

12-16-2022

Codification of Civil Law in Azerbaijan: History, Current Situation and Development Perspectives

Natig Khalilov

Follow this and additional works at: <https://digitalcommons.law.lsu.edu/jcls>



Part of the Civil Law Commons

Repository Citation

Natig Khalilov, *Codification of Civil Law in Azerbaijan: History, Current Situation and Development Perspectives*, 14 J. Civ. L. Stud. (2022)

Available at: <https://digitalcommons.law.lsu.edu/jcls/vol14/iss1/10>

This Civil Law in the World is brought to you for free and open access by the Law Reviews and Journals at LSU Law Digital Commons. It has been accepted for inclusion in Journal of Civil Law Studies by an authorized editor of LSU Law Digital Commons. For more information, please contact kreed25@lsu.edu.

**CODIFICATION OF CIVIL LAW IN AZERBAIJAN:
HISTORY, CURRENT SITUATION AND DEVELOPMENT
PERSPECTIVES**

Natig Khalilov*

I. Introduction	324
II. The Azerbaijan SSR Civil Code of 1923	326
III. The Azerbaijan SSR Civil Code of 1964	333
IV. The Azerbaijan Republic Civil Code of 1999	341
V. Current Situation and Development Perspectives	348

ABSTRACT

The Civil Code is the second most important legal act in the country after the Constitution, and the first in terms of volume. Due to its important role in the lives of citizens, the Civil Code is sometimes informally referred to as the “Economic Constitution.” At the same time, the Civil Code is the main document setting the rules for a market economy. This article is devoted to the processes of codification of civil law in Azerbaijan over the past 100 years. During the twentieth century, through the codification of civil law, Azerbaijan has adopted three Civil Codes, far more than many other countries. At the same time, this article describes the drafting of civil legislation from scratch through the transition from a planned economy to a market economy after gaining independence in the 1990s.

* Chief Adviser of the Office of the Trade Representative at the Embassy of the Republic of Azerbaijan to the People’s Republic of China, PhD in Law, Sun Yat-sen University, People’s Republic of China. Email: nkhalilov@hotmail.com. This text was published in Russian (N. Khalilov, *Кодификация гражданского права в Азербайджане: история, современное состояние и перспективы развития* (Codification of Civil Law in Azerbaijan: History, Current State and Prospects for Development), in 75 LEX RUSSICA 123-137 (2022)) and in English (N. Khalilov, *Codification of Civil Law in Azerbaijan: History, Current Situation and Development Perspectives*, in 13 J. EUR. HIST. L. 185-194 (2022)). The author and the Journal of Civil Law Studies thank the publishers for authorizing the present publication.

At the end of the article, the existing problems of the civil legislation of the Republic of Azerbaijan are discussed and a number of suggestions are put forward as solutions.

Keywords: Azerbaijan, Civil law, private law, codification, normative legal act, Civil Code, pandect system, legal reforms

I. INTRODUCTION

Codification is the combination of normative legal acts into a single normative legal act by reworking them in terms of form and content.¹ The codification of a legislation envisages a critical review of the existing normative legal acts in the field of certain relations, raising the quality of the legislation to a higher level and ensuring its compactness. The codification aims to eliminate contradictions, inconsistencies between normative legal acts, as well as norms, duplications, obsolete provisions, and gaps that have not been justified over the years. In the process of codification, the developers try to consolidate and systematize the existing norms, as well as to revise their content and sequence and to ensure the maximum completeness of the legal regulation of the relevant area of relations. In addition to generalizing existing legislation, the codification envisages the creation of new norms that reflect the urgent needs of social practice.

The result of the codification is a new consolidated legislative act (code, statute, charter, etc.) with a stable content, replacing the existing normative legal acts in the specific field of law. The simplification and updating of legislation as the most important feature of codification allows it to be accepted as the most perfect and highest form of legislative activity.

The Civil Code is the second most important legal act in the country after the Constitution, and the first in terms of volume. Due to its importance in the lives of citizens, the Civil Code is informally

1. Constitutional Law of the Republic of Azerbaijan on Normative Legal Acts, article 1, December 21, 2010.

called the “Economic Constitution.” The Constitutional Law of the Republic of Azerbaijan “On Normative Legal Acts” adopted on December 21, 2010, gives the Civil Code a higher status than other laws and codes, as article 2.5 of the law states that in case of conflict between the Civil Code of the Azerbaijan Republic and other codes and laws, the Civil Code shall prevail.

In countries with a civil law system, the Civil Code is the main document that sets the rules for a market economy and covers important areas such as property, transactions, compensation, and unjust enrichment. For some of these countries, the Civil Code separately regulates business entities, the legal capacity of individuals, guardianship, family relationships, inheritance, and even private international law.

To date, there are not many books and scientific works on codification in the legal world. The fundamental work of French professor Rémy Cabrillac on the codification of law is particularly noteworthy.² In this work, he analyzes the main legislative codes implemented in the world. It turns out that the first set of laws in the world is not, as many believe, the Hammurabi code of laws adopted in ancient Babylon in 1780 BC, but in fact, the *Code of Ur-Nammu* that was drafted around 2100-2050 BC by the Sumerian king Ur-Nammu, founder of the Third Dynasty of Ur.

In modern history, there are three civil codes that could be considered as the most crucial ones in terms of quality and impact on other countries’ civil law codification: (1) the French Civil Code of 1804 (Napoleonic Code); (2) the German Civil Code of 1896 (*Bürgerliches Gesetzbuch*); (3) the Swiss Civil Code of 1907. The French Civil Code of 1804 is distinguished by its simple language. The language of the German Civil Code of 1896 is not simple, and it is often argued that this legal act is intended not for the general public, but rather for professional lawyers. Nevertheless, the German Civil Code is characterized by its refined legislative technique.

2. R. CABRILLAC, *LES CODIFICATIONS* 10 (Presses universitaires de France 2002).

In 1907, the Swiss Civil Code was adopted by the amalgamation of the simple language of the French Civil Code and the high legislative technique of the German Civil Code. Civil codes adopted in many countries in the twentieth century were drafted on the basis of these three codes.

Throughout history, the ancient states of Azerbaijan have had a rich tradition of civil law, and during different periods, law statutes and codes were compiled through the codification of laws in the field of civil law. Examples of this are the *Avesta*, the primary collection of sacred books of Zoroastrianism created during the Atropatene period, the *Aguen Collection of Laws* adopted by Vachagan III during the Caucasus Albania, the *Matikan e Hazar Datastan* adopted during the Sassanid Empire, the *Code of Uzun Hasan* compiled by the head of the Aghgoyunlu state Uzun Hasan, the *Dasturul-Amal* adopted by Shah Tahmasib I and the collection of decrees *Jameyi-Abbas* adopted by Shah Abbas I during the Safavid Empire, the *Jar-Tala Code* of the khanate period, etc.

This article mainly provides information on the codification activities carried out in the field of civil legislation in Azerbaijan over the last 100 years. During the twentieth century, Azerbaijan adopted three civil codes: two during the Soviet Union, in 1923 and 1964, and the present one in 1999, under the modern Republic of Azerbaijan, which proclaimed its independence in 1991.

II. THE AZERBAIJAN SSR CIVIL CODE OF 1923

The Azerbaijan Democratic Republic (ADR) was proclaimed on May 28, 1918, but due to the tense political and social conditions, the ADR only existed for 23 months. Although short-lived, the ADR had a wide range of legislative activities in various fields of law but did not manage to adopt the Constitution and the Civil Code in such a short time span.

On April 28, 1920, the Bolshevik Russia occupied Azerbaijan and established the Soviet Socialist Republic in Azerbaijan instead

of a democratic republic. After the collapse of the ADR, the Azerbaijan Interim Revolutionary Committee became the de facto supreme body of state power, exercising the highest legislative and executive power in Azerbaijan. One of the first measures of this Committee in the field of civil law was the abolition of private ownership of land in the country. According to the decree issued on May 5, 1920, the *mulkadar* (landowner), *khan* and bey lands, as well as the lands of mosques, churches, monasteries, and their property were confiscated and given to the working class.³ Thus, the people of Azerbaijan were stripped of their freedom and right to own properties that were confiscated as all wealth was now under the state.

Under the Soviet regime, Azerbaijan witnessed great changes in the legal system initially established by the ADR, by fully adopting the Russian socialist legal system. The civil law system was completely replaced by the socialist law of the Russian Soviet Federative Socialist Republic (RSFSR). During the Soviet period, the civil legislation of Azerbaijan did not significantly differ from the civil legislation of other socialist republics of the Soviet Union, with some exceptions. However, in the 1920s, some features of traditional law and customary law in the field of family, marriage and inheritance were still preserved in the country.

On May 6, 1921, the First All-Azerbaijani Congress of Soviets began its activities, and as a result, Azerbaijan became a completely Soviet socialist country. On May 19 of the same year, the Azerbaijan Soviet Socialist Republic (Azerbaijan SSR) adopted its first Constitution.

In the early years of the Soviet Union, civil legislation in Azerbaijan was committed to Lenin's motto: "We do not recognize anything 'private.' For us everything in the field of economy means public, and not private."⁴ When the Bolsheviks came to power, there

3. R. ƏKBƏROV, S. SƏLİMOV, AZƏRBAYCANIN DÖVLƏT VƏ HÜQUQ TARİXİ 388 (Qanun nəşriyyatı, Bakı, 2003), (R. AKBAROV & S. SALIMOV, HISTORY OF STATE AND LAW OF AZERBAIJAN 388 (Baku 2003)).

4. В. И. Ленин, *О задачах Наркомюста в условиях новой экономической политики: Письмо Д. И. Курскому*, 44 ПОЛНОЕ СОБРАНИЕ СОЧИНЕНИЙ 389 (Москва, 1964), (V. I. Lenin, *On the Tasks of the People's Commissariat of*

were plans to abolish civil law altogether, since all social and legal relations in the country that were to be established would be public. For this reason, some Soviet lawyers suggested the adoption of an economic or a social code rather than a civil code. However, the deep economic crisis highlighted the need to attract private investment, including foreign capital. The New Economic Policy (NEP), proposed by Lenin in 1921, could only succeed with the support of the new civil law system. Thus, on October 31, 1922, the Civil Code of the RSFSR was adopted, and then, under the instructions of the Central Executive Committee of the Azerbaijan SSR, the People's Commissariat of Justice began to prepare a new Civil Code on the basis of Russian legislation.

On June 16, 1923, at the third session of the second convocation of the Central Executive Committee of the Azerbaijan SSR, the first Civil Code of the Azerbaijan SSR (hereinafter referred to as "the Civil Code of 1923") was adopted and came into force on the day of its publication. On September 8 of the same year, the Civil Code was published in the journal *Bakinskiy Rabochiy* (Baku Worker). Unlike the Civil Codes of other Soviet republics, the Azerbaijan SSR Civil Code of 1923 was unique for it included sections covering the rights of marriage, family, and guardianship. In other Soviet republics, these relations were regulated by separate codes and laws. The decision of the Central Executive Committee of the Azerbaijan SSR on this Civil Code stated that disputes in civil law relations that existed from April 28, 1920, to the date of entry into force of the Civil Code of 1923 were to be regulated by the legislation which was in force at the time. However, due to gaps existing in the legislation in force at the time, the use of the new Civil Code was recommended. For earlier disputes, the Civil Code of 1923 was applied only in cases where it was used in favor of the Soviet state, and this

Justice under the New Economic Policy: A Letter to D. I. Kursky, in 44 LENIN COLLECTED WORKS 389 (Moscow 1964).

Code was not allowed to be interpreted in favor of the overthrown ADR government.⁵

This legislative act became the first Civil Code in the history of Azerbaijan. At the same time, it was one of the first civil codes in the world to belong to a socialist state. With the entry into force of this Code, the formation of Soviet civil law in Azerbaijan was formalized by summarizing less than two years of experience in the development of civil law institutions in the context of the NEP.

The Civil Code of 1923 included many issues related to the nature and rules of implementation of the NEP. This Civil Code consisted of 8 sections (general provisions, property law, law of obligations, copyright law, law of inheritance, marriage law, family law, guardianship law) and 524 articles (only 83 of them had been commented).

There were 51 articles and 5 chapters in the general provisions section. It contained the main provisions, norms on legal subjects (persons), legal objects (property), agreements and the statute of limitations. The main provisions stated that civil rights that did not contradict social and economic purposes were protected by law (article 1) and that civil law disputes should be settled in court (article 2). The second chapter, which defined the norms for legal entities (persons), consisted of 16 articles and was divided into two groups: individuals (articles 4-12) and legal entities (articles 13-20). Article 5 reflected the scope of the legal capacity of individuals. An interesting point was that the Civil Code of 1923 did not specify the moment of formation of an individual's legal capacity. There were two juvenile periods: under 14 and between 14 and 18. The Code stipulated that every citizen of Azerbaijan has the right to move freely throughout the territory of the Republic, to acquire or transfer property, to establish industrial and commercial enterprises, to choose professions not prohibited by law, and to conclude agreements. Article 8 set out the grounds for termination of legal capacity. According to the Code, associations, departments, or organizations of

5. AKBAROV & SALIMOV, *supra* note 3, at 389.

persons capable of acquiring property, acting on obligations, filing lawsuits, and responding were considered legal entities. The third chapter, covering six articles, regulated issues related to legal objects, i.e., property (articles 20-25). Any property for which civil turnover was not prohibited by law could act as a civilian object. Property withdrawn from civil circulation could be the object of civil law only to the extent specified in the law. Land was considered state property and could not be the subject of special turnover. Land acquisition could only take the form of a right of use. The fourth chapter of the Code, which regulated agreements, consisted of 18 articles (articles 26-43). Article 27 dealt with the forms of agreements. The fifth chapter of the Code was called the “the statute of limitations” and consisted of eight articles (articles 44-51). It defined the statute of limitations, the rules of commencement, suspension, and resumption of the statute of limitations. The statute of limitations was 3 years.

The second section of the Code was called “property law.” This section consisted of three chapters (property rights, construction rights, property mortgages). The Civil Code of 1923 established three forms of ownership: state property (nationalized and municipalized), cooperative property, and private property. Non-municipal constructions, trade enterprises with hired workers not exceeding the amount provided by special laws, industrial enterprises, production tools and means, money, securities, and other valuables, including gold and silver coins, foreign currency, household appliances, household and personal use processed goods, goods the sale of which is not prohibited by law, and any property not excluded from private circulation could be the subject of private property. Confiscation of property was allowed only as a punishment in special cases provided by law. State property was preferred as the main form of property. Land, subsoil resources, forests, water, public railways, and their mobile equipment could only be state property. The second and third chapters were devoted to construction rights and issues of mortgaging property, respectively.

The third section of the Code was called the “law of obligations.” This included general provisions and obligations arising from agreements, in particular liabilities such as property leases, sales, exchanges, donations, contracts, orders, purchases, storage, and partnerships. This section also covered liability for damages.

The fourth section of the Code was called “copyright law.” It should be noted that among the republics of the Soviet Union, only the Civil Code of Azerbaijan included a section on copyright law. In other republics, this field of law was regulated by separate legislative acts.⁶

The fifth section of the Code was called “inheritance law.” This section covered the forms of inheritance, the circle of heirs, the mass of the inherited property, the rules of inheritance, intestate succession, and testamentary succession. According to the law, the circle of persons called to inherit by law and testament included those who were related by kinship in a direct descending line (children, grandchildren, and descendants), those who have been adopted (including their kinship in a direct descending line), as well as the poor and incapacitated people who were completely dependent on the testator for at least one year before his (her) death.

Finally, the last three sections of the Code were devoted to the laws of marriage, family, and guardianship. The marriage had to be registered with special state bodies in accordance with the law. According to article 442 of the Code, a marriage could be declared invalid by the People’s Court only in cases strictly provided by law. The death of one of the spouses was also considered a ground for divorce. Marriages concluded on the basis of religious rites and with the help of clergy were not the same as marriages registered by the Civil Registry Office and did not create any rights or obligations for those entering into such marriages. However, religious and ecclesiastical marriages concluded before the date of publication of the Code in accordance with the conditions and forms provided for in

6. А.Л. МАКОВСКИЙ, О КОДИФИКАЦИИ ГРАЖДАНСКОГО ПРАВА (1922-2006) 35 (Статут, Москва, 2010), (A. L. MAKOVSKY, ON THE CODIFICATION OF CIVIL LAW (1922-2006) 35 (Moscow 2010).

the laws previously in force had the force of a registered marriage. One of the most important conditions for marriage was the consent of the couple. The age of marriage was set at 16 for women and 18 for men. Children born out of wedlock were considered as children born to parents who were lawfully married. Refusal to appoint a guardian or trustee was not allowed. The Code set out a list of requirements for appointed guardians or trustees. According to article 492, guardianship was imposed on minors, the mentally ill, the wasteful, and those whose characteristics were found to be dangerous or impossible to leave without social protection.

In connection with the adoption of the Code of the Azerbaijani SSR on acts of marriage, family, guardianship, and civil status in 1928, sections on the laws of marriage, family and guardianship were removed from the Civil Code of 1923.

Over the years, the articles of the Azerbaijan SSR Civil Code of 1923 became more difficult both in terms of content and interpretation. Moreover, with the strengthening of socialist principles and the introduction of planning elements in civil law, the number of imperative legal norms increased.

Although the Civil Code of 1923 was based on the German experience, it was very incomplete, as the Code mainly regulated the relations between socialist organizations arising from administrative normative legal acts and life relations between citizens.

Since the adoption of the civil codes of the republics of the Soviet Union in the 1920s, they have been regarded by USSR legal experts as temporary legislative acts of transition. Alexander Goykhbarg, a social democrat and Bolshevik professor of law who led the drafting of these civil codes, spoke of the civil codes of the transition period as a protection of the interests of the state from individual entrepreneurs.⁷

7. А.Г. Гойхбарг, *Ленин и советское право*, in 2 СОВЕТСКОЕ ПРАВО 5-6 (1924), (A.G. Goykhbarg, *Lenin and Soviet Law*, in 2 SOVIET LAW 5-6 (1924)).

The Civil Code of 1923 emphasizes the socio-legal nature of the restriction of private property and the regulation of property relations, i.e., in order to ensure the protection of the interests of the socialist state from individuals, public law prevails over private law. article 6 of the Civil Code of 1923 dealt with the possibility of restricting civil rights not only by a court decision, but also by other cases and rules established by law. For example, people declared illegitimate did not have civil legal capacity because the law did not protect them. Additionally, taking into account the course taken for the development of market relations, the legal regulation of the activities of individual entrepreneurs was defined as one of the objectives of the Civil Code of 1923. In addition to the norms inherent in the Soviet state, the Code also contained the rules of law inherent in the market economy, which formed the basis of the law of capitalist countries. The norms of the Code legally defined the framework in which the state allowed the activities of capitalist elements, and established a system of measures against the abuse of the NEP. In the Civil Code of 1923, there were harmonious norms of law of both bourgeois and Soviet nature. The main reason for this was the introduction of the NEP, which was the main factor that prompted the codification of Soviet law.

The Azerbaijan SSR Civil Code of 1923, which adjusted the new types of economic relations, regulated property relations in the country in accordance with the interests of socialist construction. Some provisions of the Code were declarative and contradictory. The Civil Code of 1923 became a strong and flexible tool for regulating property relations in Soviet Azerbaijan for over 40 years.

III. THE AZERBAIJAN SSR CIVIL CODE OF 1964

The development of the USSR after World War II was characterized by significant economic growth and social reforms that required new civil legislation. In the 1960s, the USSR saw the need to develop a new civil code, as in the sessions of the Central Executive Committee and in the intersessional period, the Presidium of the

Central Election Commission applied numerous amendments and adjustments to the Civil Code of the 1920s, which was outdated and no longer met the requirements of the time. With the adoption of the Law of the USSR of February 11, 1957, "On Reliability of the Legislation on the Organization of Courts of the Union Republics, the Adoption of Civil, Criminal and Procedural Codes," Azerbaijan was officially allowed to adopt a new civil code.⁸

On December 8, 1961, the Supreme Soviet of the USSR adopted the Fundamentals of Civil Legislation of the USSR and the Union Republics, which entered into force on May 1, 1962. This Law was a codified legislative act of the USSR uniting the main provisions of civil law.⁹ These Fundamentals consisted of a preamble and 8 sections (129 articles in total): (1) General provisions; (2) Law of property; (3) Law of obligations; (4) Copyright law; (5) Law of discovery; (6) Law of invention; (7) Law of succession; (8) Legal capacity of aliens and stateless persons and application of foreign civil laws, international treaties and agreements. With the adoption of this legislative act, the work on drafting a new civil code was accelerated.

While considering the drafts of the civil codes of the Union republics, special attention was paid to the issues of defining the scope of relations and the boundaries of civil code, which should be regulated by civil laws. Much attention was paid to the problem of the relationship between the civil legislation of the USSR and the Union Republics, the system of civil codes, the content of civil law institutions (collective farm property, damages, acquisition period, inheritance, etc.) and legislative techniques. Many of the proposals put forward by the republics for the adoption of new civil codes were not accepted by the central leadership due to their all-union significance. At the same time, the exchange of experience between legal

8. Law of the USSR dated February 11, 1957 "On the assignment to the jurisdiction of the union republics of legislation on the organization of the courts of the union republics, the adoption of civil, criminal and procedural codes."

9. Law of the USSR dated December 8, 1961 "On approval of the Fundamentals of Civil Legislation of the USSR and Union Republics."

experts from different republics was of great importance during this period.

Thus, in accordance with the Fundamentals of Civil Legislation drafted in 1961 within the framework of the Second All-Union Codification in the USSR, on September 11, 1964, the Supreme Soviet of the Azerbaijan SSR adopted the second Civil Code of the Azerbaijan SSR (hereinafter referred to as “the Civil Code of 1964”), which entered into force on March 1, 1965. The Civil Code of 1964, again, in essence, did not differ much from the Civil Code of the RSFR, adopted the same year. The new Civil Code consisted of 9 sections and 574 articles: (1) General provisions; (2) Agency and power of attorney; (3) Law of ownership; (4) Law of obligations; (5) Copyright and related rights; (6) Law of discovery; (7) Law of invention, rationalization proposal and industrial design; (8) Law of inheritance; (9) Legal capacity of aliens and stateless persons and application of foreign civil laws, international treaties, and agreements. As can be seen, the Azerbaijan SSR Civil Code of 1964 included new sections on copyright and related rights, law of discovery, law of invention and international law.

The Civil Code of 1964 began with a preamble, more like a political declaration or a constitutional provision. The preamble proclaimed that the Soviet Union had achieved the complete and decisive victory of socialism and had begun to build a broad communist society. By creating such semi-constitutional provisions in the preamble of the Civil Code of 1964, Soviet lawyers described the goals of communism at this stage, the socialist economy, and its future. According to the preamble, the main purpose of Soviet civil law was to remain steadfast in upholding the communist ideology. It should be noted that even the Civil Code of 1923 was not so attached to political ideology as the Civil Code of 1964.

It should also be noted that the provisions of the Civil Code of 1964 show a significant evolution in the understanding of the social function of civil law in the USSR. In the 1920s, civil law was seen as a “narrow horizon of bourgeois law” that would disappear in

communist society, but in the 1960s, civil law was already seen as a means of contributing to the building of communist society.¹⁰

Compared to the Civil Code of 1923, the Civil Code of 1964 demonstrated better structural and legislative techniques. This Code contained separate sections on intellectual property and private international law and provided for a broader system of liability law.

The Civil Code of 1964 recognized only one real right: the right to property. There were only two types of property: socialist property and private property. Apart from the property rights of socialist enterprises, the Civil Code of 1964, unlike the Civil Code of 1923, did not recognize limited property rights (for example, the right to construction). Prominent Russian jurist Yevgeny Sukhanov believes that the main reason for the removal of limited property rights from the civil codes of the Union Republics in the 1960s was the “de facto” exclusivity of state land rights and the exclusion of other limited rights, including servitudes (the right to use someone else’s property).¹¹

The first paragraph of article 89, which deals with state property, explicitly allows tautology: “The state is the sole owner of all state property.” However, in the author’s opinion, this provision was purposefully drafted in this form, because such a formulation would nullify any attempt of socialist enterprises to present their property as property rights. The second paragraph of this article clearly defines the real rights of socialist enterprises over their property:

State property transferred to state organizations is under the practical management of these organizations, these organizations shall exercise the right to own, use and dispose of property within the limits established by law in accordance with the purposes of their activities, planned tasks and the purpose of the property.

10. V. GSOVSKI, *SOVIET CIVIL LAW: PRIVATE RIGHTS AND THEIR BACKGROUND UNDER THE SOVIET REGIME* 576 (Ann Arbor 1949).

11. Y. Sukhanov, *The Concept of Ownership in Current Russian Law*, 6 L. REV. U. TARTU 104 (2001).

At that time, the legal nature of this concept of “practical management” provoked heated debates among Soviet civilists. Some fundamental researchers of civil law think that the creation of such a real law is perhaps the most notable contribution of Soviet lawyers to the science of law. In fact, the concept of “practical management” was not a novelty of the Civil Code of 1964. It already existed in 1921 at the time of the introduction of the NEP and was recognized by the Soviet legal doctrine, but it was simply not formally included in the Civil Code of 1923. That is why the nature of the property rights of Soviet enterprises was the subject of scientific controversy in the 1920s.

According to Boris Martynov – a professor at the Moscow State Institute of International Relations – in Soviet civil law the relationship between the state and enterprises is similar to the concept of “fiducia” in Roman law and “trust” in general law. Martynov also uses the “divided theory of property” of the medieval feudal period to explain the division of property rights between the Soviet state and socialist enterprises. On this basis, he attributes the concept of *dominium directum* (direct property) in Roman law to the state, and the concept of *dominium utile* (dependent property) to enterprises.¹² However, Martynov’s theory ignores the substantive differences between the concepts of fiducia, divided property, and trust. Thus, although in the concept of fiducia the fiduciary is not the owner of the property, in matters of trust and divided property, several persons are considered to be the owners of the property as the property is divided between them.

In order to avoid any reference to the “divided theory of property” of the feudal era, Soviet scholars began to insist that the real owner of property was the state only. According to them, the right of enterprises to property is not a property right and should not be classified using traditional concepts of property. Thus, a new real law that combined the components of administrative and civil law –

12. O. S. IOFFE, DEVELOPMENT OF CIVIL LAW THINKING IN THE USSR 211-212 (Giuffrè 1989).

the law of “practical management” emerged.¹³ The Soviet doctrine of civil law accepted the right of “practical management” as a kind of limited real law. Although enterprises could exercise all the rights (possession, use, and disposition) of the owner, the state retained the right to increase the property (accession), and this was a decisive factor in determining the true owner of the property (i.e., the state).

The Civil Code of 1964 declared that private property originated from socialist property and was a means of meeting the needs of citizens. Unlike the Civil Code of 1923, the Civil Code of 1964 recognized only two types of property: socialist property (state or nationwide property, property of collective farms, other cooperative organizations and their associations) and private property (one of the means of meeting the needs of citizens). Private property was a substitute for special property.

The peculiarity of the Civil Code of 1964 was that it regulated property relations in a society where there was no private ownership of the means of production and land. Private property was not encouraged and was subjected to various restrictions. In fact, by its legal nature, private property in the Soviet civil law doctrine was nothing more than limited special property. Private property – limited to certain objects of a certain size – could only be owned by an individual and was ultimately intended to meet the material and moral needs of the owner. It was emphasized that it was illegal for citizens to receive “effortless income” from private property.¹⁴ Article 101 of the Civil Code of 1964 stated that a citizen may personally own one house (or part of a house). The maximum size of a house or part (parts) of a house belonging to a citizen by right of personal ownership may not exceed 60 square meters of living space. Private property could be inherited from one owner to another. If a citizen acquired a second home through a donation or inheritance, he had to sell, donate, or otherwise alienate any of those

13. *Id.* at 215-221.

14. The Azerbaijan SSR Civil Code of 1964, article 88.

homes at his own discretion within a year. If it was not possible to sell the house within a year, the state organized a forced sale. In cases where it was not possible to sell the house compulsorily due to the lack of a buyer, the house was transferred to state ownership free of charge.¹⁵ In such cases, a citizen's right to property depended on his luck: if there was a buyer, the owner could exercise his right of ownership, and if there was no buyer, the house was confiscated by the state. In other words, the state deprived the citizen of property.

Despite all these restrictions, private property could be considered special property, as the owner was given the right to own, use and dispose of the property. It is impossible to disagree with the opinion of the Soviet scientist Vladimir Gsovsky that "Soviet property rights showed that even in a socialist state, even a small amount of private property is inevitable."¹⁶

The Civil Code of 1964 defined two types of agreements: oral agreements and written agreements. The first refers to agreements that could be concluded orally for transactions up to 100 rubles, as well as for immediate transactions. Written agreements were of two types: simple agreements and agreements that had to be notarized. Simple written agreements were to be concluded during transactions of the state, cooperatives, public organizations, and citizens in excess of 100 rubles, as well as transactions required by law in writing. For example, a loan agreement of more than 50 rubles had to be concluded in simple written form. Types of transactions, such as home sales, donations, and wills, had to be notarized.¹⁷

For the first time, the Civil Code of 1964 regulated the relations arising from the contracting of agricultural products, i.e., the conclusion of a contract for the purchase by the state. The contract regulated the relations between the collective farms, state farms and other farms that cultivate and produce agricultural products and the socialist organizations that receive these products. Despite the

15. The Azerbaijan SSR Civil Code of 1964, article 104.

16. GSOVSKI, *supra* note 10, at 576.

17. The Azerbaijan SSR Civil Code of 1964, article 39-41.

existence of a contract of deposit in economic practice, the Civil Code of 1923 did not mention this. New articles (articles 421-432) on the contract of deposit were added to the Civil Code of 1964. According to the contract of deposit the depositary undertakes to safeguard property transferred to him by another party, and to return such property in good condition.

The Civil Code of 1964 also determined state compensation with regards to protecting socialist property. During the Soviet people struggle against Nazi Germany, many citizens were injured in bombings and other hostile operations while heroically rescuing socialist property. Due to the lack of relevant provisions in the Civil Code of 1923, the courts had difficulty determining the compensation to be paid by the state. The Civil Code of 1964 embodied this practice, as the article included the compensation for injury caused by the rescue of socialist property. Injury sustained by a citizen in rescuing socialist property from a danger threatening it must be compensated for by the organization whose property the injured party has rescued.¹⁸

For the first time, an article on protection of honor and dignity was created in the Civil Code of 1964. The foundations of civil law defined litigation as the primary method of protecting civil rights. According to the Civil Code of 1964, there were courts of general jurisdiction, arbitrations, arbitral tribunals, and comrade judgement courts in Azerbaijan.

The predominance of socialist property and the degradation of private property created negative trends in the USSR's economy and society. In the late 1980s, the inefficiency of the socialist economy was already an indisputable and accepted fact. To alleviate the difficulties, the Gorbachev government introduced *perestroika* (reconstructing) and a series of unprecedented political and economic reforms. However, these reforms were ineffective, and on December 26, 1991, the USSR collapsed.

18. The Azerbaijan SSR Civil Code of 1964, article 468.

IV. THE AZERBAIJAN REPUBLIC CIVIL CODE OF 1999

The end of the twentieth century is considered a period of renaissance in civil law and is often associated with reforms in post-communist countries, including the need to build a market economy and a free society, as Soviet legal doctrine denied the division of law into public and private.

The collapse of the Soviet Union brought an end to the old system of public relations, and changes to the socio-political context in Azerbaijan. These changes would later pave the way for the implementation of necessary political, legal, and economic reforms, as well as the development of a market-oriented economy and the rule of law. For this to happen, it was necessary to adopt the basic law of the country – the Constitution. A commission of 33 people was established in 1994 under the chairmanship of national leader Heydar Aliyev to prepare the draft Constitution of the independent Republic of Azerbaijan. The yearlong nationwide discussion resulted in a referendum held on November 12, 1995, that adopted the draft Constitution, which entered into force on November 27 of that year.

The new Constitution defined the foundations of modern society and the state, of political institutions and the basic principles of building the Azerbaijani economy. The adopted new basic law was an impetus for the beginning and implementation of reforms in various spheres of life in the Republic of Azerbaijan. It also marked an important step in terms of proclaiming equality of rights and protection of human rights in the country. Thus, with the adoption of the new Constitution, Azerbaijan was heading toward a new direction of building the Rule of Law of the country.

This historical period prompted three major changes in the country: (1) a new phase for the country's economy; (2) a strengthening of the principle of freedom of contract and the right to private property; (3) the administration of a stable and predictable legal environment for entrepreneurial activity. Economic relations in Azerbaijan had to be modernized on the basis of market principles, and public administration had to move from an administrative-command

system to a democratic system. Existing laws in the Soviet era were based on the concepts of state property and public administration in the economy, and the hastily drafted new laws on property after independence did not meet the requirements of the time. This situation made it necessary to prepare and adopt a new, fundamental legal document – the Civil Code, which was supposed to adapt civil law relations to the new political and economic realities. The deep and rapid social reforms carried out in the Republic of Azerbaijan in the 1990s also warrant the adoption of a new civil code as soon as possible. The civil legislation of the Republic of Azerbaijan had to be created from scratch, as the legislation of the former Soviet era served the interests of a centrally regulated economy and was by no means suitable to build a market economy.

Azerbaijan's experience in the field of civil law was insufficient, as there were not enough local specialists in this field. During the Soviet period, the creation of the country's legislation was largely under the hands of Russian legal experts. As a result, in the first 8 years of independence, the Republic of Azerbaijan was unable to adopt a new civil code and had to make do by amending the Civil Code of 1964. Thus, the young Republic was faced with the task of creating a modern civil legislation that would represent a complex and consistent system of interrelated, complementary legal norms.

The transition from a planned economy to a market economy involved a profound transformation process. This transformation process included extensive legislative reforms based on the Western model. The role of German lawyers in the preparation of the draft of the new civil code should be especially noted. Based on the Agreement signed between the Governments of Azerbaijan and Germany on December 8, 1997, the lawyers of the German Technical Cooperation Society (GTZ) began to provide full support to legal reforms in Azerbaijan within the project "Legal Reforms in Transition".¹⁹

19. On January 1, 2011, through the merger of three German international development organizations, the *Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ)*, the *Deutscher Entwicklungsdienst (DED)* and the

GTZ implemented the project on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ). The project's head for the Commonwealth of Independent States (CIS) was Rolf Knieper, a GTZ lawyer and professor at the University of Bremen.

A question may be asked: why is it that the United States, usually very active in contributing toward the legal reform of other countries, did not play any role in Azerbaijan? The main reason for this was section 907 of the Freedom Support Act, adopted by the US Congress in 1992 at the initiative of the Armenian lobby and prohibiting direct US aid to Azerbaijan government.

One of the first projects of German legal experts in Azerbaijan was a seminar in the Milli Majlis (National Assembly, the legislative branch of government in Azerbaijan) held by Rolf Knieper on the methods of drafting legislation for members of parliament. During the Soviet era, laws were drafted mainly in Moscow, not in Baku, which was why in the first few years of independence, there were very few local legal specialists in the field of drafting laws. It should be noted that GTZ, along with Azerbaijan, also provided assistance in drafting civil codes in Georgia, Armenia, Moldova, Mongolia, Tajikistan, Turkmenistan and Uzbekistan.

In the drafting process of the new Civil Code, the German legal experts were mainly involved in the development of legal norms that play an important role in the daily lives of citizens, including lease, property, and land contracts. They did not participate in the development of norms in areas such as inheritance and family law, because these areas had the characteristics and traditions of the Azerbaijani people. Thus, it would not be appropriate for foreign experts to develop norms in this area. In other words, the German legal experts were mainly active in drafting provisions that played a major role in economic development.

Finally, 8 years after gaining the independence, with the support of German legal experts, the Azerbaijan Republic Civil Code (hereinafter referred to as “the Civil Code of 1999”) was adopted on December 28, 1999 and came into force on September 1, 2000. An interesting point is that although the Civil Code of 1999 was originally planned to come into force on June 1, 2000, it was postponed for 3 months.

The Civil Code of 1999, which is currently in force, is the largest legal act in the national legislative system of Azerbaijan. Its structure is divided into general and special parts, consisting of 10 sections, 74 chapters and 1,325 articles.

The first section of the Civil Code of 1999 contains introduction provisions (legislation in the area of civil law, civil rights and obligations and their protection), the second section is about persons (natural persons and legal entities), the third section deals with the rights on property and articles, the fourth section is about agreements, the fifth section introduces periods (period of limitation), the sixth section consists of the general part of the law of obligations, the seventh section covers the obligations arising from agreements, the eighth section involves the obligations arising out of law, the ninth section deals with the obligations arising from the violation of civil rights (delicts), and the tenth section is about inheritance law.

The General part of the Civil Code of 1999 states that the purpose of the Code is to secure the freedom of civil relationships based upon the equality of the parties without prejudice to the rights of other persons. Unlike the civil codes of the Azerbaijan SSR, the new Code proclaims the equality of the subjects of civil law, the free will of the subjects of civil law, the independence of the participants of civil relationships with respect to their property, as well as the inviolability of property and freedom of contract.

In the Special part, the relations arising mainly from the right of obligation and the right of inheritance are regulated. According to the Code, obligations arising from agreement, law and violation of civil rights (delicts) are different. The Code regulates the

distribution of inheritance by law and will (intestate succession and testamentary succession).

Azerbaijan's civil legislation is based on the principles of freedom of contract, inviolability of property, non-interference in private affairs, renunciation of previous norms inherent in the administrative-command system of economic planning. These principles are heavily based on the pandectist system of the German Civil Code of 1896 (*Bürgerliches Gesetzbuch*) and the latest features of the Dutch Civil code. The essence of the systematization of civil law norms in the pandect system is to divide the norms of the civil code into general and special parts. Azerbaijan's civil legislation has features such as the division of the Civil Code into general and special parts, and the clear division of material and procedural norms. The codification of civil law in Azerbaijan is based on the theory of monism of private law, as civil and commercial relations are regulated by only one code. Therefore, the Civil Code of 1999 regulates economic relations of natural persons and legal entities, as well as the status and legal relations of commercial organizations.

Compared to the civil codes of most other CIS countries, the Azerbaijan Republic Civil Code of 1999 is more influenced by German civil law, treating ownership, pledge, mortgage, easement, and usufruct as independent property rights. Even some articles of the Civil Code of 1999 are taken directly from the German Civil Code BGB of 1896. For example, article 439.2 of the Civil Code of 1999 on the performance of monetary obligations, which is very relevant nowadays, is drafted on the basis of paragraph 244.2 of the German Civil Code BGB of 1896.

At the same time, some chapters and articles of the Civil Code of 1999 are directly influenced by the Model Civil Code of the CIS and the Russian Federation Civil Code. Although the Model Civil Code of the CIS is adopted as the basis for the national civil codes of Russia, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan and Armenia, the legislators from Azerbaijan, Georgia, Moldova, and Turkmenistan have chosen their own path in the development

of national civil codes, with only partial harmonization with the Model Civil Code of the CIS.²⁰

An example of the direct influence of the Model Civil Code of the CIS and the Russian Federation Civil Code is in article 10 of the Civil Code of 1999 on the customs of business activity. The list of sources of civil law in the theory of Russian civil law also includes business customs. Article 5 of the current Civil Code of the Russian Federation, called “The Customs of the Business Turnover,” states that the custom of the business turnover shall be recognized as the rule of behavior, which has taken shape and is widely applied in a certain sphere of business activities, and which has not been stipulated by legislation, regardless of whether it has or has not been fixed in any one document. The customs of the business turnover, contradicting the provisions of legislation or to the agreement, obligatory for the participant in the given relationship, shall not be applied. The content of this article is exactly the same as article 5 of the Model Civil Code for the CIS, called “business practices.” A comparative analysis shows that the content of article 10 of the current Civil Code of 1999, called “The customs of business activity,” is completely taken from these two codes. In the Special Part of the Civil Code of 1999, most of the provisions in Section 7, “The obligations arising from agreement,” including the types of agreements, are taken from the Section 4 “Particular Kinds of Obligations” of the second part of the Civil Code of the Russian Federation. Another feature of the codification of civil law in Azerbaijan is the formation of a separate Family Code in accordance with the Russian model, taking the norms of family law beyond the scope of civil law regulation.

However, there are many differences between the Azerbaijan Republic Civil Code of 1999 and the Civil Code of the Russian Federation, especially in terms of structure. For example, unlike the

20. А.А. Богустов, *Проблемы взаимодействия модельного и национального гражданского законодательства стран СНГ*, in 3 *Рос. Юстиция* 21-24 (2012), (A.A. Bogustov, *Problems of Interaction of Model and National Civil Legislation of the CIS Countries*, in 3 *RUSSIAN JUSTICE* 21-24 (2012)).

Civil Code of the Russian Federation, the Azerbaijan Republic Civil Code of 1999 does not contain separate sections on intellectual property and private international law. Relations arising from intellectual property rights in Azerbaijan, along with the Civil Code, are mainly regulated by separate legal acts.

The preparation of a civil code is a long and arduous process. For instance, it took a full 66 years to draft the Civil Code of the People's Republic of China, adopted in 2020 and considered the "Civil Code of the XXI Century," as the first draft was prepared back in 1954. Over the years, extensive and detailed discussions have been held among legal experts on the drafts, scrutinizing every section, chapter, article, sentence, and even every word.

As aforementioned, in the first few years of independence, Azerbaijan did not do much to draft new civil legislation and codify civil law due to the lack of local legal experts in the field of codification of civil law in the country. Although at first glance it seems that it took 8 years to adopt the Civil Code of the Republic of Azerbaijan, this document was in fact prepared in a very short time and its draft was not published in advance for public discussions.

The practice of applying the Civil Code in independent Azerbaijan for almost 21 years showed that further improvements are needed. Numerous, or more precisely, 107 amendments made to the Code and 40 articles removed from the Code from 1999-2020 confirms this opinion. Some of these amendments indirectly acknowledge the poor quality of some provisions of the Code, which include the rewriting of various articles of the Civil Code, discussions of new drafts of Chapter 4 on legal entities, as well as articles on limited liability companies and cooperatives, and the renaming of Chapter 50 on insurance contracts and Chapter 54 on securities.

Unlike the French Civil Code, the language of the Azerbaijan Civil Code is quite complex, with many abstract sentences and expressions that are incomprehensible to ordinary citizens. The main purpose of the adoption of the Civil Code should be to protect the rights of ordinary citizens, and to meet their current interests and needs. Thus, in order to meet this purpose, the Civil Code should be

edited in a manner that is easily understood and interpreted by the citizens.

The Azerbaijan Republic Civil Code of 1999, which was prepared in a short period of time and adopted without public discussions, has its shortcomings such as inconsistencies, mixed provisions, weak legal technique, and a large number of imperative norms. In some cases, the failure to write the provisions of the Civil Code in plain language creates difficulties in interpreting individual articles, which directly affects the correct interpretation and application of the law. Several provisions of the Russian Civil Code and the German Civil Code have been systematically and mechanically incorporated into Azerbaijani Civil Code without in-depth analysis. Despite these shortcomings, the Azerbaijani society has a relatively more promising regulator in the Civil Code of 1999 compared to the Civil Codes of the Soviet era.

V. CURRENT SITUATION AND DEVELOPMENT PERSPECTIVES

The history of the codification of civil law in Azerbaijan shows that all three civil codes adopted during the twentieth century are based on the traditions of civil law and, in most cases, include some provisions from the civil codes of other European countries. At the same time, it should be noted that the main role in the formation of civil law in Azerbaijan was played not by the classic pandect or institutional codes (German Civil Code and French Civil Code, respectively), but primarily by the soviet-style Civil Code of 1922. As a result of differences in economy, politics and lifestyle, Azerbaijan's civil legislation has always had its own peculiarities. The existence of specific features of Azerbaijani civil law does not mean a departure from civil traditions, and in many cases can be compared with the provisions of civil law in countries belonging to the romano-germanic tradition of law. In this sense, the Civil Code, adopted in 1999, has a special and important meaning in terms of

harmonizing the civil law of Azerbaijan with the civil law of European countries.

In general, the current civil law system in Azerbaijan can be characterized as transformed from a socialist to a romano-germanic legal system and oriented to a market economy. The civil legislation of Azerbaijan demonstrates certain features that reflect the national and common Islamic traditions. The way of life, thinking, and traditions of the nation have had a significant impact on the evolution and development of the national legal system.

Almost 30 years have passed since Azerbaijan gained independence. The country emerged from the severe crisis of the early 1990s, built an independent economy, and became one of the leaders among the countries of the South Caucasus and the CIS. During these years, the Republic of Azerbaijan has implemented fundamental economic reforms that ensure the transition from a centralized economy to a market economy and a society that develops through the rule of law. Economic reforms are not possible without legal reforms that form the basis of the development of the state and society. Civil law plays a key role in building the market foundations of the economy. The poor quality of the Civil Code directly affects the development of Azerbaijan's economy, including non-oil sector and entrepreneurship.

As Azerbaijan has reached a new level of economic development, there is a need and ground for the country's civil law to enter a new stage of development. Although Azerbaijan has been building a national legal system for almost 30 years, significant progress has been made only in the field of public law. More successful legal acts in terms of legal language and legal techniques have been adopted in the areas of constitutional law, administrative law, criminal law and other public law. The Azerbaijan Republic Civil Code of 1999, which is the basis of private law and contains the provisions of civil law, is still far from perfect. After the reforms in the civil legislation, many shortcomings were identified in the application of the norms reflected in the Civil Code of 1999, and these shortcomings can be eliminated only through the further development of civil legislation.

Public law can be developed on the basis of a deductive method, and sometimes even most of the foreign law can be completely copied and applied in the country. In private law, this is not possible, as the inductive method must be applied to the development of special legal norms, including in-depth study, analysis and discussion of the experience and needs of society. The experience of developed countries once again shows that the national legal system is developing mainly on the basis of scientific discussions in the field of private law. For the development and proper application of Azerbaijan's legislation, the country needs real and effective scientific discussions, not simulations. Existing laws should be constantly reviewed and criticized, and suggestions for their improvement should be made regularly.

Legislative activity in Azerbaijan is carried out almost exclusively by members of the *Milli Majlis*, the country's legislature. It is impossible to carry out proper legislative activity without taking into account the views of judges, lawyers, legal experts, scientists and civil society groups in the field of lawmaking. Transparency of lawmaking should be increased in Azerbaijan. To do this, scientific and practical conferences on civil law should be held in the country on a regular basis with the involvement of legal experts and public activists. In order to properly understand and legally apply legal norms, it is very important to clearly interpret their scientific understanding and rules of practical application. Discussions held at such conferences can contribute to improving the quality of legislative work, increasing the legal culture of the population, increasing the authority of law and the state.

Evaluating the results of the civil legislation adopted since the country's independence, it can be said that although most issues related to the establishment and development of the civil law system have been resolved, there is a great need for reform and re-regulation of the civil legislation. Thus, the emergence of new public relations is inevitable, and in this regard, as a dynamically developing country, Azerbaijan must move toward the improvement of civil

legislation in order for the legislation to meet new requirements and keep pace with the times. In other words, it is very important to improve the existing civil legislation in Azerbaijan in line with the pace of development of public relations. The rapidly developing and changing public relations in the country give special urgency to the search for ways to optimize the practical application of the law.

Although the Civil Code is the main legislative act for the formation and development of market relations in the country, its effective implementation in the daily life of society remains an unresolved problem. To this end, the legislature, the courts and lawyers must work together to continuously improve the Civil Code. In order to study international experience in the field of civil law, it is necessary to regularly exchange views and apply the practices that are considered successful in the context of public relations in the country.

One of the main objectives of legislative activity is to ensure the principle of legal certainty in public relations. The principle of legal certainty, as one of the key aspects of the rule of law, requires the absence of “gray zones” that are not regulated by law, both among citizens and between citizens and the state.

The language of the Civil Code must be clear, fluent, and understandable to ordinary citizens, and the definition of the objects and subjects of civil law relations in the provisions of the Code must be precise and detailed, taking into account specific issues. Uncertainties in the Civil Code should not be allowed so that the parties do not implement these provisions in their own way.

At present, the issue of completing the legal system, ensuring its structuring, eliminating the contradictions and gaps adopted in previous years is urgent. Thus, the author makes the following proposals for the optimization of civil law in Azerbaijan:

1. Revision of all civil legislation, elimination of contradictions and re-codification of laws;
2. Inclusion in the Civil Code of norms regulating new public relations and reliably protecting the rights of citizens;

3. Further improvement of the basic principles of the civil legislation of Azerbaijan in accordance with the new level of development of market relations;
4. The practice of law enforcement and interpretation of laws should be reflected in the Civil Code;
5. Improving the norms on protection of property rights, healthy competition, implementation of agreements and anti-monopoly activities;
6. Use of the latest successful experience of civil codes of a number of European (Switzerland, the Netherlands, Belgium) and Asian (China, Japan, South Korea, Singapore) countries in the modernization of civil legislation of Azerbaijan;
7. More active involvement of foreign scientists and experts in the preparation of draft proposals on amendments and additions to the Civil Code;
8. Elimination of flawed language style and weak legislative techniques of the Civil Code, as well as making the language of the Code simpler and more understandable for citizens;
9. Improving the effectiveness of law enforcement practices;
10. Awareness of judges and lawyers through trainings;
11. Developing the legal awareness of citizens through mass media;
12. Public discussion of the adoption of new laws and amendments to conflicting laws that meet modern challenges with the participation of scholars and experts in the field of private law.

No country in the world has a perfect, flawless legislative and legal system. Legislation is in the process of ongoing reforms, and it is important that these reforms are in line with the dynamics of social development.

The need for reform in the civil legislation of Azerbaijan in the 1990s stemmed primarily from the desire to eliminate all norms that embodied the administrative and planned regulation of property

relations. Today, in contrast to the reforms of the 1990s, the need for modernization and reform of civil legislation arose primarily from the need to ensure the stability of civil law and civil turnover. This, in turn, undoubtedly requires a more precise regulation of the norms on sources of civil legislation as a basis for future legal reforms.

Summarizing the above proposals, it can be said that the concept of development and reform of civil legislation in Azerbaijan should be transformed into a single strategy aimed at more effective regulation of market relations in country, gradually eliminating the “transitional” nature of market relations.

