responsibilities of Milli Majlis.

**The Executive Power**

Executive power in the Azerbaijan Republic belongs to the President who is elected for five years term by way of general, direct and equal elections with free, personal and secret ballot. He is elected by the majority of more than half of votes. The constitution stipulates several conditions for the President, including age not younger than thirty five years, living permanently on the territory for a period of longer than ten years, possession of voting rights, no previous conviction, having no liabilities in other states, non possession of double citizenship. For the implementation of executive powers the President establishes Cabinet of Ministers, which is the highest body of executive power of the President. The Cabinet, includes Prime Minister, his Deputies, Ministers and Heads of other central bodies. The procedure of activity of Cabinet of Ministers is defined by the President. The government (Cabinet of Minister) is subordinate to the president, who is appointed by the President with the consent of Milli Majlis.

**The Judicial Power:**

Azerbaijan has a complex three level judicial system that includes Court of General Jurisdiction, Economic Courts, Military Courts and Court for Heavy Crime. Supreme Court is the highest judicial power in the country in civil, criminal,
administrative and other cases that are referred to it by the general courts. The Judges of the Court are nominated by the President from the candidates who had successfully passed two tier professional examination and they are approved by the Milli Majlis. The constitution establishes certain principles of justice that includes equality before the law, fair implementation of justice by the independent court, principle of presumption of innocence. In recent years, a lot of measures and arrangements with the aim of bringing the judicial system of Azerbaijan in conformity with international standards and the requirements of the European Convention on Human Rights and other European Instruments have been undertaken.

Consolidation of Presidency and Democracy under Aliyev

The attempted coups and the ensuing purges gave President Aliyev the perfect opportunity to ensure the dominance of civilian state institutions over the military. This process had already gone underway with the conclusion of the cease-fire agreement with Armenia earlier, thus pushing the armed forces further out of the limelight. The President, in the meanwhile, made his own appointments to the armed forces, and, in repeated statements, cautioned that "the army must always remain outside politics".

Aliyev instead turned much of his attention to party-building and to staffing the bureaucracy with trusted friends and associates. Especially important in this regard has been the New Azerbaijan Party (NAP), an organisation Aliyev established not long before coming to power in 1993. By this time, the Popular Front (PF) had already established itself as a viable and popular political organisation, although this popularity was declining due to the chronic political instability and territorial losses that marked Elchibey's term in office. From his home region of Nakhichevan, where he commanded respect and popularity, Aliyev started attracting into his own organisation other well-known personalities who were either not members of the PF or were disenchanted with it (Aliyeva 1995).

The Popular Front's steady demise only enhanced the popularity of the NAP. Before long, following the 1993 presidential elections, it became obvious that

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membership in the NAP was an important factor in administrative appointments and promotions. The party's control over the highest echelons of the state became near-complete following the legislative elections of November 1995 and February 1996, when its own members won 67 of the 125 seats, and almost all of the other seats went to smaller parties or individuals supportive of its platform. The election law also worked to the NAP's advantage, as it allowed 15% of deputies (19 seats) to retain their jobs, including government posts, while running for parliament. Some of these same officials were also put in charge of overseeing the fairness of the elections.

By the late 1990s, few of the bureaucratic heads were not party members. President Aliyev's personal dominance within the party grew correspondingly, reaching a climax in December 1999, when in internal elections during the Party's Congress the President's son, Ilham, was elected as one of its five Vice Presidents. President Aliyev actively sought to cultivate an image of indispensability to the political system. In fact, while at one level he cultivated an image of indispensability, at another level he actually made himself central to the continued operations of the state.

The President's portraits adorn each inch of the land, showing him in a variety of poses. There is another dimension to the President's dominance of the system that goes beyond pictures and symbols. The President actually does dominate the political system (Kechichian 1995).

As the preceding analysis demonstrates, political consolidation has taken place largely under the personal guidance and control of Hyder Aliyev. Aliyev initiated, and largely succeeded in, the process of state-building. From 1993, when he first came to power, to the end of his first term in office in 1998, Azerbaijan was transformed from

7 The Popular Front won 4 seats. Four other opposition parties were barred from participating in the elections, and many independent candidates were disqualified. A number of other similar parties either boycotted the elections or did not have enough of a viable support base to fill candidates. At last count, there were more than 30 political parties in existence in Azerbaijan, though fewer than a handful actually qualify as such.


9 Ilham Aliyev has started a website for himself in which he rates his own popularity as compared with that of other notable Azeris, excluding, of course, his father. The address of this website is http://www.ilham-aliyev.com
what Robert Jackson calls a 'quasi-state' into a full-blown, viable political entity, surpassing most expectations, including the World Bank's (Jackson 1992).

Much of the credit for this transformation goes to none other than Aliyev himself, who in the process deftly consolidated his own hold on power. The President achieved this by first ending the war with Armenia (although not Armenia's occupation of Nagorno-Karabakh). With the help of the World Bank, he then gave some order to the economy by bringing the spiraling inflation under control and stabilizing prices. He also neutralized the army and purged it of elements with their own political agendas. With the pre-conditions for political consolidation thus taken care of the President then set out to institutionalise his rule both constitutionally and systemically through the New Azerbaijan Party and the bureaucracy. The Political process and the system that have emerged as a result have certain particular characteristics. Politics, for example, has become largely non-ideological, revolving instead around personality contests and the real meaning of democracy (Jackson 1992).

Theoretically, the Constitution outlines a system that is democratic, republican, has checks and balances, and a strong executive who is, nevertheless, ultimately accountable to the Constitutional Court and the legislature. In practice, however, the executive's relative constitutional strengths in relation to other branches of the state have turned into the presidency's domination of the whole system. The judiciary's independence is undermined by the President's ability to remove judges and the Prosecutor General from office. The parliament, already dominated by the President's party and other "independent" supporters, embarks on few politically contentious initiatives of its own and often simply passes the bills proposed by the executive after a perfunctory debate.

The opposition, meanwhile, has been all but shut out of the political process. Despite the Popular Front's marginal representation in the parliament, few Azeris today openly declare their membership in or support for the party, reluctant to risk their next job promotion or appointment. But political considerations aside, the declining popularity of the opposition is not a simple function of fear of the risks involved.

Aliyev's administration has indeed had considerable success in a number of areas, especially in putting an end to the lawlessness of the early 1990s and in restoring law and
order. From 1994 to 1999, for example, some 16,000 of the weapons that had fallen into private hands were turned in to official agencies. The Popular Front can hardly question the government’s track record on crime prevention, in the same way as it cannot criticize Aliyev’s relative successes on the economic front and in relation to the Karabakh conflict.

Elections and Democracy Building in Azerbaijan

Like all institutional bodies (legislative, executive, judiciary), political parties are one of the major pillar of democracy. Political parties are vital link between the state and civil society, between institutions of government and various groups and interest that operate within society. Burke said that “party is a body of men united, for promoting by their joint endeavours, the national interest upon some particular principle upon which they are all agreed” (Heywood 2004).

The Multi-Party System

In Azerbaijan, political parties can be divided into two groups, one is the part of the governing bloc and other is the opposition. The government bloc includes the New Azerbaijan Party (NAP) and a number of smaller formations.

In turn, the NAP is wracked by internal divisions between the old gourds, made up of experienced cadres who served under Haidar Aliev during the communist era, and reformists, who are often Western-trained and grouped around Ilham Aliev, the current president. This modernist wing emerged triumphant at the NAPs 1999 Party Congress and consolidated its hold on the party (John Ishiyama 2008).

The fragmented Azerbaijani opposition has its root in the Populer Front government of the early years of Independence. Parties are differentiated more by personality tan by ideology. Despite the oficial existence of many parties, perhaps only four are truly relevant.

The opposition parties with the largest degree of popular support are Musavat, the Azerbaijani National Independence Party (ANIP), the Democratic Party, and the Populer Front. Musavat takes its name from Azerbaijan’s first political party, founded in 1911, which ruled the first Azerbaijani republic between 1918 and 1920. The party benefits
from a relatively strong nucleus of activists and has placed itself in radical opposition to the regime. Musavat produces the country’s most popular political newspaper, Yeni Musavat, and claims to be the largest opposition party.

The Azerbaijan Popular Front Party (APFP) is the direct successor to the party of Elcibey. However, the party has been plagued by internal conflicts between the “classics,” led by Elcibey himself, and the “reformers,” led by the party’s deputy chairman Ali Kerimov. After Elcibey’s death in August 2000, the party split into two seemingly irreconcilable wings, both claiming the party’s mantle. The Kerimov wing has a larger following among the party’s rank and file and created the APFP-reformist group. This wing defines itself as “centrist,” rejects neoliberal economic ideas, and promotes a role for the state in the economy. Later, Kerimov, in the spring of 2005, helped spearhead a united opposition Azadliq (freedom), bloc of three parties (along with Musavat and the Democratic Party) that contested the November 2005 parliamentary elections (Ishiyama 2008).

ANIP is led by Etibar Memodev, and favors a minimal economic role for the state and the privatization of the economy. Unlike Musavat and the Popular Front, ANIP has shown a willingness to occasionally cooperate with the NAP. Finally, the Democratic Party is led by Rasul Guliev, a former speaker of parliament with a close political association with Haydar Aliyev, who was exiled to the United States after having been indicted for corruption. The party is run by his loyal deputy, Sardar Jelalaglu, but its existence is entirely dependent on Guliev. The Democratic Party is a splinter group, not of the Popular Front, but of the Aliyev government.

Azerbaijan’s 12 November 1995, parliamentary election and constitutional referendum represented an attempt to create a permanent legislative body within the framework of a new fundamental law that corresponds to Azerbaijan’s status as an independent state. The political background to the 12 November vote was, unusually unstable, characterized by extra-constitutional changes of government, and frequent coup attempts, with the alleged involvement of outside powers. Consequently, the election sought to create stable structures of government that would enjoy domestic respect and

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legitimacy, and would create a parliamentary forum for political competition with clear rules of the game.

By inviting the Organisation for Security and Cooperation in Europe (OSCE) and the United Nations (UN) to organise observation of the election, Azerbaijan’s Government also sought to consolidate its legitimacy in the eyes of the international community, and to gain international recognition of its progress towards democracy. President Aliyev repeatedly stressed his personal commitment to holding free and fair elections as an integral aspect of transforming Azerbaijan into a democratic, pluralistic society. Efforts to hold free and fair elections, however, have taken place in a complicated context of mutual distrust between the Government and opposition parties.

The series of coups since 1992, and related grievances between victors and vanquished, determined the nature of relations between the Government of President Hyder Aliyev and opposition parties led by the Popular Front of Azerbaijan (PFA) and Musavat, whose leaders were in power from June 1992 to June 1993. For these opposition parties, Elchibey was still the Leader. President Aliyev, for his part, occasionally accused the Popular Front of being a terrorist organisation that has tried to overthrow or assassinate him, a charge echoed by various Government ministers. It was not certain, therefore, until shortly before the election process began that the PFA would be allowed to take part. Ultimately, the PFA was able to hold a congress in August, at which it changed its status from a movement to a party, in order to meet requirements for participation. Government relations had not been as tense with the other leading opposition party, Musavat.

However, Musavat’s leader, Isa Gambar, the Speaker of Parliament during the Popular Front’s tenure, is still technically barred from leaving Baku and faces possible criminal indictment for responsibility for deaths caused during Surat Huseinov’s June 1993 rebellion. The more moderate Party of National Independence, headed by Etibar Mamedov, though publicly critical of the Government, enjoys much better relations with the authorities. Various members of the Popular Front and Musavat who were candidates on their party lists were jailed. The authorities arrested Parliamentary deputy Tofik Gasimov, a physicist, former foreign minister under the Elchibey Government, and

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11 Ibid.
number two on the party list of Musavat. He was charged with treason and attempting to overthrow the Government by force during the March 1995 events. Popular Front activists Faraj Guliev and Arif Pashayev (numbers five and six on the popular Front's party list) were in prison. Guliev was charged with attempting to overthrow Hyder Aliyev when the latter chaired the legislature of Nakhichevan; Pashayev was accused of escaping from a KGB prison. Apart from Musavat and Popular Front activists, the police, on 2 October 1995, arrested Sabutay Gadjiev, leader of the Party of Labour. He was charged with treason and attempting to stage an armed overthrow of the Government. This party has had acknowledged links to former President Ayaz Mutalibov.

Newspapers of all political parties, the independent press and other media have been subject to political censorship, which the authorities conceded in private conversations. Government officials, however, only acknowledged military censorship, pointing to the Nagorno-Karabakh conflict. While all parties agreed that political censorship eased before the election, journalists reported as of 1 November that it was still in effect. Related to issues of censorship, on 3 October the trial of four journalists of the satirical newspaper Cheshme began. They were arrested in March 1995 on charges of insulting the honour and dignity of the President. Two of the journalists were on the Popular Front's party list. In October, three received prison terms of five, three and two years, and one was sentenced to police supervision. On the eve of the 12 November election, the journalists were amnestied.

Opposition parties and candidates frequently pointed to censorship and the above-mentioned arrests, as well as others, as evidence of the state's intention to clamp down on society, and restrict access to the political process. They claimed that the elections were taking place in an atmosphere of fear and intimidation. As far as electoral law is concerned Parliament passed the electoral law on 12 August, 1995. The law established a 125-seat, unicameral Parliament to serve a five-year term, with 100 representatives elected on a majority basis and 25 seats distributed to political parties on a proportional basis. The Central Election Commission (CEC) was responsible for administering the Constitutional referendum and the Parliamentary elections. President Aliyev, in accordance with the law, appointed the CEC's Chairman, Jafar Veliev, in August 1995.

12 ibid
Chairman Veliev, in turn, selected the 14 other members. At his request, Parliament approved increasing the CEC’s membership, on 3 October 1995, from 15 to 20. The law requires the Commission to be a neutral body and prohibits representatives of political parties from serving as members. The CEC also oversaw District Election Commissions (DECs), and nominated their chairpersons, whom Parliament approved. DECs consisted of 12 members not affiliated with any political party and selected by lot. They were responsible for organizing the election of the district representative and overseeing the work of the Precinct Election Commissions (PECs). PECs had between six and eighteen members, and served between 50 and 1,500 eligible voters. Twenty percent of the members of PECs were representatives of candidates, 30 per cent were members of political parties and the remaining 50 per cent were representatives of state enterprises and entities. Although the electoral law called for PECs to be established by 15 September 1995, the 50 per cent who were representatives of political parties and candidates were only selected after the CEC announced the list of candidates on 19 October. These members had a residency requirement and were selected by lot. Voters had to vote at the precinct in which they were registered.

The CEC divided the country into 100 electoral constituencies; none could have a population more than 15 per cent greater than any other. Depending on the size of the eligible voting population, one administrative district could have more than one electoral, while other administrative districts could be combined into one electoral district, but required contiguous borders. Candidates had to be 25 years of age or older. Whether running independently or affiliated with a political party, they needed 2,000 valid signatures from eligible voters within their district. Candidates had to present identification and other documentation, including a certification of resignation from their current employment. In order for district elections to be valid, 50 percent of the electorate needed to participate, and a candidate needed more than 50 per cent of the valid votes to the elected. If no candidate received more than 50 per cent of the vote, a run-off election between the two biggest vote-getters would take place two weeks later.
the 50 per cent minimum voter participation requirement was not met, repeat elections would take place within three months of the first round.\textsuperscript{13}

The law stipulated that 25 representatives would be elected nationally, through voting for party lists and distributing the seats proportionally among parties that received at least eight percent of the vote nationally. To field a party list, a political party had to be legally registered and to collect 50,000 signatures from eligible voters. A 50 per cent minimum voter turnout was also required nationally for the election to be valid; otherwise, new elections would take place within six months. The electoral law permitted representatives of the media, candidates and political parties to observe meetings of election commissions, polling and the vote count. In addition, candidates could designate up to 15—and political parties up to 45—authorized representatives to be poll watchers and carry out campaign activities. Candidates and parties could appeal decisions of DECs to the CEC. CEC decisions could be appealed to the Supreme Court, whose rulings were final and binding.

The electoral law also required that decisions be rendered in a timely manner. In general, the law guaranteed the basic internationally accepted standards for democratic elections. These included multiple candidacies, freedom of speech and assembly, equal access to the media, the right for candidates and parties to observe the voting and vote count, the right of voters individually and privately to cast ballots, plus an appeal mechanism to redress grievances (Kamrava \textsuperscript{2001}). However, in some important aspects, the law was unclear or silent. For example, it does not specify the procedures for validating or excluding candidates’ signature lists, nor does it state how many signatures lists candidates and parties were to receive. And no provisions either sanction or prohibit the presence of police and executive branch officials in the polling stations. These lapses, as well as poor or inconsistent application of the law, had a fundamental impact on the electoral campaign and its fairness.

After the re-registration of parties that took place in June, 31 parties remained eligible to participate in the elections. Of them, 12 applied to the CEC for lists to collect the required 50,000 signatures: New Azerbaijan; the Azerbaijan National Independence Party; the Azerbaijan Democratic Independence Party; the Party of the Popular Front of Azerbaijan; the Motherland Party (Ana Vatan); the Azerbaijan Democratic Proprietors Party; Alliance in the Name of Azerbaijan: the Azerbaijan National Statehood Party; Umid [Hope]; the party of People’s Democracy; the Communist Party; and Musavat. Candidates and political parties had 25 days to collect the requisite signatures, beginning 55 days and concluding 30 days prior or polling. Of the 1,040 individual candidates who tried to run, the CEC initially registered 359 by 23 October. The CEC – which had been receiving complaints and appeals directly from candidates, as well as from the Mission – claimed to have reinstated those unjustly excluded by DECs. On 31 October, the CEC released a list of another 38 registered candidates. However, the CEC also excluded individuals already registered by DECs. Those disqualified included candidates who had even received stamped protocols attesting to their having collected over 2,000 valid signatures, but whose names nevertheless did not appear in the printed list of registered candidates. Ultimately, of the party-affiliated candidates, many linked with the opposition were excluded. On 20 October, the election campaign officially began. The election law originally gave candidates five minutes and parties 45 minutes of campaign time on national television. The CEC later increased the amounts to seven minutes and 60 minutes, respectively (Collett 1997).

The OSCE closely followed the political campaign, and was invited by the head of State Television on 18 October to draw the time slots for political parties, but declined, since no representatives of political parties were present. Subsequently, the political parties, the CEC and State Television reached agreement about the distribution of air time. Candidates could appeal to the voters in pre-taped TV spots (the head of State Television explained that live appeals were impossible for “technical reasons”). Several opposition candidates, such as Leyla Yunusova, leader of the Independent Democratic Party, and several Popular Front candidates, had their spots cut and censored. Candidates

14 The Communist Party actually did not survive the re-registration of parties, because its charter seemed to call for restoration of the USSR, but the party won a subsequent appeal to the Supreme Court.
reported being told that they could not criticize President Aliyev or his policies. Nevertheless, opposition parties – specifically, the Popular Front, the National Independence Party, and the Party of National Statehood (whose leader went into open opposition to President Aliyev shortly before the election) – campaigned on television. They criticized the Government and its policies, sometimes harshly, on the country’s most important medium of mass communication, singling out official corruption, the cult of President Aliyev, the absence of economic reform and the difficult living conditions for most of the population. Speaking for the Popular Front, former President Elchibey appealed to voters on television for the first time since his ouster. Only his remarks about calling the state language of the country Turkish, as opposed to Azerbaijani, were censored. The leader of the Party of National Statehood even criticized President Aliyev himself and the participation of the President’s relatives in the election campaign as candidates.

Apart from campaigning in the media, candidates met with voters, though some complained to the Mission that DECs and local executive authorities helped arrange meetings for favoured candidates while hampering others. Perhaps the most sensational aspect of the campaign was the release, on 27 October, of a list of candidates whose victory had allegedly been pre-determined by the authorities. The source of the information was Neimat Panakhov, leader of the Party of National Statehood, and a former state counselor to President Aliyev. Opposition newspapers published the list, which many opposition candidates and parties brought to the OSCE’s attention, as evidence of the election’s unfairness. Voting took place on 12 November, in 4,600 polling stations (electoral precincts), from 8.00 hours until 22.00 hours. All Azerbaijani citizens 18 years or older were eligible to vote, including prisoners and military personnel. The CEC announced on 22 November that 86 per cent of the electorate took part in the referendum for the constitution, and 91.9 percent of voters voted in its favour. The CEC also announced that 79.5 percent of the electorate had voted to elect 25 national representatives to the Parliament.

Only three of the eight participating parties passed the eight per cent threshold for representation in parliament: New Azerbaijan (President Aliyev’s party) won 19 seats; two opposition parties – the Party of the Popular Front and the National Independence
Party of Azerbaijan – won three seats each. The race to elect 100 district representatives to Parliament was contested by 386 candidates. In the first round, 71 candidates were elected. Run-offs were necessary in 20 districts because none of the candidates had garnered 50 per cent plus one of the votes. In eight districts, elections had to be canceled entirely. Four failed to meet the 50 per cent minimum turnout requirement; in three others, voting was annulled due to “violations of the electoral law” and in one district in Ganja city, armed, masked individuals stole all electoral material. New elections in these eight districts had to take place on 4 February 1996. The new Parliament, though not yet fully constituted, nevertheless had a quorum, with 83 deputies. Even though run-off elections had not yet taken place, parliament was convened for its first session on 24 November. At the session, the former Speaker, Mr. Rasul Guliev, was re-elected unopposed, with the few representatives of opposition parties abstaining. On 26 November, 1995, run-off elections took place in 20 of Azerbaijan’s 100 electoral districts. The OSCE Mission was particularly interested to see whether the irregularities observed during the first round would be addressed on 26th November 1995.16

However, in many other districts, problems observed during the first round continued during the second round. Most international observers noted family voting throughout the country. Conversely, allegations were raised during the second round that in districts where the authorities favoured neither candidate, polling officials prohibited multiple voting so that the elections would not be valid and repeat elections, with new candidates, would be needed. It appeared to the Mission that the required minimum turnout led election officials in some instances to inflate the number of participating voters, and even to engage in ballot stuffing. In this connection, the Mission’s observers again saw representatives of local executive authority in polling stations and DECs. According to the CEC, 61 per cent of the electorate took part in the run-off election. In 13 districts, representatives were elected; five districts failed to meet turnout requirements, and in two others, various electoral law violations invalidated the voting. In these seven districts – apart from the eight districts where elections were annulled on 12 November – repeat elections had to take place on 4 February 1996.

The parliamentary elections held on 12 November, 1995 were the first to be held under more or less serene sociopolitical conditions, with a referendum on the first Constitution of independent Azerbaijan taking place at the same time. By this time, the authorities had succeeded in eliminating the insurgent armed formations, intercepting several attempts at a state coup, and beginning macroeconomic stabilization. The external attributes of democracy were observed during this period: elections were held on a multiparty basis according to a mixed majority-proportional system with a large number of observers from the U.N./OSCE in attendance. But everything was performed according to the authorities' scenario, which the country's leadership subsequently took advantage of on more than one occasion. Then, during re-registration of the political parties, the government removed several structures from the election race, including the unpredictable Islamic Party. On the very eve of the voting, the authorities "removed" Musavat, one of the two largest opposition parties at that time, from the race, accusing it of falsifying the voter signature lists. In addition, most of the one-mandate opposition candidates were denied registration.

This election campaign was also characterized by other scandals. For example, Neimat Panakhly, an employee of the presidential administration and one of the leaders of the national-liberation movement at the end of the 1980s-beginning of the 1990s, promulgated the list of members of the future parliament prepared by the presidential administration, which subsequently received 95 percent confirmation. The voting process itself, as well as the vote counting, was accompanied by mass violations of the law. The powers that be even resorted to coercive pressure and threats. And in the capital's Nizami District, where one of the prominent representatives of the opposition was balloting, former secretary of state, Professor Lala Shovket, things even ended in an exchange of fire, although luckily no one was hurt. As a result of the election falsification, the country's president, Heydar Aliev, succeeded in achieving his goal of forming a super-loyal parliament. Of the 124 deputies in the Milli Mejlis, only nine represented the

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opposition, and the rest either belonged to the ruling party, Eni Azerbaijan or did not officially belong to any party, but essentially supported all the executive power's initiatives. Two days after the voting, the international community came forward with harsh criticism.

The statements of the U.N./OSCE mission noted the numerous falsifications and other violations that took place at the elections. But the legitimacy of the new parliament was not subjected to doubt. The West made allowances for the republic’s insufficient experience with conducting multiparty elections, for the conflict with Armenia, and for several other factors. An important role was also played by the ratification of the new Constitution, which declared upholding the democratic path of development, a multiparty system, and observation of human rights. This all inspired the hope that the Azerbaijan authorities would not repeat the mistakes made at the past elections in the future. The difficulties caused by the region’s geopolitical position were also taken into account: by this time, Azerbaijan had signed a major oil contract with Western companies, which aroused a fervent reaction in its northern and southern neighbors. The republic found itself gripped in a tight vice between Moscow and Tehran. Under the pretext of the military conflict in Chechnia, Russia unilaterally closed the northern transportation arteries, which prevented Azerbaijan from using them. But in order to attract Western governments and major oil companies to the country, it needed stability. Under these conditions, putting pressure on the Azerbaijan government because of the undemocratic parliamentary elections would have placed the hydrocarbon production projects to be implemented in the republic under threat. What is more, the country had no strong opposition at that time capable of providing a real alternative to Heydar Aliev’s team.

Presidential elections were held in October 1998. By this time, Azerbaijan enjoyed the status of special guest in the Parliamentary Assembly of the Council of Europe (PACE). It would seem that now the government could not and would not want to repeat the scenario of the 1995, 2000 and 2005 elections, particularly since it looked as though there was some consolidation in the opposition’s ranks. A rather strong opposition Movement for Election Reform and Democratic Elections (MERDE) had been created. Several factors—the then ongoing Karabakh conflict, the increase in corruption, and the

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critical socioeconomic situation—helped to strengthen the opposition. At this time, the country suddenly had several candidates capable of competing with the president. Taking this into account, the authorities made some adjustments to their election campaign tactics. In particular, they did not reveal the contents of the Law on Presidential Elections until the last moment, which put the opposition in a tight spot.

Moreover, by including reactionary norms in the draft law from the very beginning, the government began using them as a bargaining tool with the West. By eliminating the minor anti-democratic provisions of this document under pressure from the West, the authorities tried to emulate their desire to build democracy. But the government resolutely rejected all compromises on major issues, for example, it took the formation of the central and lower election commissions under its total control. Understanding that it was pointless to participate in the elections under these conditions, five of the leading opposition candidates, Abulfaz Elchibey (the People’s Front of Azerbaijan Party [PFAP]), Isa Gambar (Musavat), Rasul Guliev and Ilias Ismailov (both from the Democratic Party), and Lala Shovket (the Liberal Party), boycotted them. The only real rival to Heydar Aliyev was leader of the National Independence Party of Azerbaijan (NIPA) Etibar Mamedov. He skillfully used some of the positive changes in the legislation; in particular, the extended airtime offered candidates on national TV and radio, appointing candidates’ representatives to the election commissions, and so on. Etibar Mamedov led an aggressive election campaign, used PR techniques, which were new to the country, and traveled extensively around the republic. All of this had an extremely taxing effect on the government’s nerves. And whereas during the first five years of his rule, Heydar Aliyev left the capital on very rare occasions, he was compelled to follow the NIPA leader suit and make trips into the regions.

Criticisms by the Western Agencies of Elections in Azerbaijan

According to opposition and independent observers, the active campaign led by Mamedov made it possible for him to gather as much as 30% of the votes. Heydar Aliyev was only a little ahead of him. And to win the first round, a candidate required the support of at least 2/3 of the voters participating in the elections. It appeared a second round was inevitable. But in order to insure himself against unpleasant surprises, Aliyev
decided to take some extraordinary measures. A directive was hurriedly sent to the election commissions to draw up new records of the voting results and indicate the falsified data in them, according to which Heydar Aliyev gathered 80% of the votes. This was done, but so hastily and crudely that the authorities have to this day been unable to publicize the records of polling stations, although this is required by the law.

This time, the West's criticism was even more severe. In the final statements by the observers from prestigious international organizations, including the OSCE\textsuperscript{20}, as well as from representatives of the U.S. National Institute for Democracy, the presidential elections were called "dishonest, undemocratic, and not free." In his statement to Heydar Aliyev, then president of the United States Bill Clinton did not use the word "election" once. He only congratulated Aliyev "on his second presidential term." But the Azerbaijani authorities succeeded in avoiding international isolation. Official Baku compensated for the West's displeasure with the lack of democracy in the republic by drawing up new oil contracts and a policy aimed at Euro-Atlantic integration. Azerbaijan initiated the idea of creating the pro-Western union GUUAM (Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova), as well as implementing major pipeline and other transportation projects orientated toward the West and bypassing Russia. In addition, official Baku stepped up its activity aimed at gaining the country's membership in the Council of Europe and took several progressive steps in this direction. In particular, the death penalty was abolished in the country, the penitentiary system was significantly reformed, a law was adopted on the transfer to a three-level judicial system, and other specific obligations were adopted on democratizing the country's political system.

All of this reassured the West and gave it reason to hope that the parliamentary elections in 2000 would be conducted according to a new scenario. Meanwhile, in 1999\textsuperscript{21}, municipal elections were held for the first time in the country, but neither the opposition nor international observers paid the slightest bit of attention to them. This was explained by the fact that as early as the formation of legislation on the municipal agencies, local self-administration bodies were endowed with purely symbolic functions. So, the country


\textsuperscript{21} For details see "Democracy at the Local Level: A Guide for the South Caucasus", 2003, A Report based on the field studies and interviews conducted by The International Institute for Democracy and Electoral Assistance. Stockholm.
approached the 2000 parliamentary elections in the hope of seeing positive changes. But the authorities did not rush to fulfill their obligations. And even making Azerbaijan’s membership in the Council of Europe dependent on the results of the parliamentary elections did not compel the country’s leadership to reject its desire to falsify the elections again and achieve the result it needed. Recalling the difficulties caused by the opposition’s consolidation at the 1998 elections, the authorities undertook resolute measures aimed at driving a wedge into the adversary’s ranks. In particular, the representatives of two parties, the People’s Front and National Independence, were included in the Central and lower election commissions. This naturally aroused a negative response in the other two strong opposition parties, Musavat and the Democratic Party, increasing their mistrust of their potential allies.

By giving the opposition a third of the seats and the post of secretary in the election commissions at all levels, from the Central Commission to the local, the authorities did not lose control over these structures, but retained a qualified majority in them. In addition, taking into account the lessons learned from the 1998 elections, the government, initiating the corresponding decisions of the pocket parliament and the Central Election Commission, drastically reduced the amount of television and radio airtime granted to parties and candidates for their election campaigns. The participation of local nongovernmental organizations as observers was also restricted.

In particular, the independent consultation center For a Civil Society (the Azerbaijani partner of the U.S. National Institute for Democracy), which has experience in monitoring presidential (1998) and municipal elections, was left out in the cold. What is more, at the registration stage of party lists and one-mandate candidates, the government tried to use the strategy tested in 1995. For example, the Central Election Commission attempted to exclude Musavat and the Democratic Party from the election campaign, accusing them of falsifying the voter signature lists. But under pressure from the West, one month before the voting, on the initiative of President Heydar Aliyev, the Central Election Commission “made an exception” and registered all parties who submitted an application to participate in the elections under the proportional system.

Nevertheless, more than 400 people who registered as candidates from the opposition and independents from majority districts ended up being barred from the elections.\footnote{For details see the report, "Election Assessment in the South Caucasus: Armenia, Azerbaijan, Georgia (2003-04)" covering time period till 2004 and brought out by The International Institution for Democracy and Electoral Assistance. Stockholm.}

All of the government's administrative and financial resources went to ensuring the success of the ruling party, Eni Azerbaijan, the proportional list of which was headed by the president's son 39-year-old Ilham Aliev, deputy chairman of this party, first vice president of the State Oil Company of Azerbaijan, and president of the National Olympic Committee. But active promotion of this candidate did not yield the anticipated results. Independent experts deemed the results of the voting a defeat for the Eni Azerbaijan Party. According to local and foreign observers, it did not obtain more than 20% of the votes. The rest went to the opposition parties, Musavat, the NIPA, the PFAP, the Democratic Party, and the Liberal Party. They all topped the 6-percent barrier necessary to enter parliament with plenty of room to spare. Again the government had to falsify the elections, as a result of which only the PFAP joined the representative branch of power under the proportional system. A similar situation also developed in the majority districts. The parliament again proved to be completely loyal to President Aliev. International observers raked official Baku over the coals once more. One of them even stated that falsification of the elections had reached a level unprecedented in the world. The Azerbaijani authorities, which were knocking on the doors of the Council of Europe at this time, were required to take drastic measures and carry out a major review of the complaints made by the candidates and parties. In response to this, the government cancelled the results of the voting in 11 of the 99 districts, and repeat elections were to be scheduled there. But since they realized that these elections would have no decisive impact on the breakdown in forces in the parliament, the opposition parties (with the exception of the PFAP) boycotted them. So the authorities again obtained the result they needed with the minimum violations.

Paradoxically Azerbaijan was nevertheless accepted into the Council of Europe\footnote{Such leniency from the Europeans toward the country's leadership promoted an increase...}24. Such leniency from the Europeans toward the country's leadership promoted an increase...
in skepticism in Azerbaijani society of western democracy. The opinion became popular that in the name of its pragmatic interests, the West was ready to flippantly give the powers that be complete control over resolving the problem of democracy in our republic. And the terrorist acts of 11 September, 2001 in the United States and the subsequent strengthening of Azerbaijan’s geopolitical position, which became an active participant in the antiterrorist coalition, only served to intensify these sentiments even more. At the same time, unequivocal support by official Baku of the U.S.’ actions raised country’s prestige in the western world. The U.S. Congress finally lifted Art 907 of the Freedom Support Act introduced in 1992 under pressure from the American Armenian lobby due to the so-called blockade of Armenia, which discriminated against Azerbaijan. Apparently deciding to take advantage of the rise in the country’s significance in the new international situation, Heydar Aliyev also tried to strengthen his own power. In June 2002, one year before the presidential elections, he suddenly came forward with the initiative to make amendments to the Constitution.

Theoretically these innovations were motivated by the need to bring the country’s Basic Law into harmony with European standards and the provisions of the European Convention on Human Rights. But in actual fact Aliyev was clearly pursuing his personal goals of strengthening the power vertical and weakening the opposition. For example, according to many local and international experts, the proposal to cancel the proportional system of parliamentary elections and their complete transfer to a majority basis dealt a serious blow to pluralism in Azerbaijan.

In order to ensure as few problems as possible when transferring power to his successor, should such a need arise, Heydar Aliyev proposed making an amendment which envisaged passing the president’s duties on to the prime minister, in the event of his early retirement, and not to the parliament speaker, as is set forth in the current Constitution. At first glance, this would appear logical, since the prime minister occupies second place in the hierarchy of executive power. But the twist to the situation is that, according to the

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Constitution, the president appoints the prime minister, for which the head of state only needs the informal approval by the parliament. In addition, an amendment was proposed to the Constitution according to which in order to win the presidential elections it was enough to gather not 2/3, but only half of the votes in the first round. This was clearly aimed at preventing a repetition of the situation that occurred during the 1998 presidential elections. Sensing that their future political career was in danger, the leaders of the opposition (for the first time since 1998) undertook resolute measures to jointly undermine Aliev's plans. After announcing that it was impossible to conduct a normal referendum under conditions whereby voters were given only two months to discuss the 39 amendments proposed, the opposition called on the people to boycott the plebiscite.

In addition, the opposition sensibly noted that during this period, when more than two million of the republic's citizens were earning a living in other countries and many were on their summer vacation, it was impossible to ensure a turnout of more than half the electorate. Under the same pretext (limited time), international organizations, in particular the OSCE and the Council of Europe, refused to send observers to the country. Under pressure from the local opposition, international organizations demanded that the republic's authorities democratize the procedure for holding the referendum. For example, on the initiative of the OSCE Baku Office, five Round Tables were held with the participation of the authorities and the opposition, which were broadcast on television, giving the population a chance to acquaint themselves with the arguments of both sides. In addition, the authorities consented to the proposals made by international organizations and divided the questions to be discussed at the referendum into eight groups, thus making it easier for the voters to select their response. However, in order to create the semblance that the population was participating actively in the referendum, the authorities placed pressure on budget employees and the representatives of small business by demanding that they vote for the proposed amendments.

The innovation of this campaign was that secondary school teachers were also made to ensure that the parents of their pupils turn out for the referendum by promising

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them gratuitous textbooks. In addition, on the government's initiative, mobile groups were formed which on the day of the referendum voted at several polling stations at once. All of these instances were registered by observers for the opposition, who, incidentally, were not registered until the day before the voting and only after insistent demands from western diplomats. The results of the referendum announced by the Central Election Commission were sustained in the best Soviet tradition. It turned out that more than 83% of the voters participated in the voting, and 96% of them supported all the proposed amendments to the Constitution. The opposition, which monitored the voting jointly (the NIPA, the Democratic Party, the PFAP, and Musavat) and rather successfully for the first time, announced the absence of a quorum at the referendum and demanded that its results be declared null and void. In so doing, the public was presented with records from 2/3 of the polling stations, which supported the opposition's analysis beyond any shadow of a doubt.

Against the background of the relatively mild statements made during the pre-referendum period, the West's extremely severe criticism of its results came as an unpleasant surprise. Whereas in the past after every election, the international community claimed that Azerbaijan had taken "a step forward in the direction of democracy," its evaluation of referendum results was full of pessimism. For example, the very next day after the referendum, U.S. Department of State Press Secretary Richard Baucher stated existence of the fact of violations during the 24 August referendum. "We are concerned that the 24 August referendum was a weak contribution in terms of democratization of society and bringing the 2003 presidential elections up to international standards. We will back up political pluralism and transparency in government in Azerbaijan." Two weeks later, Deputy Chief of the OSCE Mission Douglas Davidson made an even harsher statement. He subjected the Azerbaijani authorities, which falsified the referendum results, to serious criticism. Davidson expressed serious doubt in the government's intentions to hold honest presidential elections in 2003.

In confirmation of his words he mentioned instances of falsifying voters' ballots, throwing packs of bulletins into the urns, and repeat voting by the same people. Davidson expressed Washington's "disappointment" and strongly urged the Azerbaijani authorities

to work with the OSCE Office of Democratic Institutions and Human Rights (ODIHR) and others in the international community to put in place effective mechanisms to ensure a fair and impartial electoral process for the future. What is more, the American representative noted the following: "The United States is thus concerned that this referendum did little to advance democratisation in Azerbaijan. We were disappointed by the restrictions on domestic monitoring, the lack of Election Commission reform, the limited time for public education, and the failure to invite comments on the referendum from the OSCE or the Council of Europe."27

PACE was equally critical. The recommendation it adopted on 25 September 2003 on Azerbaijan’s fulfillment of its obligations to the Council of Europe pointed out serious violations of democratic norms during the referendum. These comments gave grounds to believe that the international community could no longer remain impartial to questions of democracy in Azerbaijan since otherwise, democratic values will be discredited. A sign of this is without doubt the events in the settlement of Nardaran located 40 km from the republic’s capital, which alarmed not only official Baku, but also the West. The traditionally religious population of this settlement made social demands on the authorities using Islamist slogans. The fear that an increasing number of Azerbaijani citizens disillusioned with democratic values will look for an ideological basis for their political self-expression in religion prompted the West to take a serious attitude toward the absence of honest elections in the country. In turn, the traditional opposition, inspired by the West’s support, increased its pressure on the authorities, which essentially launched the presidential campaign for 2003. The number of participants in mass acts of protest by the united opposition (August-September) begun to grow in geometric progression. But experienced politician Heydar Aliev, who had the ability to precisely read the situation several moves ahead, appeared to understand that he would not be able to hold these elections according to the previous scenario.

15 October 2003 marked the end of a year-long presidential succession. Hopes that Azerbaijan’s accession to the Council of Europe would bring with it better electoral practices proved hollow. Despite certain progressive steps that could have allowed for better organized voting such as the adoption of a unified election code with additional

27 For details see OSCE/ODIHR Statement of Preliminary Findings and Conclusions, 2003.
safeguards against frauds but the ruling elites were still fundamentally unwilling to embrace genuine democracy or representative election\textsuperscript{28}. Preparations for the presidential succession began with passage of a constitutional amendment in mid 2002, which transferred power to the prime minister if the president was incapacitated. This was no routine precaution since Heydar Aliyev was clearly positioning his son to assume presidency. As his health further deteriorated, he signed a decree from a Turkish hospital on 4 August 2003 appointing Ilham Aliyev prime minister. Both father and son were listed as presidential candidates; with Heydar the official YAP candidate and Ilham nominated by a citizen's initiative group. On 2 October, two weeks before the election the father addressed the nation from a Cleveland (US) hospital announcing his withdrawal in favour of Ilham. Certain improvements in election administration were adopted as part of a unified election code on 27 May 2003, which provided the legal framework for presidential, parliamentary and municipal elections, as well as referendum.\textsuperscript{29} The Venice Commission and OSCE Office for Democratic Institution and Human Right (ODIHR) stressed that their significance would be determined by how they were implemented.\textsuperscript{30}

However a controversy quickly erupted between the ruling party and the opposition regardin Article 24, on composition of the Central Election Commission. For some months the opposition boycotted round table meeting aiming at a compromise. Eventually, the government effectively left the preexisting arrangements in place. The Central Election Commission which began work on 13 June 2003 was composed of 15 members elected by the parliament according to a prescribed set of formulae. The presidential election was governed under a new unified Electoral Code.

The government of Azerbaijan initiated the revision of the electoral legislation as part of the effort to improve the functioning of the democratic institution of Azerbaijan as made conditional by the accession to the Council of Europe in January 2000. The Electoral Code is a detailed framework for the conduct of election, and overall the Code meets international standards for electoral legislation and could be sufficient basis for the

\textsuperscript{29} Before 2003 elections were governed by several laws. The first draft of the code was published in November 2002.
conduct of free and fair election. The actual results of the 2003 Presidential election were a foregone conclusion. While the international community did mobilize an unprecedented number of short term observers more than 600 from 35 countries on election day, including more than 40 parliamentarians from two international assemblies—the OSCE/ODIHR final report found that the elections “failed to meet OSCE commitments and other international standards, with significant irregularities during voting and widespread fraudulent practices during the counting and tabulation of election results”. Ballot stuffing, multiple voting, voter intimidation, pre-marked ballot and other irregularities were widespread. The widespread irregularities triggered considerable dissatisfaction among the opposition, the international observers and the civil society. The badly flawed October 2003 election resulted in the easy victory of Ilham Aliyev. Norway was quite critical of the government behaviour, and the ambassador met with journalists and NGO activists whose objections to the electoral process were well known. While the OSCE mission appeared quite disappointed with Azerbaijan’s walk back from democracy, a number of European Union member states were unwilling to take Azerbaijan to task. It was clear that the Baku human rights community was a weak minority compared to the well connected Baku oil community. On 20 October 2003, the Central Election Commission, possibly as a direct result of external pressure, nullified the results in 694 precincts. However, this was a relatively easy gesture that did not alter the result. While the newly elected president quickly reappointed the same government and other key figures, a dangerous precedent was set by largely giving Azerbaijan a free pass on democracy. This election missed a crucial opportunity towards Azerbaijan’s political developments process. Failure of 2003 elections raised the expectations from 2005 Parliamentary elections. It also posed a challenge to the 2005 elections in the direction of democratization of the country.

The Parliamentary elections 2005 occurred in a complex set of international and domestic circumstances. On a regional level, their timing followed the series of colored revolutions in Georgia, Ukraine, and Kyrgyzstan. Flawed elections catalyzed peaceful and orderly popular uprisings in the Georgian and Ukrainian cases that brought regime

change and a coup d'etat that led to the ouster of the government in Kyrgyzstan. All three led to the demise of unpopular and corrupt regimes. They also occurred at a time when Azerbaijan's strategic value to the West had increased, due to (1) its significant oil resources scheduled to come online by the end of 2005 through a major new pipeline to Turkey; (2) its role in the international anti-terrorist coalition, forming the West's strategic access route to Central Asia and Afghanistan; and (3) its symbolic role as a moderate, secular, and potentially democratic Muslim nation. While these elements were all assets to the incumbent regime, this was compounded by the Bush administration's increased emphasis on democratization in the greater Middle East. As Such, Azerbaijan was widely seen as a test case for the 'Bush doctrine' would Washington stick to its principles in case of a fraudulent election, or stand by a strategic though authoritarian ally? As a result, the American administration took on a much more active role in Azerbaijan's electoral politics than at earlier occasions, and media interest has been significant. Embassy staff and emissaries from Washington sought to ensure the election would be held in a democratic manner, thereby reducing the risk of unrest and a potentially destabilizing revolution, while avoiding having to choose between strategic interests and democratization.

This calculus was correctly built on the premise that Azerbaijan differed strongly from Georgia, Ukraine, or Kyrgyzstan. Those three states shared numerous commonalities. First, they had widely unpopular governments whose leaders had lost most of their legitimacy while lack of economic development created broad dissatisfaction. Secondly, their opposition was united, led by former high-level government officials that were well known and respected. Third, law enforcement structures were demoralized, failing to intervene to uphold the incumbent regime in the face of public protests. Fourth, especially in Georgia and Ukraine, the opposition was organized and enjoyed strong external support. Azerbaijan met none of these criteria. Azerbaijan's law enforcement structures have repeatedly showed their discipline and readiness to intervene to secure the incumbent regime. More importantly, the government did not share the unpopularity of the Shevardnadze, Kuchma, and Akaev regimes.
Though Ilham Aliyev's 2003 election was marred by irregularities, there is little doubt he did receive more votes than any of his opponents.\(^3^3\)

Moreover, since his election, he managed to cast himself as a force uniting continuity and change, building on his father's accomplishments but also appearing as a younger, reformist force. Given that the Azerbaijani economy gradually taking off, oil wealth trickling down to the wider public, and hopes for the future across society increasing, Aliyev commanded increasingly high popularity ratings.

Meanwhile, the opposition remained divided, most obviously as it failed to agree on a joint candidate to oppose Aliyev in 2003. This, and the opposition's lack of a political agenda, compounded public concerns that the opposition leaders had not learnt from the mistakes made during their time in office in 1992-93, a time of chaos, economic collapse and the loss of Nagorno-Karabakh in the war with Armenia. The decision by Popular Front leader Ali Kerimli and Musavat leader Isa Gambar to ally with Rasul Guliyev and his Democratic Party in spite of the persistent allegations of corruption against Guliyev also tarnished their anti-corruption platform.

Moreover, there was from the outset a tendency by the opposition to focus more on Western attention and talk of revolution than on the electoral campaign. Indeed, the opposition's choice of the orange color was symptomatic of this. Following the Ukrainian revolution and the increasing American emphasis on democracy, Ilham Aliyev clearly realized the need to speed up the reform process and ensure the parliamentary elections were accepted by the West. To begin with, Aliyev understood the need for a more inclusive political system to reduce the risk of a coloured revolution. Given Azerbaijan's economic performance and his own popularity, Aliyev had reason to be confident liberalization would not threaten his position in power. In popular view, he was widely seen as a reformist figure hindered by the old guard in the government. Secondly, Aliyev paid close attention to the West's stance, and had appeared well aware that a flawed election would result in negative consequences for Azerbaijan's relations with the U.S. and Europe.\(^3^4\)


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In the period preceding the election, international organizations made numerous demands, including reform of the electoral commissions, opening up the registration and observation processes, introducing inking of voters' fingers to prevent multiple voting, greater respect for freedom of assembly and opposition campaigning including media access, and curbing local executive interference in the campaigning and electoral process. Some of these suggestions were adopted, some only at the last minute, and others not at all. A major improvement over earlier practices was the registration of candidates. Whereas in 2000 most opposition candidates were not allowed to register, this time around the registration process proceeded smoothly, with practically all candidates allowed to register, including exiled politicians Rasul Guliyev and Ayaz Mutalibov. Legal provisions on granting candidates air time on public television were also observed, allowing candidates from various ends of the political spectrum to express their platform to voters.

Voter registration lists, a major problem in previous elections, were also improved. Late in the electoral process, the inking of voters' fingers was introduced, labeled by the European Parliament delegation's head a 'credible step' toward avoiding multiple and carousel voting. Given the short time frame in which this was implemented, the fact that it appears to have functioned in close to 90% of districts indicated this was implemented seriously. Simultaneously, a ban on foreign-funded NGOs to observe the elections was lifted, though this happened only a number of days before the elections.

Problems in the pre-election period remained, however. First of all, the composition of the electoral commissions, including the Central Electoral Commission (CEC), remained unchanged, leaving the government with the authority to override the opposition in the electoral commissions at all levels. This is an issue where further reform is clearly needed to ensure objectivity on the part of the electoral administration. Secondly, in spite of the President's executive orders, local executive bodies continued their patterns of interference in the campaign in support of pro-government candidates, and none were punished for this until election day. Undue pressure was also exercised on candidates third, law enforcement at numerous occasions used excessive force to dispel unauthorized demonstrations. It should also be noted that opposition forces sometimes systematically sought different locations than those assigned to them, and appeared at
times to provoke the police into violence that would render international publicity to the electoral process. While both sides contributed to the tense environment of the campaign, the main responsibility clearly lay with the government to exercise restraint.

Most election observers were surprised by the calm and smooth level by which Election Day proceeded until the closing of the polling stations. Practices that were ubiquitous in the 2000 parliamentary and 2003 presidential elections seem to be fading\textsuperscript{35}. This time, there was less evidence of ballot stuffing, overt voter intimidation, multiple and carousel voting, or inflated turnout figures that helped the government alter figures to secure easy victory in 2000. In most polling stations around the country, observers agree that the voting process proceeded in a mainly orderly and disciplined manner. Many reforms implemented at the urging of the international community contributed to this progress: transparent ballot boxes, the indelible ink applied to voters' fingers, and improved voter registration lists. In addition, exit polls were conducted for the first time in Azerbaijan, which covered slightly less than half of the 125 electoral districts. Though voters were uninformed and unaware of the nature of the exit poll, especially in the countryside, and the margin of error in the USAID-funded exit poll was substantial, it still provided data to compare official results with. Significantly, in over 80 percent of districts surveyed, official results concurred with those of a USAID-sponsored exit poll. Results in nine districts showed greater divergence with the exit poll.

If the voting process was mainly orderly with the exception of some districts, mainly in the countryside, more problems were experienced in the counting and tabulation of votes. In numerous areas, approximately a third of those visited by international observers, the vote counting and tabulation experienced problems ranging from intimidation of observers, tampering with protocols, or unauthorized persons conducting the process. Domestic observers were also expelled from stations in a number of cases. Influential forces spent large amounts of money supporting preferred candidates, and the administrative resources of incumbent candidates affected results in many areas. Voting in military bases also remained murky. On a more general note, the electoral administration system suffered from its link to school officials administering the election, which dated back to Soviet times.

\textsuperscript{35} See for example Council of Europe Parliament Assembly (PACE), Resolution 1358, 27\textsuperscript{th} January 2004.
The problem with the vote count was at the center of the criticism forwarded by the international observation mission, who expressed that, the "The 6 November 2003 parliamentary elections did not meet a number of OSCE commitments and Council of Europe standards and commitments for democratic elections." The report and especially the presentation of the results at a Baku press conference on Nov. 7 was cheered by the opposition, but considered by many Western observers to have been exceedingly harsh. Indeed, several members of the observation mission of the Parliamentary Assembly of the Council of Europe were disturbed by the fact that the report did not correspond to the discussions their observation mission had had earlier the same day, where a considerably more balanced assessment had been dominating. As one member of the PACE observation mission told this author, the four heads of delegation (OSCE, CoE, NATO and European Parliament) met in closed chambers to draft the report, which delegation members did not see until it was later disclosed to the general public at the press conference - at which point it emerged in a tone that was generally negative and paid virtually no attention to the progress made compared to previous elections.

Several Swedish members of the PACE mission, representing various political strains including conservative, liberal and socialist, told this author they planned to raise this issue at the next PACE gathering. The inherent flaws in the OSCE format of election reporting became painfully clear: the obligation to first of all determine whether elections 'conform to international standards' - that is, reach the same level as those in, say, Denmark - without considering whether progress has been made, let alone assess the level and significance of the progress made. Subsequent to the joint report of the international observation missions, the government moved fairly quickly to address some of the most pressing concerns. The same evening, President Aliyev in a televised address acknowledged irregularities had taken place, in particular the interference of local executive bodies with the electoral process, pledged to investigate allegations of fraud, to cancel results if necessary, and to hold officials accountable.

The government then moved to invalidate or partly invalidate results in three districts. The result of ten polling stations of 28 were canceled in district 31,\(^{39}\) where opposition leader Ali Kerimli was running and where clear fraud had led to the ruling party candidate emerging as leader. As a result, Kerimli now appeared as the frontrunner. In two districts, results were canceled entirely and a re-run was ordered. On November 9, it was noted that by order of the President, two executive committee heads and several functionaries had been fired and detained on charges of electoral fraud. This marked a watershed in Azerbaijan, as it ends a climate of impunity for election fraud. But importantly, this election was not a simple struggle between government and opposition. Candidates aligned with different interest groups within the ruling elite - and different opposition blocs - also faced off in many districts. In numerous occasions, independent candidates aligned with one or another government figure won over the official candidate of the ruling party. One example is Elmira Akhundova, whose role as official biographer of former president Heydar Aliyev ensured her government credentials. Akhundova won the race in district 71 in Masalli with 29% of the vote - against two candidates representing the ruling party, Ali Azizov and Mirbaba Shukurov. The ruling party members of the district electoral commission members alleged fraud. Indeed, this example illustrates the multiple splits within the ruling elite.

Moreover, it indicates that the often assumed fundamental dividing line in Azerbaijani politics - that of the government versus the opposition - is an oversimplification of the situation. Often, splits between various forces in the government are often more important to understand Azerbaijani politics than the tradition government-opposition split. Likewise, the opposition itself remains fragmented into several different blocs and parties. This has two important implications. First, fraud in the election often originates from the local level and in favour of a local candidate, not from the central government. Indeed, the President's decision to fire and detain some local officials should not be seen as merely a way of sacrificing lower level officials in order to respond to Western pressures - but as what it is: punishment of insubordination. Ilham Aliyev's reforms should be seen in the light of a complex political environment where

cross-cutting linkages of an ideological, regional, and economic nature create a web of interactions that makes running the country and implementing reforms of any kind, including democratic reform of the electoral system, a challenge (Rasizade 2003).

In fact, the gradual liberalization of the political system in the country also decentralizes authority and appears to make the presidential office less - not more - able to control the electoral process. During the rule of Heydar Aliyev, power was heavily centralized and deviations from the central policies were swiftly punished. But during Ilham Aliyev's government, while ultimate power rests with the President as showed by the President's decision to fire very influential ministers in October 2005, power is more decentralized. Hence influential figures within the ruling elite, and local potentates, are benefiting from the increasingly liberal atmosphere to seek to influence elections for their own narrow goals, irrespective of and sometimes conflicting with the objectives of the President. This election illustrated that authority in Azerbaijan's political system is much more decentralized than often assumed. Competition and struggles within the governing elite are an important element of this election and of the political situation in Azerbaijan, which are likely to dominate the country's political life for the foreseeable future. In fact, it is worth stressing that electoral fraud in this election could originate from several sources those controlled by the president, or those that the President does not control.40

Establishing which of these forces have been involved in the fraud that took place during the elections may not be an issue for international observers; however, it is a crucial issue to investigate in order to fully understand the dynamics of Azerbaijan's politics - and most of all, to determine the level of commitment to democratic reform in the governing structures as well as to understand the internal challenges faced by reformist forces within the government.

This issue, in spite of its importance, has practically failed to be included in the otherwise abundant international press coverage of the elections. This, in turn, brings up the question of the role of the media. Visitors to Baku before, during, and after the election noted the heavy international media coverage of the elections. Many journalists had the serious ambition of reporting accurately on the elections. However, it was

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painfully apparent that a number of foreign journalists had come to Baku in the hope of witnessing another 'colored revolution', as happened in Tbilisi, Kiev and Bishkek.

Learning little about the specificities and complexities of Azerbaijani politics and society, they assumed the conditions in Georgia, Ukraine and Kyrgyzstan - a uniformly illegitimate government and a generally virtuous and democratic opposition (in spite of some qualms about Kyrgyzstan) - were also true in Azerbaijan. This led to the assumption that Aliyev and his government were illegitimate by virtue of being the government; and that the opposition was virtuous and democratic simply by virtue of being the opposition. Aside from this, discussions including questions such as "where is the revolution?" Could be overheard in the media community, and scenes of eager camera crews seeking out demonstrations and unrest that could spark a revolution, but returning in disappointment, could be observed. A Nov. 10 Associated Press story seems to have let this sentiment into the headline: "Protest in Azerbaijan disappoints", noting the demonstrations did not lead to "an unstoppable momentum". In this sense, the media coverage of the election left much to be desired.

Civil Society and Media

The role of civil society and media in promoting democratization is very significant. Particularly in the post-soviet sphere states it is very tough to push the development of civil society. This part of the world does not have significant experience of civil society. Under the Soviet Union almost every organization was under the control of the Communist party. This is why the culture of independent civil society was lacking at the eve of Independence of Azerbaijan.

When we are discussing the role of civil society then we mean civil society that is functioning inside the country and the global civil society that is working for the "promotion of democracy". Some international organization have also played significant role in "promoting democratization".

Civil Society score of Azerbaijan

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In Azerbaijan, freedom of association is recognized and protected by Article 58 of the constitution and the European Convention on Human Right, which came into force in the country in 2002. While grassroots activity continues to flourish, the Aliyev administration exerts a dominating influence on civil society organization, particularly those critical of the government’s democratic shortcomings, and the National Assembly has shown little willingness to engage NGOs in the legislative process or invite their input on draft legislation. There are approximately 2,100 NGOs in Azerbaijan. The strongest and most active are concerned with internally displaced persons (IDPs) of the Nagorno-Karabakh region, health and children’s issues, human rights, women’s right, and environmental and ecology issues. There are also 74 international aid organizations active in the country, mainly assisting the roughly one million IDPs who have been expelled as a result of the Nagorno-Karabakh conflict. NGO representatives continue to complain about government restrictions, in particular how the government keeps many groups in legal limbo by not registering them officially. Local financial support to NGOs is limited, as the Tex code does not allow tax-deductible contributions. The code does provide tax exemption to charitable organizations, unless they engage in entrepreneurial activities. Therefore, most NGOs rely primarily on foreign grants to continue their activities. The law on NGOs prohibits civil society organizations from providing political parties with financial and other kinds of assistance, although they can conduct advocacy activities to improve laws and regulations.

In order to understand whole process of democratization it is necessary to look at the role of the media and its freedom in Azerbaijan. It is important because media’s freedom is one of the fundamental tolos for democratization. Media are often acclaimed as the “fourth power” in a democracy. They are hailed as the “watch-dog” of democracy. As an integral force of civil society, the mass media expected to prominent role in controlling the parliament, the government and the judiciary, in investigating whether private industrial and financial interests respect the law, sounding the alarm if the environment is polluted, and engage in conflict prevention and resolution.

Dusan Reljik stated that in the case of media in post-communist countries, it is obvious that the public does not perceive the most important nongovernmental media to
be working in the public interest. Most mass media are regarded as political instrument of the government or particular interest groups. (Reljik, 2004).

**Independent Media**


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The National Assembly adopted Azerbaijan’s Law on Mass Media in 200. It guarantees freedom of speech, support for media, access to information, and protection of journalists’ right. In practice, though, Azerbaijan’s media sector encounters numerous obstacles to conducting its work and maintaining independence; this is especially true of media that are critical of official corruption and the government’s democratic shortcomings. Azerbaijani authorities resist demands by the OSCE and the Council of Europe to abolish Articles 147 and 148 of the criminal code, which make a journalist criminally responsible for defamation.

Television serves as the chief media source in Azerbaijan. There are 7 channels that broadcast to a national audience (state-owned AzTV, ANS, Space TV, ATV, Lider TV, ITV [the state-owned public TV], and Xazar, in order of date of establishment) and 12 regional TV channels.

Since the formal banning of censorship in 1998, the print media in Azerbaijan have remained freer than television and radio outlets, although they too are generally biased in their coverage. Of the 2,470 newspapers and journals published in Azerbaijan, the most popular are Yeni Musavat (Miisavat; 7 percent of readers surveyed), Zerkalo (7 percent). The Russian dailies Ekho and Zerkalo are generally considered to be nonpartisan. Newspapers such as Yeni Musavat and Azadliq serve as the political mouthpieces of certain opposition parties and are generally faulted for unprofessional reporting. The pro-government, state-funded newspapers Xalq Gezeti and Azabaycan cover only the ruling party’s position on issues.
Local Self Government in Azerbaijan

Local self government is a crucial component of the overall democratisation exercise whereby people at the grass root level manage their affairs themselves democratically. It inculcates the habit of democracy in the people. In course of time this can go on to provide the solid bedrock of democracy. As far as Azerbaijan is concerned since independence, it has pursued the establishment of a legal state and civil society as a main strategic objective. Most major legislation incorporates this principle, from the Constitutional Act on the Independence of Republic of Azerbaijan (adopted on 18 October 1991) to the Constitution itself (adopted on 12 November 1995). One of the most urgent tasks faced by the country in the ongoing process of democratisation is the foundation of system of local self-government (Musa and Hasanov 2009).

No precedent for a comprehensive system of local self-government can be found in Azeri history, although different elements have existed at various points. Under the Soviet Union, local government was exercised solely through local soviets and executive committees as part of sate administration. The newly adopted Constitution of Azerbaijan, effective from 27th November 1995, is primary basis for the establishment of local government. Not only does the Constitution uphold decentralisation of state authority, it specifically enumerates standards for local self-governance. The fourth section of the Constitution, also called the “Transition Provisions” addresses the issue of local self-government in particular detail. Article 6 of the Provisions annulled the authority of the local soviets, while Article 7 stipulates that laws on local self-government be introduced and municipal elections held with in a period of two years.

The campaign to establish municipalities began after July 1999, when the Law on Municipal Elections and the Law on the Status of Municipalities were passed. The first Municipal elections were held on 12 December 1999, and the newly elected local government commenced activity in January 2000. According to the Constitution, local government in Azerbaijan is exercised both through local bodies of state administration and through municipal governments. In general, the constitutional provisions on local self-government and the legislation on municipalities comply with principles stated in the European Charter of Local Self-government (Munteanu and Victor 2003).
The fourth section of the Constitution addresses major issues of local self-government, such as the legal status of municipalities, types of local self-government bodies, their basis powers and their relationships to other official entities. The Constitution does not explicitly declare whether the concept of municipalities is founded on the principle of decentralization of state authority or on the principle of local autonomy. However, closer analysis of the main provisions on the division of power indicates that decentralization is the dominant concept. Consequently, many municipal bodies are in fact former agencies of state administration, both central and local. Article 142 of the Constitution stipulates that municipal councils are elected. Article 144 enumerates wide variety of functions for local bodies including establishment of local taxes and duties, preparation of the local budget, management and disposal of municipal property, and adoption and implementation of programmes for social protection and development, local economic development and the local environment. Article 146 of the Constitution specifies guarantees of local autonomy such as judicial protection and compensation for additional expenses incurred by local governments due to state government decisions. According to article 150, municipalities may adopt statutory acts within their competence and in accordance with legislation. Compliance with these acts is mandatory for citizens and legal entities residing or working in the territory of the relevant municipality.41

Analysis of Azeri legislation reveals that local government reforms in Azerbaijan are based on decentralization of state authority. Currently existing legislation offers genuine opportunities for independence to self-government bodies at all levels, and there is a general tendency to transfer even more powers to municipalities.

As declared in its Constitution, the Republic of Azerbaijan is a unitary state. Other than the Nakhichevan Autonomous republic (NAR), there are no independent states within the republic. The former Upper Karabakh autonomous region was formally abolished by the Supreme Board of the Republic on 26 November 1991. The legal status of the NAR is defined in chapter 8 of the Constitution. Article 134 declares the NAR to be an independent state within the republic of Azerbaijan and an integral component of

the republic. The administrative-territorial division of Azerbaijan has essentially been retained from the Soviet era and consist of villages, settlement, regions and cities. These units were the basis for determining municipal territories in the Law on Municipal Territories and Lands. According to the Law on the Status of Municipalities, the Local population must be consulted when municipal boundaries are drawn up or altered. Municipalities are established in villages, settlements or cities on a regional basis. Each municipality acts as an independent juridical entity, with neither horizontal nor vertical subordination. Cities may be divided into administrative-territorial units, in which case each unit comprises a separate municipality. Only two cities are divided into districts; these are Baku, the capital and Ganja, the second largest city in the republic. In these cities, district or settlement bodies of local executive authority areas subordinate to the city executive authority (Kenneth 2002).

Local Self-government provides ample opportunity for citizens to be involved in the creation of Local policies. Local government activity in Azerbaijan is based on resolutions adopted by local citizens or by elective bodies of local self-government. Citizens may participate in local government through a variety of forms, including referenda, assemblies and proposing municipal resolutions. The municipal government can hold a referendum on any issue within its competence at its own initiative or at the request of at least ten percent of eligible voters in that territory. These referenda are financed from local budgets. When a referendum is to be held, the municipality issuers a resolution announcing the date of the referendum, the issue at stake and the order of financing. This resolution must be publicized in the local mass media within three days. All citizens with the right to vote in that territory may take part in the referendum, which is held between thirty and sixty days after it is announced. The municipality then enacts the results into municipal legislation. Other issues concerning electoral procedures, such as undue influence of voters or falsification of results, are defined in accordance with national legislation. Local referenda may not be held within three months from the official announcement of state of emergency of martial law or while they remain in force. A second referendum on the same issue may not be held within one year of the publication of results form the first. Citizens may also participate in local decision making through public assemblies. According to the Law on the status of municipalities,
public assemblies have the power to adopt resolutions only in municipalities with fewer than five hundred inhabitants. These assemblies have due authority provided that at least twenty-five percent of all resident citizens over eighteen are in attendance. In these assemblies, citizens have the right to express their opinion and to adopt, amend or dissolve the municipal charter. The local population may also initiate municipal decision. Such proposals must be discussed in open council session with the participation of citizen representatives, and their results should be officially announced.

Local councils play a central role in the local decision-making process. The chairman, commissions and heads of municipal agencies are empowered to decide upon local issues within the framework of their authority, although local councils should approve major decisions. Local council sessions must be convened at least once per month by the chairman or at the request of either one-third of all council members or at least ten percent of the local population. Decisions passed in council sessions are valid if a majority of council members are present and are effective on the territory of the given municipality. The local council passes municipal regulations, establishes local taxes and duties, adopts the local budget, reports on its performance and approves local programmes for social protection, social and economic development and environmental protection, among others. Specific programs are designed by standing commissions and submitted to the local council for discussion. Decisions related to local taxes must be passed by a majority of two-thirds of all council members; all other decision is adopted by a simple majority vote. Council sessions are transparent and open to all citizens residing in the municipality. The executive branch is charged with implementing local council decisions and consists of the municipality chairman and other municipal agencies established by legislation or municipal charter. In order to fulfill its obligations, the executive apparatus may adopt appropriate decisions with in the framework of its authority. Heads of municipal divisions may issue orders, instructions or other document of an administrative nature, as defined by the municipal charter (Roy & Wallace, Sally 2004).

Local elections are held according to the Law on Municipal Elections. The first municipal elections in Azerbaijan were held on 12 December 1999. Altogether, local councils were elected in fifty-one city districts, 123 settlements and 2,409 rural
municipalities. Official elections were not held in Upper Karabakh and the neighboring occupied territories. Instead, internally displaced citizens form these areas took part in these municipal elections in their temporary residences. Local councils are constituted through free, general, direct and equal elections. All citizens over the age of eighteen are eligible to vote, while those over the age of twenty-one are eligible to run for office. Candidates may be nominated citizens, registered political parties or voter initiative groups. The number of council members is determined by population.

The Central Electoral Commission (CEC) of Azerbaijan creates regional electoral commissions to organise elections for all municipalities within that region. These commissions establish polling stations and local electoral commissions in the appropriate municipal territories. Territorial and local electoral commissions are formed of representatives who are nominated by local branches of public associations and political parties or by voter assemblies in the given territory. Elections are considered valid if over twenty-five percent of registered voters have participated (Munteanu and Victor 2003). Upon the closing of the polls, official reports on the election results and statistics are compiled at polling stations and transferred to the regional electoral commission. Based on local electoral commission reports, the regional electoral commissions must determine the outcome of the elections no later than two days hence. Within twenty days of the election, the CEC announces the results of municipal elections nationwide. The newly elected councils are then certified within five days by the regional electoral commissions.

According to law, municipalities operate autonomously and separately from the system of state administration. Nonetheless, municipalities must often perform their functions in cooperation with central and local bodies of state administration. Bodies of state administration are legally required to assist the local population in implementing local self-government and create the necessary legal, organizational and financial conditions for the foundation and development of municipalities. Municipalities and state administration must also cooperate in preparing and implementing local programmes. Since issues often overlap, these bodies must take into account programmes by the other, but may not directly interfere in their activities. The legislative and executive branches of the central government may also transfer additional power and responsibilities to local government, provided that the requisite funds are allocated as well. In these cases, the
legislative or executive authorities may supervise implementation of those responsibilities. The municipal government may also enter as a customer into a contractual relationship with state agencies in connection with certain economic activities.

In economic affairs, the state is enjoined to protect municipal property and create conditions for its development. One method, as stated in the Law on the Status of Municipalities, is by distribution of subsidies, credits, and grants. If the central government passes a decision which results in increased expenditures or decreased revenues for municipalities, it must allocate funds in compensation. Also, expected local budget revenues should be taken into account during the adoption of the state budget. If a minimum amount of local budget revenue is not covered by own local revenues, then the state administration should transfer funds from the state budget to municipalities (Kenneth 2002). The State, through the Ministry of Justice, may also exercise control over compliance with the Constitution and laws of Azerbaijan by municipalities and their officials, according to Article 52 of the law of the Status of Municipalities. If municipal acts contradict the Constitution, legislation or ministry resolutions, they are subject to annulment by the Constitutional Court, according to article 130(5) of the Constitution.

Municipal governments were instituted in a period of wide ranging political reform in Azerbaijan and therefore entered their existence on somewhat uncertain foundations. The resulting potential for problems has only been confirmed by time. Although municipal government have been created, they are not significantly active and have little opportunity to become more so. If municipal governments in Azerbaijan are to become viable, certain factors currently impeding their development must be eliminated.

The lack of properly structured state power is the primary obstacle to normally functioning municipal government. Despite the division of powers stipulated in the Constitution, the legislative and judiciary branches remain virtually subordinate to the executive branch. Under these circumstances, Parliament is not in a position to adopt legislation that empowers municipal governments to act independently, that is potentially counter to state administration interests. Similarly, the judicial branch cannot provide adequate legal protection when municipal rights are violated by the state administration.
A true balance of powers must therefore be instituted at the national level before municipal autonomy can be realised. Furthermore, the role and powers of municipalities in the national political system are not precisely defined in legislation. This confusion seriously hinders the passage of necessary legislation on local government. Supremacy of law does not always hold true in Azerbaijan, and many laws are ultimately purely formal. Indifference on the part of the state government is yet another barrier to progress. Measures taken by the state are often unsystematic and ineffective since state officials lack a clear concept of local government. The lack of finances is also a key source of difficulty for local governments. The central government often does not allocate due amounts or delays the transfer of property to municipal ownership. In general, current conditions, do not allow local governments to carry out free economic activities.

Finally, free and universal municipal elections are one of the most important prerequisites for local autonomy. The municipal elections held so far in Azerbaijan have been largely formal, as the majority of elected municipal officers were in fact candidates backed by the existing executive authorities and are therefore unable to act independently. If the system of local governance in Azerbaijan is to meet international standards, these issues demand resolution.

Non-Governmental Organisations in Azerbaijan

No process of democratisation is complete without a vibrant NGO sector. As public associations expanded their activities, it became evident that a more advance law was required (the previous law governing public association activity was the law on Public Associations, adopted in 1992). Accordingly, on 13 June 2000, Parliament passed a Law on Non-governmental Organizations (NGOs) which took effect on 6 October 2000 (Ahmedova 2002).

Although roughly 2,500 NGOs exist in Azerbaijan, only 1,300 of them are registered and only 150 function significantly. The majority currently operate in Baku, but NGOs have recently been emerging throughout the republic. Already, a few regional NGOs have some influence in the solution of local problems. NGO activities focus on human rights, educational projects, citizen participation, electoral awareness and legislative amendments. Subsequent to the creation of municipalities, a number of NGOs
were founded to promote municipal activity. Unfortunately, these organizations are unable to render any effective assistance to municipalities under current conditions.

Although NGOs exercise some influence on public processes, they do not participate in creating local policies. This is due to the lack of skills and experience in public administration and the absence of a favorable political climate.

The process of political consolidation in Azerbaijan has occurred largely under the auspices of an emerging system best described as "presidential monarchy". This has taken place following years of political turmoil and the eventual, though gradual, re-establishment of such institutions of the state as the parliament, the bureaucracy, and the presidency. Both constitutionally and practically, the presidency has emerged as the real fountain of power in Azerbaijani politics, and, in the process, President Hyder Aliyev made himself indispensable to the political system. Significant accomplishments in the fields of foreign policy and economics, as well as the elimination of actual and potential rivals in the armed forces and elsewhere, greatly enhanced Aliyev's powers on the one hand and provided much needed boost to the twin process of nation building and institution building in the country.

Azerbaijan has hardly become a model democracy, and still has a long way of reform ahead. But the voice of the people of Azerbaijan in electing a parliament mattered more in this election than ever before. Steps taken by the government after the election further indicate the readiness by the government and especially by the President to conduct reforms. As such, Azerbaijan deserves criticism for the remaining problems but also encouragement for its accomplishments. This election has regional implications. In the past few years, frustration with a decade of sluggish democratic progress and authoritarian backsliding in the former Soviet Union gave way to enthusiasm for the 'colored revolutions' that swept through Georgia in December 2003 and Ukraine a year later (Nuriyev 2001).

To many observers, it indicated the only way to break the deadlock was through peaceful, popular uprisings against unpopular and corrupt rulers. But this path is not without danger. An attempt to copycat the Ukrainian revolution in Kyrgyzstan to oust Askar Akayev, the unpopular President also led to widespread looting, a new and equally corrupt government, and the destabilization of the country. Seven political assassinations
including four members of parliament have taken place in Kyrgyzstan since the revolution, and the influence of organized crime on politics is at an all-time-high. And with the recent collapse of the Ukrainian government, observers are becoming increasingly skeptical that 'colored revolutions' automatically bring change.

For the West, much is at stake as Azerbaijan is becoming increasingly important to Western interests. It is sandwiched between Russia and Iran, forming the only reliable air transport corridor between NATO territory and Afghanistan. It is emerging as a major non-OPEC oil producer, with high oil prices and supply problems making this all the more timely. Azerbaijan is also something as rare as a stable, moderate and secular Shi'a Muslim country aspiring to integrate with Euro-Atlantic institutions. While not as rapid as one could wish for, Azerbaijan’s progress shows that an advance toward international democratic norms is possible through evolution and not only through revolution. Constructive criticism has its obvious place, but the West should give credit where credit is due.

During 1991-2005 lot of events took place in Azerbaijan in the direction of democratisation, institution building and strengthening of civil society. But all the above events and measures taken by the presidential form of government fell far short of expectations and a journey towards real process of political developments. What have been the constraints in the way of political developments in Azerbaijan and what are the challenges that lay ahead for the country forms the theme of the next chapter.