THE STATE AS THE MAIN SUBJECT OF REGULATION OF CONSTITUTIONAL LAW

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The Azerbaijani state, as a subject of constitutional law (constitutional and legal relations), is a political organization of the entire Azerbaijani people and society as a whole, acting as a system of all organs of state power, implementing the powers and functions of the state as the most important form of democracy, implementing the social purpose of the state and fulfilling its role in ensuring the rights of man and citizen.

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Legal scholarship offers numerous definitions of the state, allowing us to understand its nature and socio-political essence. The complexity and multiplicity of the state as a phenomenon and concept, as well as the subjectivity of its perception by different authors, objectively determine the possibility and inevitability of its multivariate understanding and varied interpretation. Moreover, the multiplicity of definitions of the concept of the state is not only justified but also objectively necessary, opening up broad opportunities for a deeper and more comprehensive understanding of both the state itself and its concept.

In political and legal literature, the state is characterized in two senses, or in a broad and a narrow sense. In a narrow sense, the state is a set of institutions; in a broad sense, the state is all of society in its state-political form. However, the terms "broad" and "narrow" themselves seem inappropriate: they do not reveal the essence of the differences in understanding the state. These differences consist in the fact that in one case (broad understanding) the definition reflects the socio-political essence and purpose of the state, while in the other (narrow understanding) the state is defined in its institutional aspect.

The second chapter of the Constitution of the Republic of Azerbaijan dated November 12, 1995 is entitled "Fundamentals of the State" [2]. The following articles are reflected in that chapter.

- Article 7. The state of Azerbaijan;
- Article 8. The Head of the State of Azerbaijan;
- Article 9. Armed forces;
- Article 10. Principles of international relations;
- Article 11. Territory;
- Article 12. The highest objective of the state;
- Article 13. Property;
- Article 14. Natural resources;
- Article 15. Economic development and the state;
- Article 16. Social development and the state;
- Article 17. Family, children and the state;
- Article 18. Religion and the state;
- Article 19. Monetary unit;
- Article 20. Restrictions on state debts;
- Article 21. Official language;
- Article 22. The Capital;
- Article 23. Symbols of the State of Azerbaijan.

As can be seen, chapter two of the Constitution of the Republic of Azerbaijan, called "Fun-

damentals of the State", consists of 17 (seventeen) articles.

Article 7 of the Constitution states: "The state of Azerbaijan is a democratic, law-governed, secular, unitary republic.

In internal affairs the state power of the Republic of Azerbaijan is restricted only by law, and in foreign affairs – only by provisions of international treaties to which the Republic of Azerbaijan is a party.

State power in the Republic of Azerbaijan shall be based on the principle of separation of powers:

- legislative power shall be exercised by the Milli Majlis of the Republic of Azerbaijan;
- executive power shall be vested in the President of the Republic of Azerbaijan;
- judicial power shall be exercised by the courts of the Republic of Azerbaijan.

In accordance with the provisions of the present Constitution the legislative, executive and judicial power interact and are independent within the limits of their respective authority".

Article 8 of the Constitution states: "The President of the Republic of Azerbaijan is the Head of the state of Azerbaijan. He represents the state of Azerbaijan both within the country and in its foreign relations.

The President of the Republic of Azerbaijan embodies unity of the Azerbaijani people and ensures continuity of the Azerbaijani statehood.

The President of the Republic of Azerbaijan is the guarantor of independence and territorial integrity of the state of Azerbaijan, and of its observance of international treaties to which the Republic of Azerbaijan is a party.

The President of the Republic of Azerbaijan is the guarantor of independence of judicial power".

Article 13 of the Constitution states: "The property in the Republic of Azerbaijan is inviolable and is protected by the state.

The property may be in the form of state, private and municipal property.

Property may not be used to infringe upon rights and liberties of a person and a citizen, interests of society and state, the dignity of a person".

According to Z.Mammadov and E.Dadashov, property law is a fascinating field that has drawn the attention of jurists, philosophers and academics in general because they are a reflection of society and the relationships established in it [3, pp. 428-433].

Article 125 of the Constitution of the Republic of Azerbaijan, entitled "Exercise of Judicial Power", states: "Judicial power in the Republic of Azerbaijan shall be exercised by the courts of law, through the administration of justice.

Judicial power shall be exercised by the Constitutional Court, the Supreme Court, the courts of appeal, general courts and other specialised courts of the Republic of Azerbaijan.

Judicial power shall be exercised through constitutional, civil and criminal proceedings, and through other means prescribed by law.

The Prosecutor's Office and the defendant shall participate in criminal proceedings.

The judicial system and judicial proceedings shall be prescribed by law.

The use of legal means that are not prescribed by law, for the purpose of altering the powers of the courts, and the establishment of extraordinary emergency courts shall be prohibited.

Judicial proceedings shall secure the discovery of the truth".

Accoding to N.H.Shukurov, "Constitutions are legal documents that establish the fundamental principles and laws of a country or state. Its study and protection is of great importance since, in general, state constitutions provide the legal framework in which the state functions, protect the rights of citizens, define the separation of powers, establish different procedures for decision-making. and on many occasions, they are also a guide for the creation of laws" [4, pp. 442-447].

On December 23, 2003, the Law of the Republic of Azerbaijan on the Constitutional Court was adopted, which includes 79 (seventy-nine) articles and consists of 9 (nine) chapters [5].

To date, this Law has been amended and supplemented 22 (twenty-two) times.

From the date of entry into force of the Law dated December 23, 2003, the Law of the Republic of Azerbaijan "On the Constitutional Court" dated October 21, 1997 became invalid.

The Law of the Republic of Azerbaijan on Courts and Judges was adopted on June 10, 1997 [6].

It should be noted that in real life, the state is a subject of law and legal relations not in abstract, general theoretical terms, but in specific, sectoral ones (or a system of branches of law, as is the case with international law). Depending on the content and nature of the relations in which the state participates, it manifests itself in a multifaceted spectrum of guises, exercising a variety of roles as a subject of law and legal relations. In accordance with the philosophical categories of the general, the particular, and the singular, the characteristic features of the Azerbaijani state as a subject of constitutional law and constitutional-legal relations can only be understood within the context of the legal ties of the corresponding sectoral affiliation. It is the specific features of the subject of legal regulation within a given branch of law that primarily determine the specific manifestations of the state's inherent characteristics as a subject of law and legal relations.

Thus, one of the fundamental characteristics of the state is state sovereignty. Sovereignty is a key aspect defining the state's status as the primary legal entity. The state has the exclusive right to govern its domestic and foreign policy and protect its interests. The highest authorities and officials, acting on behalf of the state, represent it in constitutional and legal relations. They exercise sovereign rights by developing legislative and executive decisions that reflect the interests of society within the framework of the law. Sovereignty also implies the authority to establish legal norms governing domestic relations and to conduct international affairs. This makes the state an active participant in global and local legal relations, requiring it to be responsible and comply with international human rights standards.

For legal science, this is an undeniable conclusion, and the literary assertion that "a state governed by the rule of law is not sovereign; sovereignty is inherent in a politically dominant state that imposes its will on citizens" should be viewed more as a literary device-hyperbole, metapho-than a serious scientific conclusion. However, while in international law state sovereignty is a fundamental criterion of a state, determining its very existence, in civil law, the defining feature of a state's civil-law status is that in private-law relations it renounces the special position of sovereignty and participates in "civil-law relations on an equal basis with other parties to the relationship" (Article 5.2 of the Civil Code of the Republic of Azerbaijan) [1].

If in civil-law relations the specific properties of the state as a sovereign entity possessing sovereignty are not brought to the fore, and such a feature of these relations as the equality of parties (subjects) of legal relations is inherent in legal relations with the participation of the state, then in constitutional-legal relations in the Republic of Azerbaijan the only source of state power is the people of Azerbaijan (Part 1 of Article 1 of the Constitution of the Republic of Azerbaijan).

In this regard, when formulating the definition of the state as a subject of law and legal relations, it is necessary to take into account the characteristic features of the legal relations of a specific industry: as there is not, and cannot be, a single definition. The state as such cannot exist as a universal definition of the state as a subject of law and legal relations, regardless of their branch affiliation.

In branch legal sciences, there is no definition of the state as a subject of law (law enforcement).

International law considers the state as a single whole, regardless of the structure of its mechanism, the distribution of competence between state bodies. The state in international law is the bearer of organized sovereign power.

In constitutional law, the state can be defined as the political organization of the entire Azerbaijani people and Azerbaijani society as a whole, the most numerous social community uniting the entire population of the country. It is the highest form of unification and organization, the self-organization of human communities and individuals, among whom, as a result of historical development within a given territory, stable economic, social, cultural, ethnic, spiritual, and psychological ties and relationships have developed. Supreme authority emanating from the people is embodied in the state as a whole as a means of popular self-organization within society. The state as a whole represents society as a whole and, on its behalf, adopts

laws and other governmental decisions binding on all members of society, each of whom, in turn, is obligated to recognize, respect, and protect their fundamental rights and freedoms.

One of the state's primary functions in constitutional and legal relations is to ensure and protect the rights and freedoms of citizens. The Constitution enshrines fundamental rights and freedoms, such as the right to life, freedom of speech, the right to work, and many others. The state, acting through its authorities, is obligated to create conditions for their realization and protect against violations. It not only protects citizens' rights but also actively participates in lawmaking. The legislative branch, as one of the fundamental institutions of the state, develops and adopts new laws that may amend or clarify legal norms. Legislation plays a key role in the development of legal relations. It concretizes constitutional provisions, regulating various spheres of public life. For example, election laws, human rights laws, and local government laws detail constitutional norms, ensuring their practical application.

The state's participation in constitutional and legal relations is also linked to its social purpose. It acts as an intermediary, balancing the interests of various population groups, protecting the rights and freedoms of citizens. This is important not only for ensuring personal security and law and order, but also for the stability and development of society as a whole. Thus, in the context of constitutional and legal relations, the state is not only the executor of certain functions but also an active, dynamic actor that strives to adapt to changing conditions and societal demands. It not only responds to the challenges of the times but also actively shapes the legal framework within which society operates.

The state also acts as a participant in the electoral process, which is the primary mechanism for implementing democracy. Constitutional norms determine the electoral procedure, and state bodies ensure their transparency and legality. This includes: overseeing elections; ensuring equal rights for all candidates; and maintaining public order during elections.

The state participates in constitutional and legal relations in a variety of ways. First and foremost, it acts as a set of institutions that fulfill their role in society. Authorities, the Government, and the Constitutional Court act as representatives of the state. This allows them not only to exercise legislative and executive functions but also to ensure the protection of citizens' constitutional rights. The system of state authorities represents a functional structure that ensures the sustainable development of the state. These bodies are endowed with specific powers and responsibilities, enabling them to function effectively in the social, political, and economic spheres. Importantly, they act not only in their own name but also on behalf of the state as a whole, exercising its constitutional and legal capacity.

In constitutional and legal relations, the state acts as the bearer of state sovereignty, which implies its independence and supremacy within its territory. The highest authorities and officials represent this sovereign right by exercising their legitimate functions in various legal spheres.

For example, the President of the Republic of Azerbaijan, as head of state, exercises important functions concerning both domestic and foreign policy. His decisions and actions reflect the interests and needs of citizens, thus strengthening the principle of popular sovereignty. The Milli Majlis exercises legislative power by adopting laws that define the rules of society. The Constitutional Court guarantees compliance with the Constitution and protects citizens' rights by considering cases concerning constitutional norms.

Legally, the head of state is an organ of state authority whose functions and, accordingly, the position may only be held by a citizen of the state. Therefore, the Basic Law of the state specifically specifies this requirement among the requirements for candidates for this position.

In order to adequately reflect the state and legal reality, the definition of the Azerbaijani state as a subject of constitutional law should, firstly, be based on the definition of a subject of law, formulated by the theory of law as a person, organization or other entity, which is recognized by law as having the ability to be a bearer of subjective rights and obligations; secondly, it should take into account various definitions of the state, formulated in legal and political science, designed to reflect the socio-political es-

sence and purpose of the state, its relationship with the people and society; thirdly, it should take into account the derivativeness of state power and state sovereignty from the power of the people, as well as create such conditions for the functioning of society, where an individual, his rights and freedoms are the highest social value; fourthly, this definition is intended to "materialize" the concept of "state", clarifying what this "organization" represents as a subject of social relations from the point of view of its structure and structure, that is, to define the phenomenon of the state in the institutional aspect. In its institutional aspect, the state is an organization, an association, "integrated by public-power relations and institutions". It is a complex of institutions, agencies, and bodies, each of which performs specific legislative, executive, and judicial functions. The institutional aspect of understanding the state allows us to define this subject of constitutional law quite clearly: it is the system of all organs of state power.

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