

Rethinking Public Councils in Azerbaijan

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Many developing countries have undertaken commitments to adhere to internationally promoted good governance standards that include creating citizen participation mechanisms in policy and decision-making in various tiers of state administration. Not all of these countries, however, are governed by democratic models of state-society relations with functioning institutions of accountability, rule of law, and robust civil societies. The case of Azerbaijan is an illustrative example.

In 2012, a national action plan for open government was adopted in Azerbaijan. As outlined in the document, one of the core principles was the “enlargement of the public participation in the activity of the state institutions,” along with improvement in access to information, transparency of financial institutions, and development of electronic state services.[\[1\]](#) The law on public participation, signed into force by the president in 2014, envisages several modes of how citizens can scrutinize and provide insight into the activities of executive and local government.[\[2\]](#) These include organizing discussions and hearings, studying public opinion, and providing written consultations. Such rights are either ignored or restricted by authorities or underutilized by citizens. Nevertheless, one institutionally embedded form of participation per law is the creation of public councils.

Public councils are defined as consultative bodies to various state institutions, and they consist of citizens and civil society organizations’ representatives. Since 2014, 20 ministries and state committees, as well as 12 local executive authorities, have created public councils.[\[3\]](#) The inception of public councils over the past several years has been acclaimed

in official media and statements and acknowledged by international platforms and development agencies.[\[4\]](#)

In pluralistic contexts, participatory institutions such as public councils help governments absorb public opinion, integrate civil society and expert views, and formulate inclusive and responsive policies. Similar trends are observed in non-democratic contexts too, giving rise to the concept of “consultative authoritarianism.”[\[5\]](#) However, Azerbaijan’s public participation record has not improved despite the adoption of the law mentioned above and, in fact, significantly declined in 2014. This article investigates the main shortcomings of public councils in the country by looking at challenges to civil society and the peculiarities of the policy-making process. In the end, the author proposes potential avenues for streamlining councils to become more representative, contributive, and accountable.

Public Councils: Policy and Practice

The law on public participation and the accompanying *Regulation on the Election of the Public Council by Civil Society Institutions* stipulates that public councils consist of 5 to 15 citizens with relevant expertise and involvement in civil society organizations (CSOs).[\[6\]](#) Members of public councils are supposed to be elected by CSOs for 2 years in a vote overseen by a 9-person commission comprised of members of authorities and civil society. The councils are entitled to make policy proposals, obtain draft policy documents, conduct surveys, and provide recommendations to the state agencies to which they are attached. They are obliged to release annual reports on their activities. However, no such report from any council has been published to date. Overall, scarce information exists on institutional engagement between government and non-government actors for policy purposes.

According to independent progress reports on the implementation of Azerbaijan’s open government action plans,

the problem of public councils begins with their foundation. The sole authority to establish a public council and manage the elections of its members is bestowed to the respective central or local administration. This forges a top-down nature of relations between officials and the councils – members of which are said to be “appointed rather than elected.”[\[7\]](#) A recent scholarly inquiry on civil society and environmental policy in Azerbaijan notes that “in reality, these NGOs included in Public Council are the GONGOs [Government-Organized Non-Governmental Organizations – NK]; hence, a mere purpose of Public Councils is to imitate ‘fair decision-making.’”[\[8\]](#)

This article does not engage in discussion of the relationship between members of public councils and the government because this does not fully explain – and sometimes distracts from – the challenges to civil society participation in decision-making. Instead, what the article explores here are the structural reasons for the ineffectiveness of the consultative mechanisms. These challenges have, to a significant degree, derived from state authorities’ apathetic attitudes toward non-governmental actors and citizens’ unions, as well as their limited accountability before society. In fact, as outlined in the Civil Society Organization Sustainability Index (CSOSI) reports, even those NGOs in Azerbaijan with a pro-governmental stance are also excluded from the policy process.[\[9\]](#)

CSOSI annually measures “the CSO sector’s ability to influence public opinion and public policy.”[\[10\]](#) Its data on Azerbaijan indicates that the advocacy capabilities of civil society have markedly diminished between 2013 and 2015. By crossing the 5-point threshold in 2014, civil society advocacy in Azerbaijan is considered “impeded” (Table 1).[\[11\]](#) The improvements since 2017 are attributed to increased albeit inconsistent engagement between some authorities and CSOs, e.g., the Tax Ministry’s meetings with experts from civil society in the preparation of amendments to tax legislation in 2019.[\[12\]](#)

ADVOCACY

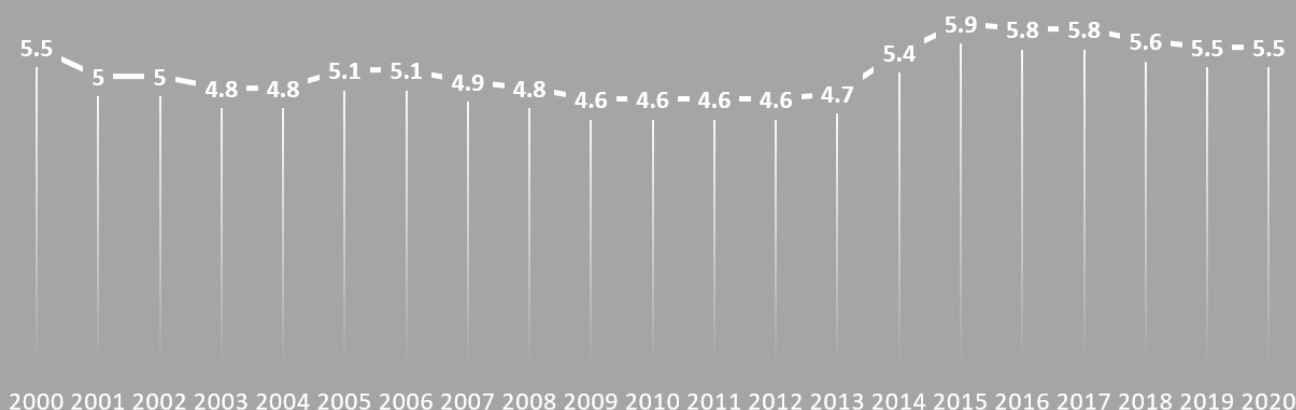


Table 1: Civil Society Organization Sustainability Index (1-3: sustainability enhanced; 3-5: sustainability evolving; 5-7: sustainability impeded)

This is also corroborated by the World Bank's Worldwide Governance Indicators (WGI), one dimension of which is Voice and Accountability. Voice and Accountability surveys "perceptions of the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media." [\[13\]](#) Azerbaijan's Voice and Accountability performance declined significantly for four consecutive years between 2012 and 2016 and has remained low since (Table 2). [\[14\]](#) With a score as low as -1,55 in 2020, Azerbaijan ranked 182nd in the world, just ten countries ahead of North Korea, which was last. [\[15\]](#) Thus, based on the World Bank's approach, it can be implied that the obstruction of civil society participation in Azerbaijan is inherent to a bigger problem of accountability that entails defects in elections on the one hand, and limitations on media freedom and the exercise of civil rights on the other.

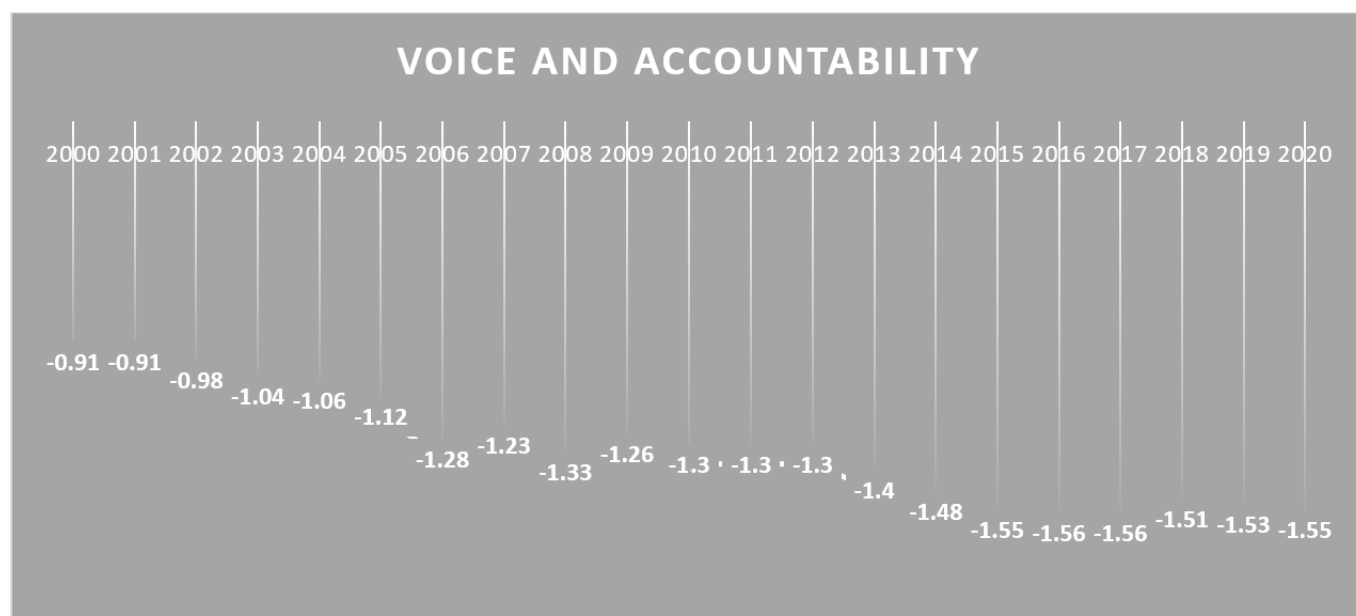


Table 2: Voice and Accountability Index (2.5 strong; -2.5 weak)

But why then did the country's citizen participation indices worsen in the same year (2014) when a law envisaging the creation of public councils was adopted? The reasons for this are the restrictions brought to laws that oversee NGO activities in 2013-2015, escalated prosecution of civil society activists, and the closure of Baku offices of international organizations in those same years.[\[16\]](#) The restrictive legislative amendments placed on NGO activities practically banned formal access to Western democracy and development aid – which constituted over 90% of the financial resources of the NGO sector.[\[17\]](#) The European Court of Human Rights (ECHR) deemed the imprisonments of civil society representatives in 2013-2014 a “troubling pattern of politically motivated misuse of the criminal justice system.”[\[18\]](#) According to estimates, around two-thirds of NGOs ceased their operations due to these measures.[\[19\]](#) It was only after 2018 when new civic initiatives proliferated, and some NGOs partially recovered their activities. Some new and community-driven civil society actors engage with issues such as social rights, gender, urban development, and environment and they exist outside the institutional settings.

Azerbaijani officials have indicated that there are nearly 4000 registered non-governmental organizations in the country.[\[20\]](#) While this number is the lowest in the South Caucasus region, it is, in fact, still an overstatement: the vast majority of organizations are not operative and exist only on paper. Because the above limitations set in mid-2010s legislation and political risks persist, citizens are further discouraged from formally associating, and most civil society groups regard consultative mechanisms such as public councils with suspicion. The findings of a survey conducted in 2017 and responded to by 95 NGO representatives suggest that, among civil society, the level of awareness of and trust in public councils is shallow.[\[21\]](#) 84% of respondents indicated they never intended to run for public councils – 36% of them because they were not informed and another 36% because they distrusted such councils. 77% of respondents expressed a negative view of the fairness of elections to councils. There is no newer survey data, but also no reason to believe that the general opinion of the NGO sector has altered notably.

Participation in question

Apart from the absence of accountability and trust, another problem with public participation in Azerbaijan lies in the policy-making process itself – starting from agenda-setting to evaluation. Much is known about how policies are deliberated, formulated, and implemented in democratic contexts. However, in Azerbaijan's non-democratic governance model, there is a significant ambiguity over what kind of actors are involved in different stages of making policies. This increases the likeliness of citizen dissatisfaction and otherwise unawareness of policy processes and outcomes, especially in economic and welfare spheres.

The presidential administration maintains a monopoly over the policy process with little or no debate in parliament, while relevant ministries and state agencies are responsible for implementation. Of 203 legislative proposals to parliament in

2020, 142 were submitted by the president, 60 were presented by members of parliament, and one came from the Nakhchivan Autonomous Republic's Supreme Council.[\[22\]](#) Drafts of policy documents are generally made publicly available only a few days before adoption, leaving no room for public input. According to law, public councils hold a right to obtain and review draft legislative acts from the respective state agency, based on which they can propose recommendations or make alternative policy proposals. In cases in which the authorities then do not accept the public council's recommendations or proposals, the former must provide a formally outlined justification. However, these provisions of the law are not reflected in practice. As a result, civil society lacks institutionalized and consistent access to decision-making structures.

There are, of course, some issues on which the government is relatively more open to external inputs; however, formal public deliberation of most other topics is avoided. An example of the latter is the state budget. Although such decisions impact the lives of all citizens, the preparation of the annual budget is remarkably obscure. This observation is confirmed by the Open Budget Survey (OBS), which "assesses the formal opportunities offered to the public for meaningful participation in the different stages of the budget process."[\[23\]](#) According to the 2021 OBS report, Azerbaijan scored a 9 out of 100. Notably, the score was 0 for avenues of public participation in three stages: formulation, approval, and implementation. To compare, Georgia's public participation score was 44.[\[24\]](#)

In the field of economic and social policies, the authorities are – to a limited degree – more receptive to analyses and reports from civil society representatives and experts. When their opinions draw public attention on social networks, the experts are infrequently and informally contacted by government agencies for further elaboration.[\[25\]](#) The government is also relatively receptive to outside input when

international stakeholders are involved as a third party in consultations between government and NGOs on globally-accepted norms such as Sustainable Development Goals. In the past, for instance, some NGOs with the backing of UN agencies have managed to influence the drafting of improved gender equality legislation.[\[26\]](#) None of these examples, notably, have occurred within the framework of public councils.

Lastly, a look into the compositions of public councils reveals another deficiency. Nearly all of the members of public councils of state ministries are chairpersons or representatives of registered NGOs (“Public unions” – “İctimai birliklər” in Azerbaijani). Some NGO representatives have seats on multiple councils in different fields. This is problematic in two respects. First, not all active NGOs are registered ones. In fact, the arbitrary denial of registration of organizations is common, a fact reflected in over a dozen judgments since 2002 of the Strasbourg court, which has found repeated violations of freedom of association in Azerbaijan.[\[27\]](#) The above-mentioned amendments to the NGO laws have further complicated the registration process. Thus, dozens of active civic organizations operate without state registration.

Moreover, as also envisaged in the 2014 legislation on public councils, public participation is not limited to NGOs. This leads to the question of representativeness and expertise. Are public council members elected because of their expertise in a respective domain or because they represent the voice of communities? This is a crucial question considering that overall citizen engagement with NGOs in Azerbaijan is significantly low.[\[28\]](#) Knowledge and expertise are central to a sound policy process, but so is representation when we talk about public participation. A meaningful approach would be striking a balance between experts, scholars, and community leaders in the formation of public councils.

Despite the challenges to public participation in policy-

making processes in Azerbaijan – most of them due to the general civil society environment and the overall opaqueness of decision-making processes – public councils can still prove to be an important locus of policy deliberation. Before suggesting remedies to improve this mechanism, the next section of the article will shed light on the caveats of consultative mechanisms in non-democratic contexts.

Consultative authoritarianism

Public councils are indeed not the only means for societal actors to engage in advocacy for solutions to problems. The rise of social networks and independent online media outlets have facilitated the direction of state attention to public concerns by creating new fora for highlighting pressing issues, criticizing state policies and offering advice. Moreover, when institutional forms of state-society engagement are deficient, citizens resort to alternative forms of collective action such as organizing protests to express discontent. The recently increased visibility of socially-oriented protests targeting different state agencies in Azerbaijan is a case in point.[\[29\]](#)

Nascent research suggests that citizen participation through consultative institutions has been utilized by non-democratic governments not only to mimic Western good governance practices for an international audience but also to mitigate and channel societal demands into a state-organized institutional framework before they escalate to the point of disrupting the social order. Public councils in Russia are a prominent example of what is termed by scholars as “consultative authoritarianism” and “participatory authoritarianism.”[\[30\]](#) Studying the logic of participatory authoritarianism in Russia and China, Catherine Owen has argued that “the combination of a lack of independent feedback channels to government from a fragmenting and privatizing state sector and from increasingly educated, politically aware, middle-class citizenries means that non-

democratic states must develop innovations that address the resultant knowledge gap in policymaking processes.”[\[31\]](#) She found that the participatory mechanisms, such as public councils in Russia, help non-democratic governments to apprehend public opinion but such practices do not threaten the overall political system.

Akin to those in Azerbaijan, public councils have existed in an inchoate state in Kazakhstan since 2015. Colin Knox and Saltanat Janenova concluded that Kazakhstan’s public councils have successfully instrumentalized public hearings and advocacy campaigns, but they are bounded by relevant ministries, and their resources are too scarce to make substantial and sustainable contributions.[\[32\]](#) Drawing on Kazakhstan’s experience, another study has concluded that consultative institutions have served to “depoliticize” citizen participation in the country, particularly in the wake of mass pro-democracy protests in 2019.[\[33\]](#)

Since the modes of institutional participation in Azerbaijan have so far been inert, it would be difficult to analyze them through the lens of consultative authoritarianism. However, it is important to be aware that citizen participation is not always an element of democratization, although it is a quality that is attributed to democratic culture. In this sense, unless a substantial transformation of relations between government and civil society occurs, the latter might remain skeptical of venues of public participation offered by the government.

Moving forward

The Azerbaijani government is currently under twofold pressure to change the way it treats civil society and citizen participation. At the international level, the country is striving to restore its membership status in the Open Government Partnership – which was deactivated in 2016 due to excessive measures against civil society.[\[34\]](#) Domestically,

there is an underlying need to modernize public administration and services, render social policies more effective and reduce societal dissatisfaction. Recent survey results indicate that 72,6% percent of respondents share a negative view of the government's economic policy.[\[35\]](#) That dissatisfaction is reflected in ongoing protests over social issues that have resulted in episodes of violence. Feeling that authorities have neglected their numerous protests over disability pensions and care, a group of war veterans recently broke into the Ministry of Labor and Social Protection with a demand to meet the minister.[\[36\]](#) Such instances are likely to occur more frequently unless stable communication channels are established between the government and protesting groups as societal actors.

Public councils are not a panacea to the country's problems, but they carry the potential to bring public interests into the policy domain and fill gaps in policy know-how that might lead to changes that are vital for improving citizens' lives. In this sense, the 2020-2022 national action plan on open government that outlined an aim of "increasing the importance of public councils" was another missed opportunity due to the mismatch between stated goals and existing practices.[\[37\]](#) To overcome inertia, government and stakeholders should rethink how public participation can be fairly channeled into the councils. Based on the findings of this article, some preliminary recommendations are presented below.

Information

CSO and ordinary citizens' distrust and unawareness of public councils are one of the central problems for institutionalized participation in governance processes. Information and accountability are essential to increasing confidence and legitimacy. To this end, a two-tier accountability is required. Firstly, state agencies should provide public councils with the required information, including drafts of legislation and decisions, in a timely manner so that relevant

public discussion and consultations can be organized. Secondly, public councils should also be accountable to broader society by regularly providing answers to the following questions: When are the meetings taking place? What are the items on the agenda? What are the inputs from public council members on the issues before the body? To what extent were the council's recommendations to agencies accepted or denied? Answers to such questions are essential information to increase public awareness and encourage further participation.

Representativeness

Representation is a prerequisite for meaningful public participation. The state should allow public councils to move beyond the formal domain of civil society – that is, the registered and professionalized NGO sector – and seek the inclusion of various interest groups. In the current structure of public councils, it is unclear whether individual members are represented there in their capacity as an expert or as civil society representatives. Although these two roles often overlap, they have important differences as well. For example, an informal group of war veterans might not have relevant expertise to design social policies dedicated to disabled veterans, but they can represent the latter's interest. A member of a local farmers' union might not be an agricultural policy specialist but could voice local needs. Formal NGOs are not resourced enough to assess such needs regularly. With this in mind, in order to ensure both representation and expertise, quotas for types of members should be determined within the public councils – allowing equal participation of experts and scholars (NGOs, think tanks, or individuals), leaders of civic associations, and permanent representatives of relevant state authorities. Each of these can hold one-third of the composition. Thus, proof of membership in a registered organization should not be a de-facto requirement for candidacy, but experience should. This would also increase interest in the election.

Local participation

An increasing number of local Executive Powers have established public councils. However, given the dearth of civil society organizations in the regions and the discussion above, we should not expect much progress from these public councils in their current form. Even if there were a transition to a more enabling environment, the development of civil society infrastructures in the regions will take considerable time. To boost participation in local governance, public councils at the regional level should stimulate and be open to informal neighborhood (mahalla) committees. Such practice might bring overarching solutions to the problems of vulnerable groups in the regions and pave the way for community organizing.

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