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Legal Principles of the Advocacy Activities in Azerbaijan and in the post-Soviet States: The Role of Digitalization and Technological Aspects

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Abstract: The Bar is a self-governing institution of civil society and plays an important role within the unified law enforcement system. The aim of the research was to systematize existing practices and subsequently develop measures to improve the organizational foundations of the Bar in the Republic of Azerbaijan. The methods of this study included a literature review and a systematic qualitative analysis of foreign practices of legal organization and the evaluation of their applicability in the Republic of Azerbaijan. The search for relevant academic works was conducted in the scientometric databases Scopus and Web of Science for the period 2018–2023. Based on the PRISMA recommendations, 57 relevant academic papers meeting the inclusion criteria were selected. The use of these methods allowed for a comprehensive, holistic, and objective examination of the Bar and its principles in both Azerbaijan and foreign countries. The study concluded by arguing that legal practice in the Republic of Azerbaijan, as in other post-Soviet countries, can take various organizational forms, but all participants in the Bar share one primary goal: to contribute to the development of their professional activities. The author asserts that, in order to be effective, the Bar must support the economic activities of its members, with these activities serving only as a supplementary function to the main professional activities. The study also provides specific recommendations for improving the legal regulation of the organizational structure of the Bar in the Republic of Azerbaijan, which will enhance its operational efficiency.

Keywords: legal aid, constitutional rights, right to defence, digitalization.

Introduction

Digital technologies in the modern world are applied in various types of legal activities, including judicial, law enforcement, legal application, and human rights protection. Work in this direction continues to evolve, with certain elements of digitalization already integrated into the everyday practice of legal activities and the organization of the Bar Association of the Republic of Azerbaijan. Additionally, there are developments such as legal tech specialists; smart contracts; information technologies for conducting legal and anti-corruption expertise; online programs that allow for resolving legal disputes with minimal arbitrator involvement; automation of citizen inquiries and legal consultations; electronic document management; automated claim and lawsuit processes; and the search for qualified experts. Technological advancements and information and communication technologies also influence the very institution of the legal profession and the organizational principles of its activities.

The Latin word “principle” in modern legal science is interpreted as the basic position, the starting point of a theory, doctrine, belief, worldview; a guiding idea, the main direction, the main condition that must be observed. This term is a multifaceted concept that is widely used. In this study, we are talking about those legal principles that are applied in various areas of legal activity, including the practice of law. The well-known legal principles are reflected in laws and other regulatory legal acts that regulate various aspects of the legal life of society and are reflected in the legal system of the state.

As a result of the reforms that took place after the dissolution of the Soviet Union in the countries that were part of it, global changes began in all spheres of state and society, a fundamentally new legal situation was created that requires revision and legal clarification of the organisational foundations of the Bar and the Bar as one of the main mechanisms for the protection of human rights around the world. In recent years, the role and place of the Bar, as well as the range of its tasks in protecting rights and legitimate interests have changed significantly.

For example, the most characteristic trend in the vast majority of countries in the first decade of the 21st century was the transition from individual practice of law to collective forms of legal work. The main reason for this process is that collective forms of work are more efficient since bar associations can provide legal assistance of a wider range. However, it is in this case that bar associations face the potential danger of “commercialisation” of their activities and may ignore the public interest in providing subsidised assistance to socially vulnerable groups of the population.

One of the most important institutions of civil society, which is officially enshrined in the current legislation of the Republic of Azerbaijan, is the Bar, and the main principle of its functioning is the implementation of advocacy on a professional basis. The current stage of development of the societies of the post-Soviet countries is associated with a favourable update of legislation for the Bar, which opens up new opportunities for increasing the effectiveness of its human rights activities. In addition, the role of the Bar in the formation of civil society and the protection of the rights and freedoms of citizens is being shaped, and the Bar is gaining real independence in relation to the state. In relation to society, it is turning into an instrument for protecting its interests.

Given the above, both the institution of the Bar itself and the organisational foundations of the practice of law are of active scientific interest. Thus, the aspect of the impact of the latest information and communication technologies on legal services in general and the practice of law in particular has been studied in the scientific works of Selkova (2022). The scholar notes that traditionally, legal services are provided in offices during personal communication between an attorney and his/her client. However, at the present stage, digital technologies have changed this scheme, since nowadays an attorney-at-law can communicate with a client by phone, using the Internet, or in a way that involves both. The researcher in his study rethinks the nature of legal services and provides a basis for further scientific research. The researcher pays special attention to the assumption that virtual legal practice is more than just the sale of legal documents by a lawyer or the unified management of legal tasks on the

Internet, as it ensures direct and effective communication between a lawyer and a client. The scholar notes the central role of lawyers and attorneys in the modernisation of legal practice, who must change the way they work and embrace innovation.

A similar view is supported by S. Caserta, who notes in his research that large law firms providing legal services must reorganise in order to remain competitive in an increasingly digitised legal sector. In his research, he proposed an original and radical approach to reforming large law firms in the light of digitalisation. Among other things, the researcher highlights in his scientific work such issues as (i) partnership as an organisational tool for large law firms in an increasingly digital and flexible legal field; (ii) the importance of interdisciplinary practice and relationships between lawyers and non-lawyers in firms; and (iii) the centrality of outsourcing strategies of legal technology companies and other actors to provide legal and advocacy services more efficiently and in a more client-oriented manner (Caserta, 2020).

According to Jackson and Kellogg (2023), researchers of street bureaucracy and institutional studies focus primarily on the relationship between advocates and their larger bureaucratic and social systems, assuming that advocates have little need to satisfy their beneficiaries. According to the scholar, lawyers engage in triadic advocacy work - managing the impressions of their beneficiaries, while simultaneously exercising significant influence on powerful actors in the system on behalf of these same beneficiaries. Understanding the process by which advocates manage this process is crucial to understanding beneficiary outcomes. By redefining advocacy as a triadic process between advocate, bureaucracy, and beneficiary, rather than a two-way process between advocate and bureaucracy, the scholar develops a new theory of how advocates can seek to obtain benefits that advance their clients' rights and opportunities.

According to B. Lemman-Christiansen, Denmark has an effective tradition of legal aid and legal advice based on volunteer work. In his work, the researcher analyses the state system of legal aid in Denmark (which includes both pre-trial and free legal aid), various legal aid providers, and the use of various forms of legal aid. According to the researcher, the reform of civil litigation, which was aimed at providing better access to justice in Denmark, could have been more effective, but after it was implemented, legal aid expenditures fell sharply (Lemann Kristiansen, 2017).

According to Riswanto and Suparno (2021), Indonesia is a constitutional state in which everyone has the right to recognition, guarantees, protection, and legal certainty, that is, fair and equal treatment before the law, regardless of ethnicity, religion, or life status, including those people who cannot access justice. The scholar notes that in a state governed by the rule of law, its government recognises and protects human rights for everyone, including the right to legal aid as a guarantee of access to justice, which is a strict rule of the constitution. The scholar also notes that the provision of legal aid does not apply to many individuals or groups of low-income people, so it is difficult for them to access justice due to their inability to exercise their constitutional rights. In addition, according to the scholar, this is also due to the frequent cases of injustice against people seeking justice, especially the poor who are economically disadvantaged and do not have access to justice, so the provision of legal aid is very important, and legal aid for lawyers is a duty that is also part of the protection of human rights in obtaining legal guarantees and protection.

According to Benish and Weiss-Gal (2023), ensuring the rights of service users, in particular the realisation of their social rights, has long been the goal of the social work profession, and advocates play an important role in this process. The thematic categorical content analysis of the interviews conducted by the researcher shows that social workers have adopted a unique model of advocacy, focused on assistance, in which they have embedded the goals, principles, and strategies of social work in a legally oriented advocacy archetype. According to the researcher, such a comprehensive and client-centred approach includes the adoption of broader concepts of goals, a holistic perspective, involvement of

service users in the process of advocacy, support for service users, the use of emotional tools, and the use of the process of engagement to build a dialogue between client and advocate.

Another interesting study is that of Mozhaikina (2020), who notes in her research that the legal regulation of the Bar and the Practice of Law is based not only on the principles set out in domestic legislation but also on generally accepted standards adopted by the international community. The scholar notes that international legal acts are requirements for ensuring the rights and legitimate interests of a person who also acts against an advocate as a person whose activities are aimed at protecting the rights and legitimate interests of individuals and legal entities, as well as state and local authorities. As the scholar emphasises, the analysis of international documents allows classifying them by the object of regulation and dividing them into three main groups: international acts regulating the legal basis of the Practice of Law; international acts regulating the procedural basis of the Practice of Law; international acts defining the role of lawyers (attorneys) in society.

Equally important, according to Nazarov et al. (2020), at the present stage there is a need to pay special attention to the concept of disciplinary liability of attorneys-at-law in relation to their status in the legal system. As the scholar notes, the guarantees of procedural independence of attorneys-at-law in disciplinary proceedings should be presented in the light of the best European experience. In addition, the author notes that confidentiality is a cornerstone of the professional status of a lawyer and the restriction of this principle should be strictly provided for by law, otherwise the trusting relationship between a lawyer and his/her client will be called into question. The researcher concludes that the main principles on which the system of disciplinary liability of lawyers in a democratic society is based are independence, proper investigation of disciplinary offences, and proportionality, and local bar associations play a leading role in protecting the professional rights of lawyers and protecting them from unwanted attacks of any type, including violation of the procedural rights of lawyers, by law enforcement agencies.

According to M. Noon, the independence of lawyers is aimed at supporting the implementation of a justice system free from government and political interference in law enforcement, and due to this independence, the profession of lawyer is considered a very noble profession (*officium nobile*). The researcher notes that, as representatives of this profession, lawyers are bound by ethical values that become guiding principles in the performance of their duties and powers, in which these values are positioned as a Professional Code of Ethics. As the scholar notes, the code of ethics can compensate for the negative aspects of the profession, and the existence of a code of ethics can strengthen public confidence in the profession, as each client is confident that his or her interests will be guaranteed, and the provision of legal aid should meet the needs of the client, and the protection of human rights and the ideals of justice will be properly implemented (Nuna et al., 2020).

Based on the analyzed works, three levels of implementing information technologies in legal activities can be distinguished:

1. *Automation of Legal Practice* – the development of IT services to automate processes of providing qualified legal assistance, including informational (searchable) legal systems, legal bots, systems for analyzing judicial practices, court decisions, and forming legal positions, as well as legal document constructors. The target audience for these services is professional lawyers or attorneys.
2. *Digitalization of Legal Entities' Activities*, particularly interactions within specific legal formations – constructing and developing telecommunication infrastructure and an information (digital) environment to support processes that organize the operations of legal associations and bureaus in executing their managerial functions.
3. *Digitalization of Self-Governing Bodies of Legal Profession* – fostering the development of telecommunication infrastructure and an information (digital) environment to support processes that organize the operations of the bodies and apparatus of the legal profession

in fulfilling their regulatory responsibilities, as well as ensuring the connectivity of these digital entities with other subjects of informational interaction.

Research Problem

The Bar as a separate social institution did not appear in the Republic of Azerbaijan overnight. Its organisational structure is formed in the course of the development of statehood and the legal system inherent in this (particular) type of state. The adoption of new codes (first of all, the Criminal Procedure Code of the Republic of Azerbaijan, approved by the Law of the Republic of Azerbaijan of 14 July 2000 No. 907-IQ) significantly changed the status of an advocate and the basis of his or her practice, and expanded his or her procedural rights. As a result of the reforms that have taken place in the Republic of Azerbaijan over the past decades, which have led to global changes in all spheres of state and society, a fundamentally new legal situation has been created that requires a review and legal clarification of the organisational foundations of the Bar and the Bar as one of the main mechanisms for the protection of human rights around the world. In recent years, the role and place of the Bar, as well as the range of its tasks in protecting rights and legitimate interests have changed significantly.

The recent proposals to improve the legislative framework for the practice of law and to streamline the structure of the Bar system of the Republic of Azerbaijan have contributed to the concentration of efforts on the main areas of legal aid provision. However, it is believed that at the present stage, there are objective prerequisites for attracting internal reserves and unrealised capabilities of the system, including ensuring effective coordination and interaction of all elements, to implement this task of the Bar.

Research Focus

However, until recently, the lack of proper legal regulation of the organisational foundations of the practice of law and the Bar in Azerbaijan, the absence of active borrowing of positive experience of historical development, and the formation of the regulatory framework for the exercise of professional activities by lawyers in foreign countries (e.g. France, Germany, the USA) has led to significant shortcomings in the activities of the recently reformed Azerbaijani Bar.

The Bar in the Republic of Azerbaijan occupies a special position among other entities providing legal aid. It is the Bar that is called upon to ensure the rights and legitimate interests of individuals and citizens in the course of law enforcement activities by providing them with qualified legal assistance. The Bar is an institution of civil society, a professional association of lawyers that was created to serve people. It is for these reasons that the Bar has a significant impact on the social and legal status of society and its members.

The organisational and legal component is one of the main components in the provision of qualified legal aid: the more effective the organisational structure of the bar, which is most consistent with the goals, objectives and functions of human rights protection, the greater the impact on the legal consciousness of society.

Research Aim and Research Questions

The practice of the Bar has been subjected to scientific analysis only at the level of a few scientific studies, but they did not fully take into account the experience of the Republic of Azerbaijan and the relevant experience of other post-Soviet states.

Accordingly, the purpose of the study is to examine the organisational foundations of the Bar and to analyse the ways of transforming its organisational structure in Azerbaijan and other post-Soviet republics, and to identify the patterns of possible ways of positive change in the organisational foundations of the Bar. The purpose of the study is to find ways to improve the legal regulation of the

organisational foundations of the Bar in the Republic of Azerbaijan, taking into account effective foreign experience, and to study the organisational foundations of the Bar in these post-Soviet countries.

Research Methodology

General Background

In line with the research objective, a qualitative analysis of the organisational foundations of the legal profession in the Republic of Azerbaijan was conducted by comparing it with similar institutions in foreign countries. This allowed for the identification of correlations between the reform of the legal profession in Azerbaijan and the social, political, economic, and legal changes in the country following its independence after the dissolution of the Soviet Union. The primary research strategy involved selecting relevant academic literature for subsequent content analysis of the texts.

Data Collection

The search for relevant academic works was conducted in the Scopus and Web of Science databases from 2018 to 2023. These scientometric databases were chosen based on their coverage of a significant body of academic works, with publications included only after rigorous review by independent referees and editors. Following the research objective, the search was conducted using the following keywords: "advocacy activities," "legal aid in the Republic of Azerbaijan," "lawyers in foreign countries," "constitutional rights," and "right to defence." Only works published in English were included for further analysis.

Data Analysis

The selection of academic publications for further analysis was based on PRISMA recommendations for systematic literature reviews. Their application allowed the pool of relevant publications to be narrowed down to 57.

Unique legal methods, comparative legal methods, and formal legal methods enabled the identification of standard and distinctive features in the functioning of the Bar in post-Soviet and European countries with established democratic systems.

Research Results

There is a debate in contemporary legal scholarship about how modern information and combination technologies will change the practice of law or the nature of law: it reflects the excitement of members of society about the potential of legal technologies to make the law more efficient and improve access to justice, or their concerns about the ways in which they may actually reinforce existing biases or otherwise systematically harm justice (Whalen, 2022). Furthermore, importantly for post-Soviet countries, access to justice is often identified as key to building and consolidating peace and enhancing socio-economic development in these still fragile and post-conflict states (Chaara et al., 2022).

Thus, the digitalisation of public life has had a significant impact on the practice of law, which, on the one hand, has provided new opportunities, as noted in the work of Selkova (2022). On the other hand, we should agree with the opinion of St. Gelfren, who notes that digital communication creates a gap between those who have the resources to participate in such communication and those who do not, in terms of digital competence, economics, age, cognitive abilities, technical equipment, and digital connectivity. The heterogeneity of resources and target groups inevitably calls into question both the ideals of engagement and the intentions of advocacy organisations at the present stage (Gelfgren et al., 2021).

The transition to a democratic form of statehood, as a moment of dominance of constitutional rights of the individual and the rule of law, is closely linked to the process of professional orientation of

the bar. The main role of a lawyer is to help clients obtain a fair trial, and it is this role that generates high expectations from lawyers, so clients fully trust lawyers to represent their interests (Zamroni, 2020).

In this regard, determining the role of the Bar in the implementation of the constitutional right to qualified legal aid and its professional capabilities seems to be an extremely relevant area of development of legal science and practice in the current social development of the Republic of Azerbaijan. Both law and the legal profession are necessarily based on assumptions about human motivation and behaviour (Jost, 2020). Therefore, the process of formation of the Bar requires in-depth study and mastery, as without it, human understanding of all processes taking place within society and in the modern world as a whole is impossible.

On the other hand, any innovations in legislation, no matter what they are, inevitably have both positive, negative consequences, and necessitate intensified research into the reasons, conditions, and requirements under which a particular rule would work most effectively. Indeed, it is now possible to create an environment for innovation in any area of human activity by enhancing the exchange of ideas, competencies, and information resulting from innovation processes, whether social or technological. In this case, their work will be aimed not only at understanding the lawmaking process in the global era but also at proposing models of lawmaking that create the best environment for innovation processes, i.e., the free flow of ideas, science and people themselves (Pitasi et al., 2018).

For example, digital technology is revolutionising the delivery of legal services in Australia. Faced with innovative technologies, products, and processes, the legal profession has been forced to confront its technologically disrupted future and adapt to the new technological age as both providers and clients become increasingly dependent on increasingly sophisticated digital technologies (Sam & Pearson, 2019). In addition, many innovative law firms have entered the legal service provider market, challenging lawyers' monopoly on the practice of law and ultimately changing the way lawyers operate in the legal profession and provide assistance to clients (Caserta, 2020).

The legislative acts of the Republic of Azerbaijan do not provide a legal definition of the concept of "legal aid": in the most general terms, it is defined as assistance from one entity to another in the exercise of their rights and fulfilment of their obligations (Mehdiyev, 2021). In the Republic of Azerbaijan, at the present stage, legal aid providers can be classified into several groups: a) public authorities (Ministry of Justice of Azerbaijan, Prosecutor's Office of Azerbaijan); b) organisations that provide qualified legal aid as their main and exclusive activity (bar, notary); c) individuals or legal entities that have chosen to provide legal aid to the public as their professional activity (law firms, heads and legal advisers of legal services of ministries, departments, institutions, and organisations). The activities of all these entities are carried out in accordance with clearly defined principles.

Legal principles, legal values, and legal norms are essentially part of the same concept (Daci, 2010). Legal principles usually play a crucial role in the law-making, law enforcement, and law enforcement activities of any state. Legal principles, which are binding on all actors, contribute to strengthening the interaction and unity between different areas and institutions of law, legal norms, and legal relations. At the same time, beyond each straightforward principle lies a complex and detailed case law that raises fundamental questions about the organisation of human rights actors, policy, and judicial legitimacy (Varuhas, 2020).

As a rule, certain legal principles are provided for directly in certain legislative acts or follow from the content of specific legislative provisions. For example, Part 2, Article 1 of the Law of the Republic of Azerbaijan "On Advocates and Practice of Law" states that the fundamental principles of the Bar are the rule of law, independence, democracy, humanism, justice, transparency and confidentiality (Law of the Republic of Azerbaijan, 1999b). However, this provision does not elaborate on the content of these principles, which is a significant gap. Often, the rule of law is perceived as a domain belonging to lawyers,

advocates, bureaucrats, or politicians, but the rule of law, which is the most fundamental principle, should be viewed from the perspective of a citizen, as it is the rights and freedoms of citizens that are guaranteed when it is observed (Merdzanovic & Nicolaidis, 2021).

The application by advocates of the principles of the Bar is of great practical importance, since some of these principles are applied in the daily professional activities of advocates, are reflected and generally confirmed as the principles of the advocates' activities. For example, the principle of independence of the Bar can only be observed if the independence of the advocates is ensured since it would be inappropriate to speak of the independence of the Bar itself if the independence of the advocates is not observed. The advocate's autonomy is based on different principles and has a separate and specific concept, different from, for example, judicial independence (Ravanan et al., 2016). Therefore, when it comes to the legal principles of the bar, it should be borne in mind that some of them are also the basic legal principles of the practice of law.

According to part 1 of Article 5 of the Law of the Republic of Azerbaijan "On Advocates and Practice of Law", the principles of advocacy are also the priority of human and civil rights and freedoms, the rule of law, voluntariness of relations between advocates and clients, and compliance with the ethics of advocacy (Law of the Republic of Azerbaijan, 1999b). If all of these principles are observed, advocacy can increase the effectiveness of social change initiatives in society (Campbell et al., 2023). At the same time, the principles of the rule of law and independence are envisaged as the main principles of the Bar and advocates' activities, i.e., in certain cases, the Bar and the practice of law are based on the same principles.

On this basis, it can be concluded that an analysis of the essence of the principles provided for in the Law of the Republic of Azerbaijan "On Advocates and Practice of Law" may help to clarify the place of the Bar as a civil society institution in the law enforcement and human rights system of the country and, at the same time, determine the need and validity of bringing them to the fore as the main legal principles of human rights activities. For example, at the level of domestic legislation, national governments should independently ensure the scope, completeness, and limits of measures taken by law enforcement agencies to legislate restrictions on a number of civil rights, and all such cases should be defined and enshrined in laws in such a way as to avoid misunderstandings (Loskutov et al., 2020).

The principle of the rule of law as a basic principle of any socially useful activity is based on the provisions of the Constitution of the Republic of Azerbaijan. According to part 10 of Article 71 of the Constitution of the Republic of Azerbaijan, state bodies may only operate based on this Constitution, in the manner and within the limits established by law (Constitution of the Republic of Azerbaijan, 1995). The activities of local self-government bodies, officials, citizens, all associations and organisations, regardless of ownership, as well as non-governmental organisations are also regulated by the Constitution of the Republic of Azerbaijan and legal acts adopted based on the Constitution. Observance of the rule of law by all is a necessary condition for the functioning of the legal system of the state itself.

In relation to the practice of law, the principle of the rule of law essentially means the strict and universal observance of the laws of the Republic of Azerbaijan by all bar associations and advocates. Therefore, an advocate shall protect the rights and only the legitimate interests of the persons represented by him or her. The means and methods of his or her defence shall be based on the relevant laws. In carrying out his or her professional activities, the advocate shall not provide fictitious documents and other evidence in the name of the client's interests, exert unlawful influence on witnesses and victims, or use other prohibited methods.

It is based on the rule of law that the advocate, in the performance of his or her professional duties, shall identify violations of the law by investigative authorities, prosecutors, courts, and other participants in law enforcement activities, seek to eliminate them, restore the violated rights and ensure the legitimate interests of his or her clients. In other words, all actions of the advocate related to his or

her professional activities must be legal. Adherence to the rule of law is one of the factors that significantly affects the effectiveness of the advocacy activities of the Bar.

The principle of independence means that it is inadmissible for state authorities (including the judiciary, prosecutor's office and internal affairs, national security service, courts), public organisations, and individual officials to interfere in any way with the activities of bar associations and advocates. In all regulations governing the activities of the Bar and advocates, independence is perceived as an absolute principle of the said activities.

The need to comply with the principle of independence is also reflected in relevant international documents. In particular, in clause 14 of the Basic Principles on the Role of Lawyers adopted by the Eighth United Nations Congress, in Rule 3 of the International Code of Ethics of the International Bar Association (as amended in 1988), in Article 2.1.1 of the General Rules for Lawyers of the European Community (Alpa, 2013). The principle of independence defines two closely related aspects of the problem under study: the independence of the legal profession as a whole and the independence of each advocate.

The independence of the Bar as a legal entity is ensured by the fact that its structure and the basis of its activities are determined by law. Accordingly, no state body, non-governmental organisation, or official has the right to interfere with its activities, including through the adoption of a regulatory or individual administrative act. The advocate, guided by the law, based on the will of the principal, which does not contradict the law, acts independently in choosing the forms and methods of defence or other types of legal aid.

The principle of democracy, in the general sense, is expressed in the legal norms that provide the population with the fullest scope of civil rights and political freedoms, which enable citizens to participate widely in the management of public affairs and the state. The real manifestation of the principle of democracy in relation to the Bar is its self-government. Its essence lies in the fact that advocates have the right to independently resolve all day-to-day issues related to the organisation and form of the Practice of Law and the place of its performance.

The self-governance of the Bar, in turn, is connected with its independence from state bodies, including the prosecutor's office, bodies of inquiry and preliminary investigation, other bodies, organisations, and courts, which advocates encounter in the course of their professional activities related to the defence of the accused or provision of legal aid to citizens, enterprises, institutions, and organisations.

The organisation of the Bar, the establishment of its bodies, its management, the general rules of practice, and other related issues are regulated by the Law of the Republic of Azerbaijan "On Advocates and Practice of Law" (Law of the Republic of Azerbaijan, 1999b). This makes it possible to say that there is real legal support for the principles of democracy in the organisation and activities of the Azerbaijani Bar.

The analysed principles of the rule of law, independence, and democracy are legal principles that occupy a significant place in the daily activities of the Bar, which determine the main directions and essence of its activities. It is known that there are numerous principles of law. Various institutions, organisations, and officials engaged in law enforcement and human rights protection activities must adhere to these principles in their daily activities. As an institution of civil society, the Bar should also be based on these principles, and, where possible, comply with them and not violate them. However, despite all this, the legal acts regulating the activities of these entities, as a rule, do not specify all legal principles, but only those that are most relevant to their activities.

For example, according to Article 8 of the Law of the Republic of Azerbaijan "On Courts and Judges", justice is administered with the independence of judges, without any restriction, based on facts,

impartially, fairly, and in accordance with the law (Law of the Republic of Azerbaijan, 1997). Article 13 of this law also states that court proceedings in the Republic of Azerbaijan are carried out with the equality of the parties, based on the principle of adversarial proceedings in accordance with Article 127(7) of the Constitution of the Republic of Azerbaijan. Article 4(1) of the Law of the Republic of Azerbaijan “On the Police” states that the police shall operate based on the principles of respect for human and civil rights and freedoms, legality, and humanism (Law of the Republic of Azerbaijan, 1999a).

A comparative analysis of the relevant provisions of the legislative acts regulating the activities of the Bar and advocates of the post-Soviet states shows that these principles are also provided for in the legal acts of these countries. Part 1 of Art. 4 of the Law of the Republic of Uzbekistan “On the Bar” sets out the principles of the Bar, and the establishment of the Bar itself in the Republic of Uzbekistan is inextricably linked to the achievement of state independence (Belova & Byelov, 2023).

Similar principles of the Bar are also enshrined in Art. 3 of the Law of the Republic of Moldova “On the Bar”, and the advocate, defence counsel is a person who has the right to practice law and participate in proceedings on an offence to provide legal aid or represent the party to whom he or she provides such aid, based on a contract or as a result of appointment as a coordinator of the territorial bureau of the National Council for State-Guaranteed Legal Aid (Anikeenko et al., 2022).

However, it is worth noting that the content of the analysed legislative acts and the essence of the stated principles show that regardless of the name of the rules covering the principles in question, these principles form the basis of the activities of the Bar itself - a legal entity, as well as of individual advocates who its members are.

Thus, the organisational basis of the Bar in the Republic of Azerbaijan and other post-Soviet countries is regulated by the legislation of these countries (Table 1):

Table 1

Legal Regulation of the Organisational Foundations of the Bar

Country name	Legal act
Republic of Azerbaijan	The Constitution of the Republic of Azerbaijan, the Law of the Republic of Azerbaijan “On Police”, the Law of the Republic of Azerbaijan “On Courts and Judges”, the Law of the Republic of Azerbaijan “On Advocates and Practice of Law”
Republic of Moldova	Law of the Republic of Moldova “On the Bar”
Republic of Uzbekistan	The Law of the Republic of Uzbekistan “On the Bar”

Source: Author’s elaboration.

Discussion

The results show that the Bar as a separate social institution does not emerge immediately, only after the State becomes independent, and its organisational structure is formed in interaction with the development of the State and the legal system inherent in this (specific) type of State. The analysis of the organisational foundations of the Bar in the Republic of Azerbaijan and other post-Soviet countries has shown that the place of the Bar in the modern legal system of the Republic of Azerbaijan can be characterised as a means of self-restraint of the structure of the state power, and this means is used to create a civil society institution which facilitates the full exercise and protection of citizens' rights and freedoms. The results obtained indicate that the study of the organisational foundations of the Bar and the analysis of the ways of transformation of its organisational structure at different stages of development of the States allow identifying the patterns of possible ways of positive change of the organisational foundations of the Bar.

The assumption that the independence of a defence counsel is the opportunity (right) of a defence counsel to independently form a position in a case, determine the general model of conduct and specific means and methods of defence, which excludes direct or indirect, covert or overt influence of any persons, and which constitutes the most important and mandatory feature (property) of defence activities and ensures the implementation of a number of principles of criminal procedure, was confirmed by the results of the study.

Based on the analysis of scientific and doctrinal literature, law enforcement practice, and the results of a survey of prosecutors and investigators, Tymoshenko's (2018) work examines the issues of the institution of independence (independence) of a judge, prosecutor, and investigator. According to the scholar, these participants in the criminal process, performing key functions in criminal proceedings, need serious guarantees for the exercise of their special powers. As noted by Miniato (2022), in criminal cases, the principle of independence of the parties has always provided for a self-representation approach, except for certain types of proceedings or in cases involving vulnerable minors or adults under protection. However, as the scholar notes, this was also a “false independence”, as the law sometimes reserved the application of adversarial proceedings to persons assisted by a lawyer, and under the influence of the European Court of Human Rights, independence was strengthened and became a true principle for the professional activity of a lawyer.

Wright and Roberts (2023) scholarly analysis involved the collection and critique of the academic literature on criminal defence lawyers, with an emphasis on empirical work. The scholar notes that research in this area has focused on the ability of various service delivery systems, such as public defenders' offices, to change the outcomes of criminal cases within tight budget constraints. However, as the scholar notes, over the decades, the theoretical understanding of the work of a lawyer has expanded to cover the interests of the client beyond the criminal courtroom, reaching the wider social conditions associated with the alleged criminal act. According to Sharma et al. (2022), according to his meta-analysis, which was conducted to synthesise estimates of the impact of public defenders and appointed counsel on the severity of legal sanctions imposed at several decision-making stages faced by criminal defendants as they move through the criminal justice system, while public defenders and appointed counsel have some notable impact on specific judicial outcomes such as pretrial detention and sentencing, the results of the meta-analysis show that they are generally as 2022.

As Nicolaidis and Vettori (2019) note in their work, it is important to present a philosophical argument about legal ethics and describe why lawyers have an ethical obligation not to take on a hopeless case that has no prospect of success. This is despite the principle that everyone should have the right to go to court when their rights are threatened. To understand the underlying policy behind this ethical rule, the scholar notes, it is important to understand the significance of the basic principle that everyone should have access to justice, as it is in this context that the function and purpose of the country's courts are relevant. As noted by Moore et al. (2019), whose research was based on the theory of procedural justice (PJT), the relationship between the lawyer, his or her professional activities, and prompt, repeatable, complete communication and client satisfaction is important in the organisational principles of the legal profession.

As Reed (2020) notes, since lawyers are essential to a fair trial, it is important to understand their legal career experiences, but it is also worth remembering that there is limited research on the role and impact of lawyers outside the context of the trial, given the impact of the legal system on lawyers, focusing on lawyer distress (prevalence, causes, and consequences) in the course of their professional activities. As Smith et al. (2023) noted, the “person in the environment” theory is important in the exercise of professional activity by lawyers, emphasising the importance of lawyers understanding the contextual variables that social workers can explain to the court, thus explaining what social, political, and economic issues may have led to the client's involvement in crime.

As Tonstad (2021), the study of court rulings in times of socio-political upheaval provides an insight into political and judicial dynamics and how they can interact during a crisis and affect the practice of law. As the scholar notes, ordinary courts reasoned and made decisions not because of pressure from the executive branch, but because of the ideologies and interests of judges, thereby violating the principle of the independence of lawyers. As Buta et al. (2020) noted, the public defender's office is responsible for ensuring access to justice for vulnerable citizens, and this agency must adopt good governance standards to achieve good results. Despite its social importance, the scientist notes that governance in this type of organisation has been little studied, but it is possible to identify four governance factors in the implementation of advocacy: control and accountability, social participation, strategic resources, and access to justice.

In contrast to previous studies, the results obtained provide arguments for the proposition that in the analysed post-Soviet countries, the more important principle of the Bar's organisational activities is that the public associations of attorneys are an independent element of the Bar's organisational structure. On the one hand, they implement the principle of freedom of association, and on the other hand, they play an important role in coordinating the activities of bar associations and protecting the rights of both individual lawyers and the entire professional community.

Despite the fact that various issues related to ensuring guarantees of the independence of the Practice of Law and the Bar as a fundamental principle of the organisational framework of its activities are to some extent covered in scientific works on constitutional law and criminal procedure, the problems related to ensuring guarantees of the independence of the Practice of Law and the Bar have not yet been the subject of a special comprehensive comparative legal study. Despite the relevance of the research topic, the number of scientific works on the chosen topic is limited, which requires further scientific research.

Conclusions and Implications

The following conclusions can be drawn from the study:

- 1) The organisational and legal component is one of the main components in the provision of qualified legal aid: the more adequate the organisational structure of the bar is in line with the goals, objectives and functions of human rights protection, the greater the impact on the legal awareness of society.
- 2) The main directions of further development of the Azerbaijani Bar can be recognised as the following:
 - Implementation of international legal standards relating to the provision of legal aid and the activities of the Bar into the legal system of the Republic of Azerbaijan;
 - reform of the procedural legislation aimed at improving the independence of lawyers, increasing guarantees of their protection, and ensuring the equality of the parties in court proceedings;
 - further reform of the Azerbaijani legislation with a view to forming an independent, unified system of bar associations of the Republic of Azerbaijan, whose activities are regulated mainly by internal corporate regulations;
 - further reform of Azerbaijani legislation to ensure the activities of Azerbaijani lawyers abroad and foreign lawyers in the territory of the Republic of Azerbaijan;
 - creation of a regulatory framework, as well as organisational, material, and financial support for mandatory professional training and retraining of Azerbaijani lawyers.

Suggestions for Future Research

Civil society, through its institutions, is called upon to protect itself by controlling state power. The mechanisms and functionalities by which society will limit the power of the state and ensure individual freedom remain unclear. In the current conditions of judicial and legal reforms carried out by the

countries of the post-Soviet space, the protection of human and civil rights and freedoms by both the state and civil society is of great importance. In this regard, the right to qualified legal aid, constitutionally enshrined in most of these countries, is of particular importance, since none of the rights enshrined in the Constitution can be effectively exercised without the right to receive it.

Thus, the social and legal changes that have taken place in the countries of the former Soviet Union create the preconditions for the formation of a qualitatively new society and require scientific rethinking. The Republic of Azerbaijan is embarking on the path of forming a democratic, rule-of-law state and establishing a civil society. Success in this regard depends not only on the development of the economy, improvement of legislation, and modernisation of legal relations, but also on the readiness of the state to regulate them, to ensure that each person is provided with his or her constitutional guarantees and the necessary protection, a special place among which is the guarantee of qualified legal assistance provided by lawyers. Accordingly, further scientific research in this area is relevant.

In addition, at the present stage, the practice of law in the Republic of Azerbaijan and other post-Soviet countries often becomes the object of scientific analysis without taking into account its heterogeneous nature, which is due to fundamental differences in both the legal status and the practice of different bar associations, which are characterised by some researchers as structural changes in the organisation of the practice of law. Undoubtedly, the Bar as an institution of civil society has a single goal of providing qualified legal aid and ensuring access to justice. However, the peculiarities of legal regulation by the legislation on the Bar in the Republic of Azerbaijan of the status of various subjects of the Practice of Law have determined the fact that they have different opportunities to achieve this goal, so it is a very important scientific task to characterise their essence and specificity at the present historical stage.

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References

- Alpa, G. (2012). CESL, fundamental rights, general principles, rules of contract law. In G. Alpa, G. Conte, U. Perfetti, & F. Westphalen (Eds.), *The proposed common European sales law – The lawyers' view* (pp. 31–44). Berlin, Boston: Otto Schmidt/De Gruyter european law pub. <https://doi.org/10.1515/9783866539853.31>
- Anikeenko, Y., Gracheva, M., & Novoselova, N. (2022). The right to defense in proceedings on cases of administrative offenses. *SHS Web of Conferences*, 134, Article 00062. <https://doi.org/10.1051/shsconf/202213400062>
- Belova, M. V., & Byelov, D. M. (2023). The role and place of the advocacy institute in the mechanism of protection of human and citizen rights and freedoms. *Analytical and Comparative Jurisprudence*, (6), 42–48. <https://doi.org/10.24144/2788-6018.2022.06.7>
- Benish, A., & Weiss-Gal, I. (2023). Take-up advocacy in social work practice: A care-oriented approach. *The British Journal of Social Work*. <https://doi.org/10.1093/bjsw/bcad172>
- Buta, B., Guimaraes, T., & Akutsu, L. (2020). Governance in the Brazilian Federal Public Defenders' Office. *International Journal for Court Administration*, 11(1), Article 9. <https://doi.org/10.36745/ijca.317>

- Campbell, A., Deshpande, S., Rundle-Thiele, S., & West, T. (2023). Social advocacy: A conceptual model to extend post-intervention effectiveness. *Journal of Strategic Marketing*. <https://doi.org/10.1080/0965254x.2023.2179653>
- Caserta, S. (2020). Digitalization of the legal field and the future of large law firms. *Laws*, 9(2), Article 14. <https://doi.org/10.3390/laws9020014>
- Chaara, I., Falisse, J.-B., & Moriceau, J. (2022). Does legal aid improve access to justice in 'fragile' settings? Evidence from Burundi. *Journal of Peace Research*, 59(6), 810–827. <https://doi.org/10.1177/00223433211055633>
- Constitution of the Republic of Azerbaijan. (1995). https://continent-online.com/Document/?doc_id=30420395
- Daci, J. (2010). Legal principles, legal values and legal norms: Are they the same or different?. *Academicus International Scientific Journal*, 2, 109–115. <https://doi.org/10.7336/academicus.2010.02.11>
- Gelfgren, S., Ineland, J., & Cocq, C. (2021). Social Media and disability advocacy organizations: Caught between hopes and realities. *Disability & Society*, 37(7), 1085–1106. <https://doi.org/10.1080/09687599.2020.1867069>
- Jackson, S. R., & Kellogg, K. C. (2023). Triadic advocacy work. *Organization Science*, 34(1), 456–483. <https://doi.org/10.1287/orsc.2022.1588>
- Jost, J. T. (2020). What is social justice?. In *A theory of system justification* (pp. 13–48). Harvard University Press. <https://doi.org/10.2307/j.ctv13qfw6w.5>
- Law of the Republic of Azerbaijan "On courts and judges", No. 310-IQ. (1997). https://continent-online.com/Document/?doc_id=30597388
- Law of the Republic of Azerbaijan "On police", No. 727-IQ. (1999a). https://continent-online.com/Document/?doc_id=30602031
- Law of the Republic of Azerbaijan "On lawyers and legal practice", No. 783-IQ. (1999b). https://continent-online.com/Document/?doc_id=30608603
- Lemann Kristiansen, B. (2017). Legal aid in Denmark. In O. Halvorsen Rønning & O. Hammerslev (Eds.), *Outsourcing legal aid in the nordic welfare states* (pp. 99–124). Cham: Palgrave Macmillan. https://doi.org/10.1007/978-3-319-46684-2_5
- Loskutov, T., Bilianska, N., Ustinova-Boichenko, H., Beschastnyy, V., & Dubivka I. (2020). The law-enforcement system in the civil rights and freedoms protection system: the international comparative aspect. *Revista San Gregorio*, (42), 10–18. <http://201.159.222.49/index.php/REVISTASANGREGORIO/article/view/1536/2-TYMUR>
- Mehdiyev, P. A. (2021). The concept and content of the right to professional legal assistance. *European Perspectives*, (2), 39–43. <https://doi.org/10.32782/ep.2021.2.7>
- Merdzanovic, A., & Nicolaidis, K. (2021). Advocacy for a citizen-centric rule of law agenda: How do we bring the rule of law to life?. *European Law Journal*, 27(1–3), 297–305. <https://doi.org/10.1111/eulj.12385>
- Miniato, L. (2022). L'autonomie des parties au procès pénal. *Les Cahiers de la Justice*, (2), 345–358. <https://doi.org/10.3917/cdlj.2202.0345>
- Moore, J., Plano Clark, V. L., Foote, L. A., & Dariotis, J. K. (2019). Attorney–client communication in public defense: A qualitative examination. *Criminal Justice Policy Review*, 31(6), 908–938. <https://doi.org/10.1177/0887403419861672>

- Mozhaikina, O. (2020). International legal regulation of advocacy. *Foreign Trade: Economics, Finance, Law*, 110(3), 26–34. [https://doi.org/10.31617/zt.knute.2020\(110\)03](https://doi.org/10.31617/zt.knute.2020(110)03)
- Nazarov, I. V., Ovcharenko, O. M., Kovalyova, Y. O., & Remeskova, Y. O. (2020). Independence of an advocate in disciplinary proceedings: Comparative approach with a focus on Ukrainian experience. *Journal of Advanced Research in Law and Economics*, 10(2), 603–615. [https://doi.org/10.14505//jarle.v10.2\(40\).22](https://doi.org/10.14505//jarle.v10.2(40).22)
- Nicolaidis, A., & Vettori, S. (2019). The duty of lawyers: Virtue ethics and pursuing a hopeless legal case. *Athens Journal of Law*, 5(2), 149–164. <https://doi.org/10.30958/ajl.5-2-4>
- Nuna, M., Kodai, D. A., & Moonti, R. M. (2020). Code of ethics and the role of advocates in providing legal aid to the poor. *Indonesian Journal of Advocacy and Legal Services*, 1(2), 259–274. <https://doi.org/10.15294/ijals.v1i2.35986>
- Pitasi, A., Brasil Dib, N., & Portolese, G. (2018). Legislative innovation. towards a global law. making process: The case of global citizenship policy modelling. *International Review of Sociology*, 28(3), 392–402. <https://doi.org/10.1080/03906701.2018.1529102>
- Ravanan, A., Ghashghaei, L., & Ghashghaei, G. R. (2016). Independence of lawyers and legal institutions and its impact on the country's development. *Journal of Politics and Law*, 9(5), 24–30. <https://doi.org/10.5539/jpl.v9n5p24>
- Reed, K. (2020). The experience of a legal career: Attorneys' impact on the system and the system's impact on attorneys. *Annual Review of Law and Social Science*, 16(1), 385–404. <https://doi.org/10.1146/annurev-lawsocsci-051120-014122>
- Riswanto, E., & Suparno, S. (2021). Advocate legal assistance as a way of protecting human rights. In M. Rachmawati, F. J. Nugroho, E. E. Supriyanto, H. Saksono, A. N. Cahyo, F. Natalia ... E. Windy (Eds.), *Proceedings of the 1st International conference on law, social science, economics, and education, ICLSSEE 2021*. EAI. <https://doi.org/10.4108/eai.6-3-2021.2306199>
- Sam, S., & Pearson, A. (2019). Community legal centres in the digital era: The use of digital technologies in Queensland community legal centres. *Law, Technology and Humans*, 1, 64–79. <https://doi.org/10.5204/lthj.v1i0.1305>
- Selkova, A. (2022). Would online legal services guarantee the availability of justice and legal aid?. *SHS Web of Conferences*, 134, Article 00035. <https://doi.org/10.1051/shsconf/202213400035>
- Sharma, M., Stolzenberg, L., & D'Alessio, S. J. (2022). Evaluating the cumulative impact of indigent defense attorneys on criminal justice outcomes. *Journal of Criminal Justice*, 81, Article 101927. <https://doi.org/10.1016/j.jcrimjus.2022.101927>
- Smith, D., Borders, K., Katsikas, S., & Maschi, T. (2023). Holistic defense: Attorney perception and social work integration in the courtroom. *Journal of Forensic Social Work*, 7(2), 75–107. <https://doi.org/10.15763/issn.1936-9298.2023.7.2.75-107>
- Tonstad, K. M. (2021). Politics on trial? Criminal justice and Egypt's political opposition in the aftermath of July 2013. *Oslo Law Review*, 8(1), 47–65. <https://doi.org/10.18261/issn.2387-3299-2021-01-03>
- Tymoshenko, A. A. (2018). Independence of the judge, the prosecutor and the investigator. *Russian Journal of Legal Studies*, 5(4), 105–119. <https://doi.org/10.17816/rjls18451>
- Varuhas, J. N. E. (2020). The principle of legality. *The Cambridge Law Journal*, 79(3), 578–614. <https://doi.org/10.1017/s0008197320000598>

- Whalen, R. (2022). Defining legal technology and its implications. *International Journal of Law and Information Technology*, 30(1), 47–67. <https://doi.org/10.1093/ijlit/eaac005>
- Wright, R., & Roberts, J. (2023). Expanded criminal defense lawyering. *Annual Review of Criminology*, 6(1), 241–264. <https://doi.org/10.1146/annurev-criminol-030421-035326>
- Zamroni, M. (2020). Legal liability of advocates in legal services contracts. *Substantive Justice International Journal of Law*, 3(1), 1–14. <http://dx.doi.org/10.33096/sjijl.v3i1.50>