

Legal status of quasi- autonomies in USSR:

*Case of Nagorno-Karabakh's
Autonomous Oblast*

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Abstract

The article examines the legal status of Nagorno-Karabakh's Autonomous Oblast (NKAO) - one of the quasi-autonomous entities in the former USSR. It begins with a brief historical background which provides the reasoning behind the establishment of autonomy in Nagorno-Karabakh when Azerbaijan became part of the USSR. Subsequently, the authors review the level of autonomy of NKAO, focusing on the changes achieved through the consecutive USSR and Azerbaijani SSR constitutions.

The research shows that the complex and entangled hierarchy of the Soviet Union governance had a formal legal structure reflecting the strictly centralized nature of the state, and a parallel political structure in the form of the communist party and all its branches and bodies that exercised the actual power and decision-making. In this context the decentralization of power in the form of autonomy was a myth, and the quasi-autonomy in Nagorno-Karabakh was subject to the same system of centralized decision-making as any other administrative unit in the Soviet Union. That said, the authors argue that the Nagorno-Karabakh Autonomous Oblast and its population received the same treatment as any other place in the USSR precisely due to the aforementioned regime. The discrimination towards autonomy by the authorities of Azerbaijani SSR was simply impossible due to the centralized decision-making and bureaucratic formality from Moscow, which precluded real legislative and administrative decentralization of power.

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“For most of the history of international affairs, territorial control was the focus of political conflict. Either national self-gratification over the acquisition of large territory or the sense of national deprivation over the loss of ‘sacred’ land has been the cause of most of the bloody wars fought since the rise of nationalism. It is no exaggeration to say that territorial imperative has been the main impulse driving the aggressive behavior of nation-states”¹

The Armenian-Azerbaijani conflict over Nagorno-Karabakh was the first and longest-running armed conflict to break out in the territory of the former Soviet Union. Some estimates put the number of deaths on both sides at more than 30,000.

This conflict can be described as a typically irredentist, i.e. territorial, dispute. Of the many internal and external factors that caused the conflict and shaped its development, two have been crucial. Firstly, the interests of the traditional colonial power, Russia, which still considers the area to be within its sphere of influence, and tries to subordinate the conflict parties to its authority. Secondly, the very strong support that Armenia receives from its large and well-organized Diaspora in the West has been key.

Despite the continuous mediation efforts of numerous external actors including the Organization for Security

and Cooperation in Europe (OSCE) Minsk Group, a political solution to this conflict has remained elusive.

Brief historical background

Karabakh (Qarabağ) (the name consists of two Azerbaijani words: “qara” (black) and “bağ” (garden), is a toponym, derived from the name of this area, located between the Lesser Caucasus and Kura and Araz rivers. It is one of the most ancient regions of Azerbaijan. In ancient times and during the early Middle Ages, Karabakh was a part of the state of Caucasian Albania (IV c. BC - VIII c. AD.), a territory of which coincides almost entirely with present-day Azerbaijan. It extended from the Caucasus Mountains in the north to the Araz River in the south. The mountainous part of Karabakh was a part of one of the Caucasian Albanian provinces, known as Artsakh (‘Orkhistene’).² Following the Arab invasion in the seventh century, the area’s inhabitants, Christian Caucasian Albanians, either converted to Islam, or - like the majority of the population - remained Christian. Through the efforts of the Arab caliphate and the Armenian Church, which retained dogmatic unity with the Albanian Apostolic Church (Monophysites), a part of Artsakh’s population gradually became Grigorianized and at the same time Armenianized.

² Movses Kaghankatvatsi, “The History of the Caucasian Albanians” (translated by C. F. J. Dowsett), London: (London Oriental Series, Vol. 8). p.26; Ф Мамедова. Политическая история и историческая география Кавказской Албании. Баку, «Эльм», 1986, pp.104-105.

¹ Z. Brzezinski, “The Grand Chessboard: American Primacy and Its Geostrategic Imperatives”, Basic Books, 1997, p.37.

After the fall of the independent Albanian state, Karabakh, being inseparable from Azerbaijan both geographically and politically, became part of the Azerbaijani state of Sajids. Then in the 10th century it became part of the state of Salarids, and in the 11-12th centuries was part of the state of Sheddadids. In the 15th century it existed within the states of Garagounlou and Aghghounlou, and during the 16th century and 17th centuries Karabakh, as a part of Karabakh beylerbeyyat (duchy), was within the dynasty of Safavids. Karabakhi beylerbariyyat was ruled by the representatives of the Tukic Ziyad-oglu tribe, subordinated to the Kajars from the 16th to the 18th century. After the fall of the Kajar rule in the Safavids Empire, different khanates (principalities) were created in the territory of Azerbaijan, one of which was the Karabakh khanate. Later, upon the establishment of Shusha fortress in 1750 by the Panah Ali Khan, Shusha became the capital of Karabakh khanate under the nominal Persian rule. Its rulers were Muslim Azeri Turks, as were the majority of the population during the second half of the eighteenth century.

The origin of the conflict

The Russian empire gained control over the Azerbaijani khanates following the Russian-Persian wars of 1804-1813 and 1826-1828. At the time of the incorporation of the Karabakh khanate to Russia (May 14, 1805) Armenian inhabitants of the region consisted of only one-fifth of the whole

community.³ Russia's annexation of the Karabakh khanate was formalized in the 1813 Treaty of Gulustan as a result of the Russo-Persian War (1804-1813).

The czarist authorities regarded this large, predominantly Turkish Muslim population as an unstable and disloyal element, and therefore attempted to change the ethnic and religious balance within the newly conquered territories. The authorities were also extremely well disposed towards the Armenian population as a natural ally based on their common Christian affiliation. In that context, the Russian Empire was interested in stimulating Armenian resettlement. Armenians were encouraged to emigrate from the Ottoman and Persian empires and to settle in border areas.

Thus, after the Russian-Turkish war of 1828-1829, the Treaty of Adrianople (Treaty of Edirne) was signed between Russia and the Ottoman Empire in 1829. Under the Treaty of Adrianople, a large number of Armenians who had been living in Iran and the Ottoman Empire were relocated to the South Caucasus, mainly to the areas populated by Azerbaijanis. After the Crimean War of 1853-1856 and the Russian-Turkish War of 1877-1879, more groups of Armenians were relocated to the South Caucasus, specifically to Nagorno-Karabakh.

³ See: *A Record on Karabakh Province in 1823 collected by a civil servant, Mogilevsky, and a colonel, Ermolov (Tbilisi, 1866), State Archive of the Republic of Azerbaijan, f.21, 24-1, N.117.*

As for the Karabakh region, the Armenian population has increased six-fold from 19 to 119 thousand people in the period from 1831 to 1916, mainly due to immigration

Thus over the course of the nineteenth century, Russian expansion in the South Caucasus brought tremendous changes to the demographic and political situation of the region.

As for the Karabakh region, the Armenian population has increased six-fold from 19 to 119 thousand people in the period from 1831 to 1916, mainly due to immigration.⁴

Thus, the migration policy enforced by the Russian empire as well as trade, economic, territorial and ethnic rivalries between the two nations laid the foundation for future hostility between Armenians and Azerbaijanis. The evolution of relations over more than a century shows that “massive eruptions of violence in the form of mutual inter-communal massacres began with the 1905 Russian Revolution, and would re-emerge each time the Russian state was in a condition of crisis or overhaul – during the civil war in 1918 and during the perestroika from 1988 on”.⁵

4 *Обозрение Российских владений за Кавказом, часть I, СПб, 1836; Свод статистических данных о населении Закавказского края, извлеченных из посемейных списков 1886. Тифлис, 1893; Кавказский календарь на 1917 год. Тифлис, 1916, pp. 190-197.*

5 Tadeusz Swietochowski, “Russia and Azerbaijan: A Borderland in Transition”, New York, Columbia University

Efforts by Azerbaijan Democratic Republic (ADR) and the Soviet leadership to settle the conflict

Territorial dispute over the mountainous part of Karabakh (Nagorno-Karabakh in Russian) continued between Armenia and Azerbaijan during the existence of the ADR (1918-1920), the first secular democracy in the Muslim world. On January 15, 1919 the ADR authorities appointed Khosrov bek Sultanov Governor-General of Karabakh (along with Zangezur) until the final solution of the dispute could be found at the Paris Peace Conference. His candidacy was also approved by General W. Thomson, Head of the British troops quartered in Baku representing the Allied Powers.

In August 1919, the Karabakh Armenians and the ADR Government signed a temporary agreement that “mountainous part of Karabakh, ... inhabited by Armenians, considers itself in the boundaries of Republic of Azerbaijan.”⁶ The resolution was based on the recognition of “cultural self-determination”⁷ of the Armenian population of Karabakh. Georgian Bolshevik newspaper *Borba* noted that “the agreement between Armenians and Muslims in Karabakh is already a fact...In the present case,

Press, 1995, p.8.

6 *Временное соглашение армян Нагорного-Карабаха с Азербайджанским правительством, 26 августа 1919 г., параг. 2 (paragraph 2) // К истории образования НКАО Азербайджанской ССР, Сборник документов и материалов, Баку, 1989, p. 25.*

7 *Ibid., Paragraph 12.*

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we see the first serious attempt at resolution of the Armenian-Muslim conflict not by means of violence but by means of negotiation”.⁸ Thus, “early in 1920, the Peace Conference recognized Azerbaijan’s claim to Karabakh...Perhaps Karabakh was “awarded” to Azerbaijan as a way of bolstering it against the new Russian, now Bolshevik, threat”.⁹

However on 28 April 1920 the Bolshevik 11th Red Army invaded Azerbaijan and on 29 November 1920 it entered Armenia, establishing Bolshevik control in these territories.

The territorial dispute over the mountainous part of Karabakh continued after the Sovietization of Armenia and Azerbaijan. On July 5, 1921, the Kavbureau CC RCP(b) (Caucasus Bureau of the Central Committee of the Russian Communist Party of the Bolsheviks), determined the final legal status of this territory. The most important document in this context is the July

8 “Borba Proletariata”, 1919, September 5.

9 A. Altstadt, “The Azerbaijani Turks. Power and Identity under Russian rule”, Hoover Institution Press, Stanford University, 1992, pp.102-103.

5, 1921 plenum of Kavbureau CC RCP(b) decree (Caucasus Bureau of the Central Committee of the Russian Communist Party of the Bolsheviks), in which Stalin, along with several Armenian members, such as A. Nazaretyan and A. Myasnikyan, decided on “leaving” (or “retaining” - in the original Russian, the term was оспа-вить (ostavit)) NK within Azerbaijan and not “transferring” (or “ceding” it to anyone; in Russian: отдать (otdat)). Thus: “Nagorno-Karabakh to leave within the borders of Azerbaijan SSR”.¹⁰ Despite the fact that on July 4

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the Kavbureau CC RCP(b) adopted a resolution to transfer mountainous Karabakh to Armenia, the very next day (July 5), A. Myasnikyan and Nazaretian, Armenian Communists, called for a reconsideration of the previous day’s resolutions (for which they had voted).¹¹ The resolutions were rescinded and the following resolution was passed: “Proceeding from the necessity for national peace among Muslims and Armenians and of the economic ties between upper (mountainous) and lower Karabakh,

10 Russian State Archive of Socio-Political History (Moscow), f.64, op. 2, d.1, p.118, 121-122.

11 Архив политических движений при Управлении Делами Президента Азербайджанской Республики, АПД УДП АР. Ф. 64, он. 2, д. 1, л. 122.

of its permanent ties with Azerbaijan, mountainous Karabakh is to remain within the border of the Azerbaijan Soviet Socialist Republic (AzSSR), receiving wide regional (oblast) autonomy with the administrative center at Shusha, becoming an autonomous region (oblast).¹²

However, this decision was not implemented on time for a number of reasons, among them the difficulty of delineating the borders of the autonomous oblast and the jurisdiction of party apparatus in establishing the Transcaucasian Soviet Federative Socialist Republic.¹³

On July 7, 1923 the Central Executive Committee (CEC) of Azerbaijan SSR issued a decree "On the Formation of the Autonomous Oblast of Nagorno-Karabakh"¹⁴ (AONK^{15*}).¹⁶ However "disputes over land and water rights, nomad's access, and boundaries continued for more than a year."¹⁷

In November 1924, the Autonomous Oblast' of Nagorno-Karabakh (AONK) was confirmed as a constituent part of the Azerbaijan SSR.¹⁸

12 *Ibid.*, p. 94.

13 A. Altstadt, *The Azerbaijani Turks*, p. 119.

14 *Собрание Узаконений и Распоряжений Рабоче-Крестьянского Правительства АССР за 1923 г.*, Баку, 1923, с. 384-385.

15 * The name was changed to the Nagorno-Karabakh Autonomous Oblast' (NKAO) in 1937.

16 See *Constitution of USSR of 1936*; <http://www.departments.bucknell.edu/russian/const/36cons02.html#chap03>

17 A. Altstadt, *The Azerbaijani Turks*, p. 126.

18 *История национально-государственного строительства в СССР, 1917-1926*, т. 1, М., «Мысль», 1972, pp. 268-

In November 1924, the Autonomous Oblast' of Nagorno-Karabakh (AONK) was confirmed as a constituent part of the Azerbaijan SSR.

However it became clear very soon that the borders of this new autonomous region were drawn in such a way that allowed for the establishment of a clear Armenian majority (as they lived mainly in the mountainous part of Karabakh region). At the same time, due to forced migration of ethnic Azerbaijanis from the rural areas of the mountainous part of Karabakh and relocation of large number of Armenians (at their request) in the AONK from other districts of Azerbaijan during the 20's and 30's, the ethnic balance of this autonomous entity was significantly changed.¹⁹ Thus, according to the 1926 census, the total population of the AONK was 116,274, with a much higher proportion of Armenians - 108,482 people (93.3 percent) and only 7,188 ethnic Azerbaijanis (6.2 percent). Representation of other nationalities was 0.5 percent, i.e. 604 people.²⁰

270; *Собрание Узаконений и Распоряжений Рабоче-Крестьянского Правительства АССР за 1924 г.*, Баку, 1926, pp. 333-335.

19 Məmmədov N.R. *Azərbaycan SSR-in Dağlıq Qarabağ muxtar vilayəti (1923-1991)*. Bakı, 2008, p. 246

20 *Всесоюзная перепись населения от 1926 г., Закавказская СФСР*, т. XIV, М., 1929, с. 11-13.

The population of NKAO grew by 62.6 percent in the Soviet era (1926-1989): in 1970 it was 150,300 people, in 1979 – 162,200 and in 1989 – 189,100 people. According to census data from 1970, 1979 and 1989, the population of NKAO was, respectively, 121,100 (80.5 percent), 123,100 (75.9 percent), 145,500 (76.9 percent) ethnic Armenian; 27,200 (18 percent), 37,300 (23 percent), 40,600 (21.5 percent) ethnic Azerbaijani; and 18,100 (1.3 percent), 22,900 (1.1 percent), 21,500 (1.5 percent) Russians.²¹ However, there was a general decline in the Armenian population in comparison with the Azerbaijani population of Nagorno-Karabakh (in 1970 Armenians accounted for 80.5 percent of the population of Nagorno-Karabakh, but by 1979, only 75.9 percent), a trend which later led to Armenian politicians accusing the Azerbaijani authorities of discrimination towards the Armenian population of Nagorno-Karabakh. But in reality, this trend can be explained by demographic factors, in particular the higher birth rate in the Azerbaijani community. Azerbaijani families had an average of 3.1 children, while their Armenian counterparts had 2.3 children; for Russian families the figure was 1.6 children. In addition, the migration of the Armenian population to foreign countries exceeded all other

21 *Itogi vsesoyuznoy perepisi naseleniya 1970 goda, tom 4. Nationalniy sostav naseleniya, Moskva, 1973; Chislennost i sostav naseleniya SSSR. Po dannym vsesoyuznoy perepisi naseleniya 1979 goda. Moskva, 1985; Goskomitet SSSR po statistike. Itogi vsesoyuznoy perepisi naseleniya 1989 goda. Moskva, 1989*

indicators in the USSR; Armenians made up 34.4 percent of the total population emigrating from the Soviet Union.²²

Hence, the demographic trend that had been established in nineteenth century continued throughout the Soviet period, with the Armenian population in Nagorno-Karabakh steadily increasing from 108,500 (1926) to 145,500 people (1989). However, despite the Soviet-created autonomy, separatist movements fed by Armenian authorities in Armenian Soviet Socialist Republic (ArmSSR) were suppressed by the Soviet government through means of strict central administration and control, supported by internationalism and planned economy. However, this approach failed to bring any positive results, and led only to further complications.

Kin-state involvement during the Soviet rule

In Soviet times, the authorities of the ArmSSR had repeatedly raised the issue of the transfer of NKAO to Armenia with Moscow. This happened in 1945, 1964 and 1968, but met with resistance from the Azerbaijani side, which to some extent had the support of Moscow²³. Nonetheless, Armenian attempts to secure the consent of

22 İmanov R.Ə., *Azərbaycanın ərazi bütövlüyünə qəsd - qondarma DQMV-i*. Bakı, 2005, p.170

23 АПД УП АР (Архив Политических Движений Управления Президента Азербайджанской Республики), Ф.1, оп.169, д.249, л.12; Мəтнəдov N.R. *Azərbaycan SSR-in Dağlıq Qarabağ muxtar vilayəti (1923-1991)*. Bakı, 2008, s.117; Hacıyev N. *Dağlıq Qarabağ tarixindən sənədlər*. Bakı, 2005, p.80.

Moscow on this issue continued. In the late 1980s, the policies of *glasnost* and *perestroika* declared by Mikhail Gorbachov created favorable conditions for a renewed campaign for unification of Nagorno-Karabakh and Armenia.

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On February 20, 1988 the NKAO Council of People's Deputies passed a resolution appealing to the Supreme Soviets of the AzSSR and ArmSSR to transfer this region from the AzSSR to the ArmSSR. However, this request was denied by USSR Soviet of Ministers, which adopted the resolution "On the Measures on Intensification of the Socio-Economical Development of the Nagorno-Karabakh Autonomous Oblast of the AzSSR in 1988-1995" on 24 March 1988.²⁴

In the following months strikes and demonstrations took place in Armenia, Azerbaijan and NKAO. On June 13, 1988 the Supreme Soviet of the AzSSR passed a new resolution on this issue, reaffirming its rejection

of NKAO's application and supporting the USSR Soviet of Ministers' resolution of March 24, 1988 calling for faster socio-economical development. However, on June 15, 1988 the Supreme Soviet of the ArmSSR, in its turn, adopted a resolution insisting on the transfer of the NKAO from the AzSSR to the ArmSSR.

On July 12, 1988 the NKAO Council of People's Deputies declared its secession from AzSSR, which was considered by the Supreme Soviet of the AzSSR as an illegal act. On July 18, 1988 the Presidium of the USSR Supreme Soviet also declined the petition of the Supreme Soviet of ArmSSR on the transfer of the NKAO to the ArmSSR. At the same time, the decision was made "to establish a "special commission" from Moscow to "observe" conditions in and ostensibly "strengthen and develop the autonomy" of NKAO".²⁵ A. Volski was appointed the Head of this Commission, acting as the representative of the Presidium of the USSR Supreme Soviet and the Central Committee of Communist Party. "Through the Volski Commission and martial law, the NKAO was taken de facto from direct rule by Baku, despite official statements that it remained part of Azerbaijan".²⁶

Due to the failure of the Volski Commission to achieve its objectives, the Supreme Soviet of AzSSR decided to

²⁴ Известия. Нагорный Карабах: Программа развития, корр. «И» // 1988 №85 – 25 марта 1988 г.

²⁵ A. Altstadt, *ibid*, p.198.

²⁶ *Ibid*, p.198

disband the Commission on 15 September 1989. This decision was supported by Gorbachov's decree on the "normalization" of administration in the NKAO on November 28, 1989. The AzSSR was charged with responsibility for establishing an administrative committee on the equal basis with NKAO and reestablishing the Soviet of People's Deputies.

But the Supreme Soviet of ArmSSR once again demonstrated its close involvement with this conflict by passing a new resolution on "Reunification of ArmSSR and Nagorno-Karabakh" on December 1, 1989. This was a serious violation of the constitutional norms of USSR, and was deemed by a resolution of the Presidium of the Supreme Soviet of AzSSR passed on December 7 as inadmissible interference in the affairs of the AzSSR, and territorial encroachment. This policy was continued once Armenia became an independent state in 1991.

Hence, the kin-state involvement of Armenia played an instrumental role in further occupation of Azerbaijani territory in pursuit of irredentist claims and ethnic solidarity.

Taking advantage of the upheaval within the Azerbaijani leadership, Karabakh separatists declared the creation of the "Nagorno-Karabakh Republic", within the boundaries of NKAO and the Shaumyan region of the Azerbaijan SSR on September 2, 1991. In response, Azerbaijan repealed the autonomous status of

Nagorno-Karabakh on November 23, 1991.²⁷ Thus, originally having sought unification with Armenia, the Karabakh Armenians started to demand the right to self-determination and secession from Azerbaijan after Azerbaijan and Armenia gained independence in 1991.

As a result of the escalation of this armed conflict and undeclared war, which lasted from 1992 to 1994, Armenian forces seized almost one-fifth of Azerbaijan's internationally recognized territory including Nagorno-Karabakh and seven adjacent districts (Lachin, Kelbajar, Agdam, Jabrayil, Fizuly, Gubadly and Zangilan), which are outside the territory of former NKAO. Approximately one million people became refugees or IDPs.

Since 1994, when a cease-fire was reached, many attempts have been made to find a political solution to this conflict.

Analysis of the legal status of the NKAO within the USSR

This part of the study is dedicated to a review of the legal status and level of autonomy of NKAO during various legislative regimes. The issue of autonomy is generally regulated through legal acts which constitute the main part of the legal hierarchy – in constitutions. Thus NKAO was regulated by both the USSR and Azerbaijani Constitutions, though mainly the latter.

²⁷ See: <http://en.president.az/azerbaijan/karabakh>

Introduction to USSR system of administration

The Union of Soviet Socialist Republics was established in 1922 by four republics – the Russian Soviet Federative Socialist Republic (RSFSR), Ukrainian Soviet Socialist Republic, Belorussian Soviet Socialist Republic and Transcaucasian Soviet Socialist Federation. The first Constitution of USSR was promulgated and finally adopted on 31 January 1924.

The USSR was a federal state with only formal separation of powers. All administration was highly centralized, and the administrative structure and the laws of USSR and the Soviet republics were very similar. In theory, USSR had a conventional system of government where the supreme organ of power, according to the Article 8 of the 1924 USSR Constitution²⁸, was the Congress of Soviets²⁹, and in the recesses of the Congress of Soviets the Central Executive Committee of the USSR, which consisted of two chambers - the Council of the Union (*Soyuzniy Soviet*) and the Council of Nationalities (*Soviet Nasionalnostey*).³⁰ The Council of the Union of the USSR was elected by Congress of Soviets from del-

egates of republics, proportional to their respective populations.³¹ According to Article 15, representatives of the member Republics and associated autonomous Republics of the RSFSR composed the Council of Nationalities of the USSR on the basis of five representatives for each member Republic, and one representative for each associated autonomous Republic. The autonomous Republics of Adjara, and Abkhazia and autonomous regions of Osetia, Nagorno-Karabakh and Nakhichevan each sent a representative to the Council of Nationalities. The composition of the Council of Nationalities in its entirety was approved by the Congress of the USSR.³²

According to Article 17 of the 1924 USSR Constitution, the CEC published the codes, decrees, acts, and ordinances, ordered the process of legislation and administration of the USSR and defined the sphere of activity of the Presidium of the CEC and of the Council of People's Commissars of the USSR.³³ The CEC convened three times a year by the decision of Presidium of the CEC.

The Presidium of CEC was elected in a joint session of the Council of the Union and the Council of Nationalities. According to Article 29 of the

28 The 1924 USSR Constitution. <http://mailstar.net/ussr1924.html>

29 Due to Soviet and Bolshevik ideology, the state power in USSR was held by different levels of "Soviets" which translates to "Council". Thus ultimate power in USSR was held by Congress of Soviets or "Syezd Sovetov". In fact, Congress of Soviets did not function as legislative body but mostly as an organ establishing general policies within communist ideology.

30 Central Executive Committee was a state body analogous to the parliament with two separate chambers.

31 Article 14 of the 1924 USSR Constitution, see at <http://mailstar.net/ussr1924.html>

32 Article 15 of the 1924 USSR Constitution. <http://mailstar.net/ussr1924.html>

33 The 1924 USSR Constitution. <http://mailstar.net/ussr1924.html>

1924 USSR Constitution the Presidium of the CEC of the USSR was the supreme organ of legislative, executive, and administrative power of the USSR between sessions of the CEC of USSR".³⁴ The Council of People's Commissars of the USSR was also the executive and administrative organ of the CEC of the USSR (Article 37).³⁵ However as an executive body, the Presidium of the CEC of the USSR was higher up in the hierarchy; it could suspend and abrogate the orders of the Council of People's Commissars of the USSR (Article 31).

According to Article 37 of the 1924 USSR Constitution, the Council of People's Commissars of the USSR was formed by the CEC as follows: (a) The President of the Council of People's Commissars of the U.S.S.R., (b) The Vice-Presidents, (c) The People's Commissar for Foreign Affairs, (d) The People's Commissar for Military and Naval Affairs, (e) The People's Commissar for Foreign Commerce, (f) The People's Commissar for Ways and Communication, (g) The People's Commissar for Postal and Telegraph Service, (h) The People's Commissar for the Workers' and Peasants' Inspectorate, (i) The President of the Supreme Council of National Economy, (j) The People's Commissar for Labor, (k) The People's Commissar for Finances, (l) The

³⁴ *Ibid.*

³⁵ *Council of Commissars of the People of the USSR (Sovnarkom) was a body analogous to Cabinet of Ministers.*

People's Commissar for Supplies³⁶.

The judicial system of the USSR on the federal level, according to Article 43 of the 1924 USSR Constitution, was represented by a Supreme Court under the jurisdiction of the CEC of the USSR.

The sovereign rights of the member Republics were described in the Chapter 2 of the 1924 USSR Constitution. The sovereignty of the member Republics was limited only in the matters indicated in the 1924 USSR Constitution as coming within the competence of the Union. Outside of those limits, each member Republic exerted its public powers independently; the USSR protected the rights of the member Republics (Article 3).³⁷ At the same time, each of the member Republics retained the right to freely withdraw from the Union (Article 4); however it was underlined in the Article 6 that any amendment or removal of the Article 4 needed the approval of all the member Republics of the Union.³⁸ The same Article 6 of the 1924 USSR Constitution also declared that the territory of the member Republics could not be modified without their consent.

The legislative and executive bodies of member Republics were regulated by Articles 64-68 of the 1924 USSR Constitution. According to Article 64

³⁶ *The 1924 USSR Constitution. <http://mailstar.net/ussr1924.html>*

³⁷ *Ibid.*

³⁸ *Ibid.*

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the supreme organ of power within the limits of the territory of each member republic was the Congress of Soviets of the Republic, and in Congressional recesses, its Central Executive Committee (CEC). The CEC of the member Republics formed their executive organs, the Council of People's Commissars.

Formally the competences of Republics covered all matters that were not covered by the competence of the Union (USSR) regulated by the Article 1 of the USSR Constitution. However, important matters such as employment, land and property status, economy and budget, military issues, administration of justice, etc. were managed directly by the Union. Thus, the Soviet Republics were seriously limited in their competences, as Stalin's and consecutive governments ruled in a very centralized and coercive manner. Furthermore, in these matters, the central initiative was enforced through communist party activities.

Initial autonomy arrangements for Autonomous Oblast of Nagorno-Karabakh (1923-1936)

The legal regulation of autonomous oblasts and particularly of the NKAO was mostly covered by republican legislation, namely the Constitution of AzSSR of March 26, 1927 and the specific "Regulation on Autonomous Oblast of Nagorno-Karabakh", which was developed by the special commission in July 1923.³⁹

According to the Article 55 of the 1927 Constitution of AzSSR, AONK was recognized as an integral part of the AzSSR.⁴⁰ More detailed norms were provided by the "Regulations on Autonomous Oblast of Nagorno-Karabakh", which had to be adopted by the AONK Congress of Soviets and approved by the CEC of Azerbaijan.⁴¹

Legislative power: The 1927 Constitution of AzSSR proclaimed that the supreme organ of power in the AONK was the Congress of Soviets and in the recesses of the AONK Congress of Soviets, the AONK Central Executive Committee (CEC).⁴² The AONK Congress of Soviets was required to

39 Протокол заседания комиссии по выработке Положения автономной области Нагорного Карабаха, установлению границ между Низменным и Нагорным Карабахом, а также между Нагорным Карабахом и Курдистаном и определению форм административного управления Низменного Карабаха и Курдистана. П.А.А.Ф. ИМ.Л. Ф. 1. Оп. 74. Д. 132. Л. 169

40 Constitution of the Azerbaijan Soviet Socialist Republic of 1927; http://files.prestlib.az/projects/remz/pdf_ru/atr_kons.pdf

41 Ibid. Article 56.

42 Ibid. Article 57.

The legal regulation of autonomous oblasts and particularly of the NKAO was mostly covered by republican legislation, namely the Constitution of AzSSR of March 26, 1927 and the specific “Regulation on Autonomous Oblast of Nagorno-Karabakh”, which was developed by the special commission in July 1923.

meet at least once a year. At the same time the CEC had the power to appoint the executive body – Council of the People’s Commissars.⁴³

Executive power: According to the “Regulation on Autonomous Oblast of Nagorno-Karabakh”, the following seven departments (ministries) were created as part of the AONK Council of People’s Commissars: Department of the Interior, Justice, Education, Health, Agriculture, Register and Economy.⁴⁴ Almost all Commissars (ministers), including the Interior and Justice, were appointed by AONK CEC and were directly accountable to this organ.⁴⁵ Only the Military Commissars and the Commissars for Labor and Finance were appointed by the CEC of AzSSR with the consent

⁴³ *Собрание узаконений и распоряжений Рабоче-Крестьянского правительства АССР за 1924 г. Баку, 1926 г. С. 334.*

⁴⁴ *АПД УдПАР, Фонд 1, Опись 74, Дело 137, Протоколы Заседаний Президиума Центрального Комитета КП (б) Азербайджана, лист 99.*

⁴⁵ *Decision of NK Oblast Executive Committee on 2 March 1937. ЦТАСР, Фонд 379, Опись 3, ед.хр 5613, лист 50.*

of AONK Council of the People’s Commissars.

It must be noted, however, that issues of state security came under the competence of CH-K (ministry of security) of AzSSR.⁴⁶ But in fact, the Commissars were also accountable to the AONK Communist Party’s Committee (AONK CPC). AONK CPC was in charge of supervision of all activities of Commissars.

Administration of justice: Until 1925, AONK did not have its own court of appeals and Supreme Court of Azerbaijan was a court of appeals for AONK courts.⁴⁷ The Oblast Court of AONK (as an appeal court for NK district courts) was not created until 1 October 1925.⁴⁸

Local authorities: As for the whole of the USSR, local authorities consisted of Councils of Workers, Farmers and Red Army Deputies. These councils convened in “sessions” which in turn elected their CECs and Presidiums. There was no clear division of powers between local and central AONK authorities in the Regulation on Autonomous Oblast of Nagorno-Karabakh, so this issue was regulated on a general basis according to the Constitution of AzSSR.

⁴⁶ *Ibid.*

⁴⁷ *A. Karakozov (appointed as Extraordinary Commissioner for Zangazur and Karabakh in February 1921) appealed to S. Kirov for establishment of Supreme Court for AONK as it has been for Nakhichevan Autonomous Republic.*

⁴⁸ *Собрание узаконений и распоряжений Рабоче-Крестьянского правительства АССР за 1924 г. Баку, 1926 г. С. 334*

The local authorities in AONK were represented mostly by Armenians, as reflected by the percentage of Armenians in the party organization of AONK – 94.2 percent. Just 4 percent were Azerbaijani.⁴⁹ The situation evidently continued, as by 1926, the total percentage of the Armenian population in AONK was 93.3 percent, compared with 6.2 percent Azerbaijanis.⁵⁰

Economy: Officially, the Oblast had control over the economy of AONK through the Council of People's Economy. But the Regulation provided that AONK Council of People's Economy had to work according to development plans, which had to be in compliance with the general state plan of USSR (GosPlan). However, it was AONK CEC that determined the annual level of production for kolkhozes⁵¹ and other industries, distributed pastures, and prepared the draft of the budget.⁵² The budget of AONK had to be approved by the CEC of AzSSR, because the expenditures of AONK had to be covered by AzSSR. The 1927 AzSSR Constitution provided that the budget of AONK and all its profits and expenditures was to be unified with the budget of the AzSSR.⁵³

49 Нифталиев И., «Азербайджанская ССР в экспансионистских планах армян», Баку, 2009, с. 220

50 Всесоюзная перепись населения от 1926 г., Закавказская СФСР. т. XIV, М., 1929, с. 11-13.

51 The word is a contraction of *kollektivnoye khozyaystvo* meaning collective farm or collective economy.

52 Decision of NK Oblast Executive Committee on 30 October 1937.

53 Constitution of the Azerbaijan Soviet Socialist Republic of

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According to the documents of the CEC of AzSSR, the AONK, like other Azerbaijani districts, received financial aid and technical assistance. For instance, in correspondence with the “Commission on Upper and Lower Karabakh” addressed to the CEC of AzSSR, 21.456 rubles of AONK’s public debts were annulled, 200 barrels of cement were released, and additional funds for construction of ten governmental buildings were added to the NK budget.⁵⁴ As demonstrated by the Decision of AONK CEC, the reconstruction of the Stepanakert Hospital was completed with funds allocated from AzSSR’s budget.⁵⁵

Midterm autonomy arrangements for Nagorno-Karabakh Autonomous Oblast (1936-1978)

The 1936 USSR Constitution introduced new provisions on autonomous entities, establishing a list of

1927; article 88 http://files.preslib.az/projects/remz/pdf_ru/atr_kons.pdf

54 АПД УДПАР, Фонд 1, Опись 74, Дело 136, Протоколы Заседаний Президиума Центрального Комитета КП (б) Азербайджана, лист 50.

55 Decision of NK Oblast Executive Committee on 2 March 1937. ЦГАСР, Фонд 379, Опись 3, ed.xp 5613, лист 53.

all autonomous oblasts and republics within the USSR.⁵⁶ Article 24 of the 1936 USSR Constitution reaffirmed that Nagorno-Karabakh Autonomous Oblast was an integral part of AzSSR. The representation of member and autonomous Republics as well as autonomous oblasts and national areas in the Council of Nationalities of the USSR was addressed by the Article 35. According to this Article each member Republic could send twenty-five deputies to the Council of Nationalities; autonomous Republics – eleven; autonomous oblasts – five, and each national area - one⁵⁷. Thus, the NKAO was represented at the Council of Nationalities of the USSR by five deputies, which marked an improvement compared with the previous constitutional arrangements.

A number of developments followed the adoption of the new Constitution of AzSSR Republic on March 14, 1937. In particular, the 1937 Constitution of AzSSR introduced the detailed administrative division of AzSSR, including the NKAO (Article 14).⁵⁸ Moreover, the 1937 Constitution includes a whole Chapter VII dedicated to the governing bodies of the NKAO. On the other hand provisions concerning the local authorities remained unchanged, as indicated in Chapter VIII of the 1937 Constitution of AzSSR.

56 *The 1936 Constitution of USSR of 1936*; <http://www.departments.bucknell.edu/russian/const/36cons02.html#chap03>, Articles 22-27

57 *Ibid.* Articles 24, 35.

58 *The 1937 Constitution of the AzSSR*; http://files.preslib.az/projects/remz/pdf_ru/atr_kons.pdf

Article 24 of the 1936 USSR Constitution reaffirmed that Nagorno-Karabakh Autonomous Oblast was an integral part of AzSSR.

At the same time, the powers of the AzSSR itself concerning its territory were significantly extended. For example, the AzSSR could now submit proposals to the Supreme Soviet of the USSR on the creation of new autonomous republics or oblasts.⁵⁹ The AzSSR, through its supreme bodies of state authority, was now able to decide on the borders and regions of the NKAO.⁶⁰ For instance, there was a Decree of Presidium of Supreme Soviet of AzSSR on February 1939, “On direct subordination of Stepanakert City Council to the NKAO Executive Committee”.⁶¹ Nonetheless, the 1937 Constitution of AzSSR introduced a new norm allowing for one of the representatives of NKAO to be assigned as a Deputy to the Chairman of the Presidium of the Supreme Soviet of AzSSR.⁶²

The 1937 Constitution of AzSSR provided more detailed norms on the authority of the Azerbaijani state and supervisory powers over the NKAO as well as other autonomous entities. For example, the Presidium of the Supreme Soviet of AzSSR was able to

59 *Ibid.*, Article 19.

60 *Ibid.*

61 ЦГАСР, Фонд 2941, Опись 7, лист 147.

62 *The 1937 Constitution of the AzSSR*, Article 31.

veto the decisions of NKAO Council of People's Deputies if it was not consistent with the law,⁶³ while the Council of Ministers of AzSSR were charged with oversight of the work of the executive committees (oblast, district, city, village) of NKAO.⁶⁴ The Council of Ministers of AzSSR was able to completely annul the decision of any executive committee in NKAO and suspend the decision of the NKAO Council of People's Deputies. Similar rules also applied to Nakhichevan Autonomous Republic.⁶⁵

The laws of AzSSR were in force on the territory of NKAO as well as in the Nakhichevan Autonomous Republic. Elections in NKAO were held according to the laws of the republic. Election day was the same for the whole territory of AzSSR.⁶⁶

To demonstrate the extent of the relativity of true executive power, it has to be taken into account that sometimes even member republics were not able to enjoy their federative republic (state) status. As an example, we can look at the November 26, 1939 Decree of the Council of People's Commissars and Central Committee of Communist Party of USSR on improvement of the function of the departments of agriculture in Soviet republics. According to

⁶³ *Ibid.* Article 33.

⁶⁴ *Ibid.* Article 46.

⁶⁵ *Ibid.* Article 47

⁶⁶ *Постановление Президиума ВС АССР от 23 Октября 1939 года, ЦГАСР, Фонд 2941, Опись 7, ед.хр 7, лист 110.*

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that Decree, the AzSSR's Council of People's Commissars issued a subsequent Decree on December 5, 1939. The Decree provides detailed regulation for departments of agriculture, their structure and personnel.⁶⁷ This Decree and a number of decisions of the Central Committee of Communist Party of the AzSSR were sent to Moscow for approval.⁶⁸ Given the high level of scrutiny from Moscow and the Communist Party, it is clear that the "self-governance" of the NKAO

Elections in NKAO were held according to the laws of the republic. Election day was the same for the whole territory of AzSSR

was illusory. In the political environment wherein the appointment of the Head of Azerbaijani Railroad (decision of 31 March 1959) was approved by Central Committee of Communist

⁶⁷ *АПД УПДАР, Фонд 1, Опись 74, Дело 596, лист 23-25.*

⁶⁸ *АПД УПДАР, Фонд 1, Опись 74, Дело 596, лист 47.*

Party of USSR,⁶⁹ all state affairs were under the scrutiny of the Communist Party, which held an exhaustive function in society and state. Another example of the dominant role of the Communist Party, as enshrined in the 1937 Constitution, is a 31 March 1959 ruling by the Central Committee of Communist Party of the AzSSR on the decision to change the name of “Karyagin” District to “Fizuli”, proposed by the Presidium of Supreme Soviet of AzSSR,⁷⁰ even though according to the Constitution that power belonged to the Supreme Soviet of AzSSR. That was the case for NKAO as well. The First Secretaries of Nakhichevan and NKAO’s Communist Parties were approved from the center (Moscow).⁷¹ The centralization of government within the “federal” state of the USSR can be demonstrated by the simple fact that the Head of the NKAO Executive Committee was appointed by Moscow. For instance, under a September 13, 1939 proposal by the Central Committee of Communist Party of AzSSR sent to Stalin, G. Petrosyan was nominated as a candidate for this official position.⁷² Taking into account that in the USSR many state organs were merged with party offices (e. g. chairmanship of executive branch with a secretary of the Communist Party at that level), the scrutiny of the executive branch was

69 АПД УПДАР, Фонд 1, Опись 46, Дело 70, лист 1.

70 АПД УПДАР, Фонд 1, Опись 46, Дело 70, лист 295.

71 АПД УПДАР, Фонд 1, Опись 46, Дело 70, лист 149.

72 АПД УПДАР, Фонд 1, Опись 74, Дело 581, лист 7.

performed by party control. Even such issues as permission for annual vacation had to be decided by the Central Committee of Communist Party of AzSSR, as in the case of the 1st Secretary of the NKAO Communist Party Committee Manukyans on October 25, 1938.⁷³ Another example is the appointment of Grigoriy Kalantarov as Head of the Finance Department of the NKAO Executive Committee by the proposal of the NKAO Communist Party Committee and decision of the Central Committee of Communist Party of AzSSR from 31.03.1959.⁷⁴

Legislative power: NKAO Council of People’s Deputies was a legislative body elected by the citizens of the Oblast every two years.⁷⁵ It was able to exercise its powers only within the limits of the legislation of both USSR and AzSSR.⁷⁶ It had some powers and responsibilities including the cultural, political and economical development, law enforcement, control over subjected bodies, etc.⁷⁷ Usually, the NKAO Council of People’s Deputies used its legislative power by issuing by-laws.

The decisions of the NKAO Council of People’s Deputies should have been published in both Armenian and Azerbaijani.⁷⁸

73 АПД УПДАР, Фонд 1, Опись 74, Дело 531, лист 267.

74 АПД УПДАР, Фонд 1, Опись 46, Дело 70, лист 154.

75 *The 1937 Constitution of the AzSSR, Articles 75-76; http://files.preslib.az/projects/remz/pdf_ru/atr_kons.pdf*

76 *Ibid.*, Article 78.

77 *Ibid.*, Article 77.

78 *Ibid.*, Article 78.

Executive power: As for the executive branch of NKAO, Council of People's Deputies elected its Executive Committee (IspolKom), which in turn had its own departments and offices.⁷⁹ According to Articles 46 and 81 of the 1937 AzSSR Constitution, the Executive Committee of NKAO Council of People's Deputies was in fact under the strict supervision of the relevant Ministries of AzSSR. The Executive Committee was charged with summoning the sessions of the NKAO Council of People's Deputies no less than four times a year.⁸⁰

Administration of justice: One of the more interesting developments of the 1937 Constitution was the provision concerning justice in NKAO. Articles 110, 115 of the 1937 Constitution of AzSSR provided that justice in NKAO was carried out by the regional court elected by NKAO Council of People's Deputies for a five-year period. However, at the same time, the regional court of NKAO was subject to monitoring and control by the Supreme Court of AzSSR.⁸¹

Administration of justice is strongly connected to "Prosecutor's control" in the USSR. In many cases judicial scrutiny was performed more by Prosecutors than courts. For instance,

⁷⁹ *Ibid.*, Article 79-80. *IspolKom of NKAO had a 13 members. The number, areas and functions of departments of Ispolkom had to be approved by the Council of Ministers of AzSSR. These departments had a double subordination – both to NK upper bodies and relevant Azerbaijani central departments.*

⁸⁰ *Ibid.*, Article 82.

⁸¹ *Ibid.*, Article 112

Article 120 of the AzSSR Constitution shows that the Prosecutor had supreme powers of control over the function of both state organs and citizens; Chief Prosecutors of member Republics were appointed by the Prosecutor-General of the USSR; in their turn Chief Prosecutors appointed district (oblast) Prosecutors. Thus the Prosecutor's Office in NKAO was appointed by the Prosecutor-General of the USSR for a five-year term.⁸²

Interestingly, in accordance with the 1937 Constitution of the AzSSR, justice in NKAO was generally carried out in Armenian.⁸³ The use of the Armenian language for court affairs reflected the minority policy of the Soviet state. According to the AzSSR Constitution, not only in NKAO but also in other districts where Russians or Armenians prevailed, their language could be used for court proceedings. However, the obligation to publish the decisions (laws) adopted by the NKAO Council of People's Deputies in both Armenian and Azerbaijani suggested that there were considerations of the strong legislative and administrative ties between NKAO and the AzSSR.

Economy: The budget of the NKAO was separated from the total budget of AzSSR, but the control for the implementation of the budget remained the responsibility of the supreme powers of AzSSR. Article 109 of the 1937

⁸² *Ibid.*, Article 122.

⁸³ *Ibid.*, Article 117 of the 1937 Constitution of AzSSR

The use of the Armenian language for court affairs reflected the minority policy of the Soviet state.

Constitution provided details of the budget formation of NKAO. According to that article, the budgets of local authorities were based on incomes of local economy (like kolkhozes), allocations from the central state budget and local taxes and fees, as established under USSR and AzSSR legislation.⁸⁴ However, the area was also subject to Moscow's scrutiny. For instance, in the case of kolkhozes, any change in their reorganization and functioning had to be agreed with Moscow.⁸⁵ Though the centers (Moscow and Baku) had specific allocations for NKAO which constituted a certain part of the budget, the other aspects of budget formation were done by the NKAO Executive Committee. Usually requests for funds were sustained by the Baku government. For example, between 1946-1960, NKAO received 68 million rubles, three times more than for the Agdam, Terter and Fizuli districts together, and 10 million more than the Nakhichevan Autonomous Republic.⁸⁶

⁸⁴ *The 1937 Constitution of the AzSSR, Articles 46, 109.*

⁸⁵ *From correspondence between Bagirov and Stalin АПД УПДАР, Фонд 1, Опись 74, Дело 596, лист 84.*

⁸⁶ *Nadirov A.A., Nuriyev Ə.X., Muradov Ə.S., Naxçıvan İqtisadiyyatı XX əsrədə, Bakı 2000, s.32.*

Final autonomy arrangements for Nagorno-Karabakh Autonomous Oblast (1978-1988)

The new 1977 USSR Constitution did not introduce further regulations for the autonomous units of the USSR. In this Constitution, NKAO was once again mentioned as an autonomous oblast of AzSSR. According to the Article 110 of the 1977 USSR Constitution the Council of Nationalities had to be elected on the basis of the following representation: 32 deputies from each member Republic, 11 deputies from each autonomous Republic,

The budget of the NKAO was separated from the total budget of AzSSR, but the control for the implementation of the budget remained the responsibility of the supreme powers of AzSSR.

five deputies from each autonomous region, and one deputy from each autonomous area.⁸⁷ Thus, NKAO also retained its representation in the Council of Nationalities and was allowed to have five representatives. In the last gathering of Council of Nationalities, of five representatives of NKAO, three were ethnically Armenian and two were Azerbaijani.⁸⁸

⁸⁷ *The 1977 USSR Constitution. Article 110. <http://www.departments.bucknell.edu/russian/const/77cons05.html#chap15>*

⁸⁸ *Депутаты Верховного Совета СССР. Одинадцатый созыв, М., «Известия», 1984 г., 507-543.*

At the same time, Article 86 of the 1977 USSR Constitution provided that the local legislatures (Councils of People's Deputies) of autonomous units (such as NKAO and Nakhchivan Autonomous Republic) would have a right to draft the law for the status of the unit and submit it to Supreme Soviet of concerned republic for approval.

The later adopted Constitution of AzSSR of April 21, 1978 reaffirmed most of the provisions of the previous 1937 Constitution concerning NKAO. Provisions of the 1978 Constitution once again confirmed the integrity of NKAO into AzSSR, providing detailed administrative division.⁸⁹

The law of the AzSSR "On Nagorno-Karabakh Autonomous Oblast"⁹⁰ was adopted by Supreme Soviet of AzSSR on June 16, 1981. But in fact, NKAO bodies did not prepare a draft, because this Law was simply a shorter, amended version of the model law of USSR on autonomous oblasts, called "USSR Law on the Main Competences of the Soviets of People's Deputies of Krays, Oblasts and Autonomous Oblasts". This law introduced detailed regulation on NKAO, its bodies, competencies and functioning. In fact, the competences of ordinary oblasts and autonomous oblast were very similar.

⁸⁹ The 1978 Constitution of the AzSSR, Article 78, http://files.preslib.az/projects/remz/pdf_ru/atr_kons.pdf.

⁹⁰ Закон Азербайджанкой Советской Социалистической Республики о Нагорно-Карабахской Автономной Области. Издание Верховного Совета Азербайджанской ССР. Азербайджанское Государственное Издательство, Баку, 1981.

The new 1977 USSR Constitution did not introduce further regulations for the autonomous units of the USSR. In this Constitution, NKAO was once again mentioned as an autonomous oblast of AzSSR.

Legislative power: the NKAO Council of People's Deputies was the supreme body that was competent to make decisions on all matters concerning the Oblast. The Law provided the NKAO Council of People's Deputies *inter alia* with competences to forecast, estimate, calculate and manage the budget (art.17), to regulate prices (art.18), industry (art.19), architecture, agriculture, natural resources, housing, trade, education, social security, health and interior affairs (art.20-34)⁹¹. Importantly, according to the Article 63 of this Law the regional court was elected by the NKAO Council of People's Deputies for five years and the Chairman of NKAO Oblast Court was included into the Supreme Court of AzSSR.⁹²

Furthermore, NKAO was still able to have its representative as one of the three Deputies to the Chairman of the Presidium of the Supreme Soviet of AzSSR,⁹³ enabling its direct

⁹¹ Закон Азербайджанкой Советской Социалистической Республики о Нагорно-Карабахской Автономной Области. Издание Верховного Совета Азербайджанской ССР. Азербайджанское Государственное Издательство, Баку, 1981, cc.12-35

⁹² *Ibid*, p.49

⁹³ The 1978 Constitution of the AzSSR, <http://files.preslib.az/>

participation in the decision making of the supreme body of the AzSSR of that time. This was important as the Supreme Soviet of AzSSR was the main legislative body and was granted powers of changing regional (administrative) division of NKAO or even changing its borders.⁹⁴ The Supreme Soviet was also able to abolish any type of decision of the NKAO's Council of People's Deputies it deemed contradictory to the laws of the Republic or the USSR.⁹⁵

Executive power: The Executive Committee of the NKAO Council of People's Deputies was an executive body of the Oblast. Between the sessions of the NKAO Council of People's Deputies, the Executive Committee undertook most of the competences of the Council. It formally created departments and commissions and also appointed the heads of these structures. These appointments had to be approved by the NKAO Council of People's Deputies, but not by the central authorities in Baku.

According to Article 46 of the Law on NKAO, taking into consideration that all spheres of industry and services were under state property, the appointment and dismissal of the heads of industrial and agricultural facilities like kolkhozes were subject to approval by the NKAO Council of People's Deputies. But the Commu-

nist Party had more (informal) powers in regard to the appointment of any official. The Central Committee of the Communist Party of AzSSR held powers to control and order all Executive Committees in AzSSR. According to the October 23 1981 Decision of the Central Committee of the Communist Party of AzSSR, all Executive Committees in Azerbaijan had to increase their efforts in the fight against corruption and plundering of state property.

The NKAO executive branch did not participate in the Council of Ministers of AzSSR. Once again the Council of Ministers of AzSSR was able to control and monitor the work of the local Executive Committees in NKAO and in some cases, even suspend or overturn their decisions,⁹⁶ thus directly affecting the law enforcement in the region.

Administration of justice: Under the 1978 Constitution of AzSSR, the judicial system of NKAO remained unchanged. NKAO had district courts and supervisory regional court as the main judicial body.⁹⁷ That regional court in turn was under the direct supervision of the Supreme Court of AzSSR and the NKAO was enabled to participate in its issuing of court's rulings. The Chairman of NKAO regional court was an *ex officio* mem-

[projects/remz/pdf_ru/atr_kons.pdf](#), Article 113.

⁹⁴ *Ibid.*, Article 114 (8).

⁹⁵ *Ibid.*, Article 114 (10).

⁹⁶ The 1978 Constitution of the AzSSR, Article 125 (7), 128, http://files.preslib.az/projects/remz/pdf_ru/atr_kons.pdf.

⁹⁷ *Ibid.* Article 163.

ber of the Supreme Court of AzSSR.⁹⁸ NKAO was also able to retain its Prosecutor's Office, appointed by the Prosecutor-General of USSR.⁹⁹

According to the Article of 159 of the 1977 USSR Constitution, judicial proceedings had to be conducted in the language of the member Republic, autonomous Republic, autonomous region, or autonomous area, or in the language spoken by the majority of the people in the locality. Persons participating in court proceedings, who do not know the language in which the proceedings are being conducted, have the right to become fully acquainted with the materials in the case; the services of an interpreter during the proceedings; and the right to address the court in their own language. The similar provisions were reflected in the 1978 AzSSR Constitution.¹⁰⁰ This guaranteed that the judicial proceedings in the NKAO would be conducted in the language used by the majority of the population in the region, thus once more guaranteeing NKAO the use of Armenian in its jurisprudence. However, at the same time it provided for wider guarantees for non-speakers of Armenian to use their native language in the judicial process, guaranteeing those people the right to become fully acquainted with the materials in the case, pro-

viding the services of an interpreter during the proceedings and the right to address the court in their own language.

Local authorities: as was the case across the whole territory of the USSR, local authorities were the local Councils of People's Deputies. However, their competences were increased in comparison with the 1937-1978 constitutional regime. Article 138 of the 1978 Constitution of the AzSSR expanded the functions of the local Councils of People's Deputies in comparison with Article 88 of the 1937 Constitution of the AzSSR. New regulations provided that "... Soviets are in charge for all matters in their area, this competence will be realized considering general state interests and interests of the people living in that area"¹⁰¹.

Local Councils of People's Deputies elected Executive Committees. These Executive Committees had competences very similar to those held by their respective local Councils of People's Deputies, excluding matters that had to be solved exclusively by meetings of local Councils.

Economy: One of the ways in which autonomy was strengthened was that NKAO now had a separate state plan for economic and social development,¹⁰² which was supposed

98 *Ibid.*, Article 165.

99 *Ibid.*, Article 177.

100 *The 1977 USSR Constitution. Article 159.* <http://www.departments.bucknell.edu/russian/const/77cons05.html#chap15>; *The 1978 Constitution of the AzSSR, Article 171.* http://files.preslib.az/projects/remz/pdf_ru/atr_kons.pdf

101 *The 1978 Constitution of the AzSSR. Article 138.* http://files.preslib.az/projects/remz/pdf_ru/atr_kons.pdf

102 *Ibid.*, Article 153; *Закон Азербайджанской Советской Социалистической Республики о Назорно-Карабахской*

edly there to account for the specifics of the autonomy and differences from the rest of AzSSR, thus strengthening the socio-economic situation in NKAO. Under the new 1978 Constitution, NKAO was also able to retain its budget. However, it was considered still a part of the unified state budget of AzSSR.¹⁰³ Nonetheless, the Law on NKAO in Article 9¹⁰⁴ provided that the budget of NKAO should be listed separately in state budget of AzSSR. The budget consisted of allocations from state budget and industries located in NKAO.¹⁰⁵ Article 72 (8) of the 1978 Constitution of AzSSR still allowed for control of the implementation of the budget of NKAO by the higher authorities of AzSSR.

However, as mentioned above, the economy of the USSR was centralized. NKAO had to prepare its economic plan within the context of the state development plan and commitments imposed by the central authorities. The chain of commitments actually started in Moscow. The Communist Party of the USSR prescribed commitments for republics and they in turn issued requirements for lower

units. For every five years there was a new state plan (“GosPlan”) and all units within USSR had commitments to meet (according to this state plan) with regard to the production of products and services, including agriculture products.¹⁰⁶ The NKAO Executive Committee also took part in drafting its commitments for GosPlan.¹⁰⁷ For example, the Central Committee of Communist Party of USSR issued a decision “On measures of developments grape and wine industry in AzSSR” dated February 22, 1979; then the Central Committee of Communist Party of AzSSR made a subsequent ruling on July 3, 1982, requiring NKAO Executive Committee to fulfill a set of obligations between 1982-1986.¹⁰⁸ Another example is the creation by the Central Committee of Communist Party of AzSSR of NKAO Agriculture Corporation (*oblastnoe agropromishlennoye obyedineniye*) on the improvement of the agriculture performance in NKAO;¹⁰⁹ in fact this was the implementation of the decision of the Central Committee of Communist Party of USSR and the Council of Ministers of USSR on May 24, 1982. A further example is the joint decision by the Central

Автономной Области. Статья 8. Издание Верховного Совета Азербайджанской ССР. Азербайджанское Государственное Издательство, Баку, 1981, с.5.

103 The 1978 Constitution of the AzSSR. Article 138. Articles 159-160 http://files.prestlib.az/projects/remz/pdf_ru/atr_kons.pdf.

104 Закон Азербайджанкой Советской Социалистической Республики о Нагорно-Карабахской Автономной Области. Статья 9. Издание Верховного Совета Азербайджанской ССР. Азербайджанское Государственное Издательство, Баку, 1981, сс.5-6.

105 As a difference with former Constitution there is no mention about local taxes and fees.

106 АПД УДПАР, Фонд 1, Опись 70, Дело 148, лист 40. For NKAO as for 1983 the state plane required to prepare 500 tons of agriculture products, and for 1985 as 1000 tons.

107 Decision of the Council of Ministers of AzSSR on July 16 1981 on “Draft of State Planning of Economic and Social Development of AzSSR for 1982”. The draft had to be reviewed by Central Committee of Communist Party of AzSSR and then submitted to GosPlan Agency of USSR for final approval.

108 АПД УДПАР, Фонд 1, Опись 70, Дело 100, лист 41.

109 АПД УДПАР, Фонд 1, Опись 70, Дело 80, лист 20-23.

Committee of Communist Party and Council of Ministers of AzSSR dated June 24, 1982, granting powers to kolkhozes (including NKAO) to adjust the salaries of workers who performed their duties in an exemplary fashion.¹¹⁰

Property entitlement: there was no private property in USSR. Only personal property was considered as legitimate under “socialist property” idea; personal property was limited to things for personal and indoor usage (notably, houses were not supposed to be of excessive value and enterprises were not allowed to generate income as a specific function). Only small enterprises, like haircutters or shoes-repair shops could function. The property regime was regulated by Articles 11-13 of the 1978 Constitution of AzSSR.¹¹¹ Those living in NKAO had the same property rights as other citizens in the USSR.

Security issues: The police force of NKAO was under the control of the NKAO Executive Committee, though military issues were controlled by the central Soviet authorities in Moscow. As a republic, Azerbaijan did not have its own military units.

Azerbaijan and Armenia: relations with NKAO: Given that politically and economically NKAO was linked with Azerbaijan, the majority of political and trade relations were with Azer-

baijan. There was only one highway, through Lachin, that linked NKAO with Armenia, whereas with Azerbaijan there were six. There were no administrative relations with Armenia. However, Armenia provided some books in Armenian for schools and universities. Ethnic Armenians from NKAO were frequently educated in Armenia. Taking into account that Karabakh Armenians knew the Russian language better than those who lived in Armenia, they also traveled to Russia for education.

In general, the 1978 Constitution provided for stronger autonomy in NKAO. It was able to establish mechanisms whereby the population could directly participate in the administration of AzSSR, in legislation, and in matters concerning the NKAO itself. However, the 1978 Constitution left a lot of matters for separate legislation, such as USSR laws, leaving the NKAO with only the general decisions of the NKAO Councils of People’s Deputies to make.

NKAO was represented in the Supreme Soviet of AzSSR. Based on the results of the last elections to the Supreme Soviet of AzSSR, 30 ethnic Armenians were elected as deputies, ten of whom were elected from NKAO.¹¹²

The status of NKAO continued to evolve from the day of creation and until the 1980s. But the autonomy

¹¹⁰ АПД УДПАР, Фонд 1, Опись 70, Дело 80, лист 38.

¹¹¹ The 1978 Constitution of the AzSSR. Article 11-13 http://files.preslib.az/projects/remz/pdf_ru/atr_kons.pdf

¹¹² Азербайджанская ССР. Верховный Совет. Одиннадцатый созыв, Б., Азернеур, 1985, с. 6.

Given that politically and economically NKAO was linked with Azerbaijan, the majority of political and trade relations were with Azerbaijan. There was only one highway, through Lachin, that linked NKAO with Armenia, whereas with Azerbaijan there were six.

of the NKAO mostly functioned not through legislative and administrative ways but through party proceedings. It is noteworthy that the Decision of the Central Committee of Communist Party of AzSSR on July 28, 1981 - to strengthen public order and legality in all spheres – required local and NKAO Executive Committees to discuss the Decision and then implement it.¹¹³ At the same time, the level of autonomy of the Oblasts in the Soviet Union like NKAO were lower than those enjoyed by autonomies in several European states at the time. These disparities were also underscored by the direct command system in the Soviet Union.

Protection of minority rights in NKAO

It is clear that the status of autonomy was granted for Nagorno-Karabakh based on its ethnic Armenian majority. The aim of autonomy was not economic independence but rather to preserve and respect the ethnic differences, language and culture of Armenian population of this region. At

¹¹³ АПД УПДАР, Фонд 1, Отись 86, Дело 106, лист 96-106.

the same time there were no essential differences between an autonomous republic and autonomous oblast or kray. The differences were mainly in the names of the regulatory bodies. All autonomous units were obliged to obey the laws of USSR and the respective republic; neither autonomous republic nor oblast was able to issue its own laws on education, healthcare or employment or social security system. Autonomy was about decision-making in some areas and provided cultural self-governance, appointment of public officers, correspondence, and media and education in minority language. The common policy in the USSR on the status for territorial units was to set out common rules without taking into consideration any specific circumstances.

That is why the regulation of NKAO was very similar to those for other autonomous oblasts in USSR. Here we will review whether legal regulation of the status of the NKAO provided protection for minority rights.

The Soviet regime did not aim to remove or erase the national identities of the people of the USSR, but tried to create a “soviet people” with common ideology. At the same time the communist ideology, public administration and mentality were essential to the functioning of the USSR. Although the legislative regulations provided very broad rights and privileges for national minorities, the totalitarian communist intervention to social and

personal life greatly diffused those rights.

Thus if we are going to compare the rights provided for ethnic Armenians of NKAO with the European Framework Convention for the Protection of National Minorities¹¹⁴, we can say that from the very inception of the NKAO, certain rights such as non-discrimination (Article 4 of the Framework Convention), right to identity, namely religion, language, traditions and cultural heritage (Article 5), right to use their language, etc. were protected by Azerbaijani and Soviet laws. For example, let us briefly analyze the language rights in the case of NKAO.

As mentioned above, according to the 1970, 1979 and 1989 census data, the population of NKAO was, respectively, 80.5 percent, 75.9 percent, and 76.9 percent ethnically Armenian; 18 percent, 23 percent, and 21.5 percent ethnically Azerbaijani, and 1.3 percent, 1.1 percent, and 1.5 percent other. The percentage of Armenians in this region who considered Armenian their native tongue remained almost unchanged from 1970 to 1989: 98.25 percent (1970), 96.33 percent (1979) and 98.44 percent (1989).¹¹⁵

114 *Framework Convention for the Protection of National Minorities*. Strasbourg, 1.II.1995. <http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm>; Thomas Buergenthal, Dinah Shelton, David Stewart: *International Human Rights*, West Group Publication, MN 2004, 2nd Edition, page 194.

115 *Itogi vsesoyuznoj perepisi naseleniya 1970 goda, tom 4. Nacionalniy sostav naseleniya*, Moskva, 1973; *Chislennost i sostav naseleniya SSSR. Po danym vsesoyuznoj perepisi naseleniya 1979 goda*. Moskva, 1985; Goskomitet SSSR po statistike. *Itogi vsesoyuznoj perepisi naseleniya 1989 goda*.

However, thanks to the Russification policy that spread across all republics of the USSR, the percentage of persons who considered Russian their native tongue steadily increased. Those who did not speak Russian were de facto second-class citizens, because the cultural and linguistic situation throughout the Soviet Union made it impossible for non-Russian speakers to get good jobs in state and party institutions. This tendency can also be observed among the inhabitants of NKAO.

According to Ministry of Education data for the ten-year period between 1978 and 1988, the number of Armenian language schools in NKAO increased: they made up 62 percent of the total in 1978-1979, and 69 percent in 1988-1989. By contrast, Azerbaijani language schools made up 19 percent of the total in 1978-1979, and 23% in 1988-1989. Pupils of the Armenian language schools made up 64 percent of the total number of pupils in NKAO in 1978-1979, 60 percent in 1988-1989 (compare with data on the number of pupils of the Azerbaijani language schools: 24.6 percent of the total in 1978-1979, 24.3 percent in 1988-1989). Only the number of pupils of the Russian schools increased: they made up 11 percent of the total in 1978-1979, and then 15.5 percent in 1988-1989.¹¹⁶

Moskva, 1989.

116 G.Pashayeva, *From Soviet to European language policy standards: the Case of Azerbaijan*. In: *Azerbaijan Focus*, Center for Strategic Studies, 2010, 2(2), p. 140

However, as noted by Luchterhandt, "...the educational system in the Autonomous region managed to present a relatively favorable picture. The compact Armenian settlement (200 out of 215 settlements in the region were Armenian), or rather the actual separation from the residential areas of the Azerbaijanis led to the segregation of the educational system. This contributed to the situation in 1979, where 96.3 percent of the Armenian ethnic group in Nagorno-Karabakh spoke Armenian as their native language".¹¹⁷

Language rights are only one part of the minority rights package. Minority rights should be viewed among other important civil and political rights, such as right to a private life, and freedoms of religion, expression and assembly. Freedom to use their language in media, schools and correspondence, worship their religion and perform customs and cultural affairs are the most important issues for ethnic minorities.

On the subject of freedom of religion in the USSR, we should remember that based on its communist ideology, the USSR had an anti-religious policy. Muslims, Christians and Jews were limited in their freedom of religion, and atheism was promoted by the state at all levels. For example, the Decision of the Central Committee of the Communist Party of AzSSR

¹¹⁷ O.Luchterhandt. *Nagorny Karabakh's right to state independence according to international law*. Boston, 1993, pp.62-63

"On strengthening of atheistic education" (October 23, 1981)¹¹⁸ districts and oblast executive committees were tasked with various measures to stamp out religious customs, preachers, mullahs, etc.¹¹⁹

The very concept of human rights in the Soviet Union was relegated by official propaganda to the category of institutions of bourgeois law that are incompatible with socialist law. The argument was that these rights were capitalist in nature, serving as a veil for imperialistic exploitation of workers.¹²⁰ Thus, key first generation rights such as right to property, freedom of religion, freedom of expression and assembly, were limited by law due to their incompatibility with communist ideology. Notwithstanding that the basic rights and freedoms of citizens have been laid down in all the Soviet Constitutions, the communist ideology excluded other ones, including the human rights concept.

Human rights education is one of the cornerstones of a liberal society, but alien to a socialist one. Though the rights were determined in Soviet legislation, it was not possible to appeal to any judicial or other agency in order to defend one's rights by referring only to the Constitution. In order to submit such a lawsuit, complaint, or appeal accepted (even for review)

¹¹⁸ Source?

¹¹⁹ АПД УПЦАР, Фонд 1, Опусь 68, Дело 137, лист 13-21.

¹²⁰ Ayferi Göze: *Siyasal Düşünceler ve Yönetimler*, Beta Basım, İstanbul 1995, page 286.

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one needed *mandamus* provided by law. In the absence of such norms, the rights and liberties laid down in the Constitution frequently served merely as decorations.¹²¹

A comparative analysis of international legal instruments and domestic Soviet legislation shows that there is a very large discrepancy between the two. For example, such a thing as the statute on the system of *propiska* or residence permits (a product of the Stalin era in itself) had nothing in common with the norms laid down in international agreements signed by the Soviet Union and violated both the guarantees of international agreements and the Soviet constitutional guarantees on freedom of movement. Unfortunately, all contemporary efforts to curb this system failed due to the obstacles created by the security agencies of former USSR. While international legal instruments had guarantees of complete access to information and the freedom of each citizen to express his or her thoughts

121 Arkady I. Vaxberg. *Civil Rights in the Soviet Union. Annals of the American Academy of Political and Social Science, Vol. 506, Human Rights around the World (Nov., 1989), pp. 111-112*

publicly, there were no authentic guarantees of freedom of speech in Soviet legislation or practice at that time.

Soviet courts had little experience of applying international human rights law, whether derived from treaties or otherwise. The idea of international law as part of the national law was not accepted in Soviet jurisprudence. To be sure, the 1977 Constitution of USSR declared that “the USSR’s relations with other states are based on . . . fulfillment in good faith of obligations arising from the generally recognized principles and rules of international law, and from the international treaties signed by the USSR”.¹²² However, under the scrutiny of the Communist Party, the Soviet courts did not have explicit authority to apply international law as a direct source of law. Rather, the 1977 USSR Constitution conferred the function of implementing international law upon the Council of Ministers of the USSR, i.e. the Government of the USSR, which was the highest executive and administrative body of state authority of the USSR¹²³ and upon the respective subsidiary organs that have competence over the subject matter in question.¹²⁴

122 *The 1977 USSR Constitution. Article 29.* <http://www.departments.bucknell.edu/russian/const/77cons05.html#chap15>

123 *Ibid.*, Articles 128.

124 *See, Law on the Procedure for the Conclusion, Execution, and Denunciation of International Treaties of the USSR, art. 21, translated in W. Butler, Basic documents on the soviet legal system 290 (2d ed. 1988)*

The reluctance of Soviet Union to apply international human rights law in national tribunals may be connected to several factors. One of the reasons was that the Soviet system was hardly open to the idea of the rule of law as a control mechanism over official action; one can say that law was viewed instrumentally – as a tool for building and maintaining a socialist order.¹²⁵ Just as there was no tradition of constitutional control in the Soviet Union, the idea of applying international law to change what elites or bureaucrats would otherwise do was an alien notion. Another reason was that there was no legal culture of an independent judiciary to give effect to rules that would constrain government action. On the contrary, Soviet courts and judges typically served as adjuncts of the party apparatus. Moreover, in contrast to non-socialist countries, where direct judicial application of customary international law was already well established, Soviet courts had never applied custom as a source of law. In addition there was no overarching principle in Soviet law to resolve conflicts between international and domestic law.¹²⁶

Nonetheless, NKAO as part of AzSSR and the Soviet Union was under the same guarantees that were provided to the citizens of USSR through the appropriate constitutions. As the reg-

¹²⁵ Berman, *The Comparison of Soviet and American Law*, 34 *IND. L.J.* 559, 567 (1959).

¹²⁶ Ametistov, *Problems of Relations Between International and National Law, The Moscow Conference on Law and Economic Cooperation: Faculty Presentations* 55, 57 (1990).

ulations concerning the rights of individuals existed in the law concerning the NKAO, it is worth looking at the norms for human rights guarantees to the people in NKAO. The development of such norms can be traced through the same three Constitutions of AzSSR that have been covered above.

The constitutional law of USSR included human rights as one of its pillars. Though, as mentioned before, the rights provided to the citizens of Soviet Union were not proclaimed as such and rather called “individual” or “citizen” rights, their essence lies in the doctrine of international human rights law.

The 1927 Constitution of AzSSR regulated minority rights for the people of AzSSR. In Article 15 of this constitution norm are laid down that state: “... regardless of racial or national identity.... it is absolutely incompatible with the laws of the Republic... to create or allow any (directly or indirectly) privileges of particular nationalities... or national minorities or abuse their rights to equality...”.¹²⁷ Such a clause in the 1927 Constitution of the AzSSR at the time was progressive even compared to other states in the world. Moreover, that same Article extended the rights of the minorities to include linguistic rights, providing minorities with the right to use their language in Congresses, courts,

¹²⁷ The 1927 Constitution of the AzSSR, Article 15 http://files.preslib.az/projects/remz/pdf_ru/atr_kons.pdfhttp://files.preslib.az/projects/remz/pdf_ru/atr_kons.pdf

public administration and social life as well as to be educated in their native language.¹²⁸

Some improvements came with the adoption of the 1937 Constitution of AzSSR. The rights of all citizens were reiterated in detail in Chapter XI of the aforementioned Constitution. The first were labor rights, in particular the right to work. The exercise of this right was understood as the right to the guaranteed paid job for all the citizens,¹²⁹ thus including national minorities. With it came a right to leisure and rest that have provided for the 7-hour working days, yearly paid vacations and usage of recreational infrastructure.¹³⁰ Then a right to social security came that included pensions and other social advantages, and the right to education that included compulsory 8th-grade education with forms of higher education guaranteed to all people without discrimination.¹³¹

The 1937 Constitution provided stricter non-discrimination norms. Discrimination based on nationality or race was prohibited with legal responsibility guaranteed to the perpetrators. The simple privileges on the grounds of nationality were considered punishable by law.¹³² Thus Ar-

¹²⁸ *Ibid.*

¹²⁹ *The 1937 Constitution of the AzSSR; Article 125.* http://files.prestlib.az/projects/remz/pdf_ru/atr_kons.pdf

¹³⁰ *Ibid.*, Article 126.

¹³¹ *Ibid.*, Articles 127, 128.

¹³² *Ibid.*, Article 130.

menians of NKAO as a national minority have retained their protection constitutionally.

The 1937 Constitution of AzSSR reaffirmed the religious freedoms and the secularity of the state;¹³³ at the same time it provided wider guarantees of freedom of speech and expression, freedom of press, freedom of assembly and association, freedom of street demonstrations and rallies, etc. These freedoms were to be guaranteed by equal access to resources.¹³⁴ Moreover, this constitution touched upon guarantees towards the person. It provided for the right to individual integrity, prohibiting arbitrary arrest or any arrest other than by the decision of the court or sanctions from prosecutor. The same applied to the inviolability of the domestic dwellings of the persons and their correspondence.¹³⁵

The 1978 Constitution of AzSSR made even more considerable progress as a human rights instrument. It must be noted that at that point Soviet Union was party to the 1975 Helsinki Act, which included significant human rights commitments, thus necessitating the changes in the constitutional law of USSR.

This particular constitution broadened the subject of non-discrimination from merely the grounds of race and nationality to sex, education, lan-

¹³³ *The 1937 Constitution of the AzSSR. Article 131.* http://files.prestlib.az/projects/remz/pdf_ru/atr_kons.pdf

¹³⁴ *Ibid.*, Article 132, 133.

¹³⁵ *Ibid.*, Article 134, 135.

guage, religion, activities and even place of residency.¹³⁶ Thus it applied the non-discrimination clause to linguistic and religious minorities. It reaffirmed the equal rights of men and women¹³⁷ and of all nationalities in the Union, specifically addressing national minorities.¹³⁸ In addition it guaranteed all people (including foreigners) to the defense of their rights in a court of justice.¹³⁹

The 1978 Constitution provided wider human rights guarantees than any of the former constitutions, though many of the political rights were avoided, focusing instead on social, economic, civil and cultural rights. The 1978 Constitution, like the previous ones, prohibited discrimination towards any nationality or group; the basic law contained norms prohibiting discrimination and encouraging subjects to disregard grounds of nationality and race in any part of social and political life.

As we can see, the same laws applied to the NKAO and the national minority of Armenians came under their scope.

¹³⁶ The 1978 Constitution of the AzSSR. Article 32. http://files.preslib.az/projects/remz/pdf_ru/atr_kons.pdf

¹³⁷ *Ibid.*, Article 33.

¹³⁸ *Ibid.*, Article 34.

¹³⁹ *Ibid.*, Article 35.

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Conclusion

Soviet autonomy in Nagorno-Karabakh was a myth by contemporary standards. It is obvious from the declared rights that were not actually implemented in practical terms, from the illusionary separation of powers that never worked due to the party control, etc. However one thing is certain: Armenians and Azerbaijanis were able to live and develop peacefully for several decades of Soviet

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rule, without many of the domestic problems that affected the whole of the Soviet Union.

In all three periods of the development of autonomy we can see that it was managed by the same system of governmental bodies; their names were changed but the essence of their function was not. From the Congress of Soviets up until the NKAO Soviet of People's Deputies, the legislative power was mostly illusory, and decisions and legislation were adopted on the basis of the party arrangements, as in the rest of the USSR.

At the same time, the executive bodies were the actual bearers of state power. Until 1936, departments and their Commissars dealt with all administrative matters, and then until 1988 the same role was carried out by the Council of Ministers and Executive Committees. These bodies exercised the actual effective functions of governance at the domestic level.

When it came to the judiciary, NKAO had its own system of district courts and acquired its own court of appeals at a relatively early stage (in 1925). However, it must be said that throughout this whole period of autonomy, the supreme body of justice was the Supreme Court of AzSSR and the final appeals could only be made there. At the same time, the Chairman of the local "Oblast Court" was a member of the Supreme Court of AzSSR and the judiciary in the autonomy was usually carried out in Armenian.

Throughout the stages of its development, the NKAO was partly in charge of economic matters. In the 1923-1936

period, the Department of Economy was in charge of the implementation of the development plans and used the allocation from the unified budget of AzSSR. After 1936, the budget of the NKAO was separated from the total budget of AzSSR, although its spending was still under strict control, from both Baku and Moscow. After 1978, NKAO was given its own plans of economic and social developments, increasing its economic independence, at least relatively speaking. Generally when it comes to the economic developments during the later stages of development, NKAO

However one thing is certain: Armenians and Azerbaijanis were able to live and develop peacefully for several decades of Soviet rule, without many of the domestic problems that affected the whole of the Soviet Union.

was doing even better than the rest of AzSSR and many other places in the Soviet Union.

Nor was the NKAO denied access to political participation. Since its establishment, it was allowed to send one representative to the Council of Nationalities, and after 1936, this was extended to five. In the final stages of the development of NKAO one of its representatives was one the three Deputy of the Chairman of the Presidium of the Supreme Soviet of

AzSSR, who had a right to participate in all decisions that concerned autonomy.

At the same time, the administrative division and the borders of autonomy remained within the competence of the central government. Essentially all the bodies of the central government concerning legislative, executive and judicial authorities possessed the rights to overrule illegal decisions of the corresponding branch of bodies of NKAO.

Moreover, both the decision-making process as well as the implementation and enforcement procedures were monitored and controlled by the Communist Party. The decisions of legislative and executive bodies were legal outputs of the behind-the-scenes decision-making process. That process consisted of correspondence between the local and central authorities on the Party levels that then were transformed into actual decisions.

However, while the system failed to truly recognize the importance of self-governance for minorities, the same level of party scrutiny applied to all the republics of the Soviet Union as well as to the smaller entities. The denial of effective self-governance was due to the general framework and policy of USSR, and not based on any kind of ethnic discrimination.

Though in terms of infrastructure NKAO was not closely linked to Armenia, due to the fact that Soviet

Union was considered a single state, in cultural terms there were no barriers in regard to NKAO's interaction with the Armenian SSR.

At the same time, in the final stages of its development, NKAO was economically stronger than the AzSSR. The demographic situation was mostly stable and the vast majority of population of NKAO was Armenian. There is no evidence of a policy that sought to change the demographic situation.

Thus, it can be concluded that the reasons for the failure of autonomy was not discrimination on the part of the central Azerbaijani government, nor the lack of access to minority rights, but rather the Soviet system of administration and Armenia's separatist goals.