

The principle of equality of rights and its importance in Azerbaijani modern society

This article includes the main peculiarities of constitutional foundations of equality of rights in the national legislation of the Republic of Azerbaijan. At the same time different sides of the principle of equality of rights (for example ideological, political, economic e.t.c) fixing in national Constitution discribed by author.

Azerbaijan experienced democratic governance in 1918-1920 – the first such experience in Turkish and Muslim countries. In May 28th of 1918 Azerbaijan witnesses the establishment of the Democratic Republic of Azerbaijan - the first Parliamentary Republic in the history of the people of Azerbaijan, the first democratic, legal and secular state in the whole East and Islamic world [2, p. 69, p.133; 3, 67].

Among the important accomplishments of the Parliament was the extension of suffrage to women, making Azerbaijan the first Muslim nation to grant women equal political rights with men [4, p. 124, p.222, p.269]. The historical Declaration of Independence adopted in May 28th of 1918 declared the establishment of the first parliamentary republic in the Turkish and Muslim world and in the entire East - the Democratic Republic of Azerbaijan. For example, paragraph 4 of the Declaration of Independence of the National Council of Azerbaijan stated: “The People’s Republic of Azerbaijan ensures the political rights and citizenship to all its residents within its bounds regardless of nationality, faith, class, estate and sex”.

After gaining its independence in 1991, Azerbaijan has reached a high level of human development. Azerbaijan today is among the Muslim countries where support for secularism and tolerance is the highest [5, p.229, p.270].

First Constitution adopted in 1995 established basics of governmental construction of Azerbaijan as democratic, juridical and global country and first time in its history chose priority of human rights and principle of separation of powers as the main direction of the future development. The first Constitution of independent Azerbaijan was the basis of the country's foundation after the fall of the Soviet Union. The Constitution of the Republic of Azerbaijan is the basic law of the Azerbaijani government.

It is important to note, that equality, unlike primitively conception of equality of rights, does not assume the levelling approach to individuals. Social value of equality of rights is predetermined by the maintenance of this legal principle. Fastening of the specified principle at the constitutional level assumes the spreading of the rights and freedoms of person and citizen proclaimed by the constitution equal to all individuals without exception. The rights of each of them are equally recognized as inalienable and integral.

Equality of rights and freedoms of person and citizen is recognized by the national Constitution as equality of possibilities, not as actual equality which is really unattainable in life [6, p.115]. It’s not enough to declare equality of the rights, freedoms and duties for all individuals, but it’s necessary to have filling of this declaration by the real legal maintenance in the current legislation and practice. Each member of society must be provided by Constitution in possibilities to put into practice all rights and freedoms an equal base with other individuals.

Thus, equality as a legal category assumes giving to each member of society the equal possibilities for

participation in social life, realisation and protection of the rights and legal interests. Equality as the legal category does not deny and ignore actual inequality of individuals within society, but at the same time it establishes impossibility of any individual discrimination to each other. Besides, the State takes all steps (tax and social legislation) to keep the actual inequality under control that it will not reach the dangerous limits [7, p.146]. Above mentioned legal principle assumes the establishment of equal conditions and possibilities for all individuals to participate in a social life completely realize and protect all their rights. So, modern equality is an equality of individuals as society members.

In the Republic of Azerbaijan the state guarantees rights, liberties and legal interests of persons with disabilities and children with impaired health by means of court or other means defined by law. According to the Azerbaijani Constitution every Person shall be equal to the Law and Court [1, article 25]. Equality before the Law and Court means that despite of the person laws are applied equally to all subjects in the juridical relation.

In the legal state it is necessary to observe an equality principle of all before the Law irrespectively of social, property and official position of the person. Nobody has the right to break law of the state in which he lives, and for infringements of these laws should answer before Court. All citizens of the Republic of Azerbaijan are equal before law and court. The state guarantees equality of rights and liberties of everyone. In the Republic of Azerbaijan the state guarantees rights, liberties and legal interests of persons with disabilities and children with impaired health by means of court or other means defined by law.

According to the national law everyone has the right for obtaining qualified legal advice. In specific cases envisaged by legislation legal advice shall be rendered free, at the governmental expense [1, article 61].

National legislation also provides of equality of sexes (gender equality) in realisation of their rights and freedoms [1, article 25]. So in the Azerbaijani society men and women have equal rights and freedoms (participation in government, in elective bodies etc) and suitable political and legal conditions are created by State.

The most important activity carried out in direction of protection of women's rights by adoption of the Law "On insuring gender (man and woman) equality" in October 10, 2006, which is the fundamental document in this field. The objective of the document is insuring gender equality by prevention of all forms of gender discrimination and creating equal opportunities for men and women in political, economic, social, cultural and in other fields of life.

Azerbaijani legislation establishes the State guarantee of equality of the rights and freedoms of everyone irrespectively of race, a nationality, religion, language, a floor, an origin, a property status, office position, belief, an accessory to political parties, trade-union and other public associations [1, article 25].

Today Azerbaijan is a multinational country and its official policy is defined on the principles of tolerance and coexistence of various nationalities, ethnic groups and religious minorities. According to the main law [1, article 25] of the Republic of Azerbaijan, i.e. the Constitution, the state ensures equality of rights and freedom of everybody irrespectively of his race, nationality, religion, language, gender, background, state of property, service position, faith, membership to political parties, trade unions and other public institutions. Restriction of the freedom and rights of people and citizens for racial, national, linguistic, political and social background, as well as gender is forbidden [1, article 25].

In conclusion it should be noted that, constitutional norms establishing equality were further improved with additions and amendments to the Constitutions in March 18, 2009. Thus, with additions to the article 25 (Right of equality) no one may be granted allowances or privileges, or deprived from granting allowances and privileges on the basis of their gender or other status.

Equal rights of everyone are guaranteed in relation with decision making agencies on rights and responsibilities, and state agencies in charge of government authorities. No one may be harmed, granted allowances or privileges, or deprived from granting allowances and privileges on the basis of the grounds elaborated in Part III of the article 25. Equal rights shall be provided for everyone in relationship to the state institutions making decisions on rights and responsibilities and those having the competencies of state authority.

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რეზიუმე

აზერბაიჯანის თანამედროვე საზოგადოებაში თანაბარუფლებიანობის პრინციპები და მათი მნიშვნელობა.

აღნიშნულ სტატიაში განხილულია აზერბაიჯანის თანამედროვე დანვითარების ძირითადი ეტაპები. ავტორი აანალიზებს ქვეყანაში განვითარებულ პროცესებს და აღნიშნავს რომ ჩამოყალიბდა მულტინაციონალური საზოგადოება და ადანიანის უფლებები დაცულია კონსტიტუციით