

**REPUBLIC OF AZERBAIJAN**

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**ABSTRACT**

of the dissertation of the degree of Doctor of Sciences

**THE PLACE OF THE RIGHT OF ASSOCIATION IN THE  
HUMAN RIGHTS SYSTEM: THEORETICAL AND  
PRACTICAL PROBLEMS**

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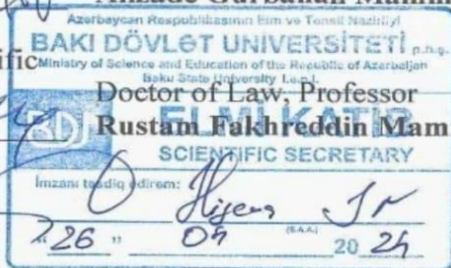
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## GENERAL CHARACTERISTICS OF DISSERTATION

**Relevance of the research topic and degree of scientific elaboration of the theme.** The main point that determines the relevance of the research topic is that at this stage, the building of civil society or the development of civil society ideas is one of the priority goals for any country that has taken the path of democratic development. The formation of civil society depends, first of all, on the realization of the right to freedom or freedom of association. In accordance with international legal standards, the Constitution of the Republic of Azerbaijan also contains a number of constitutional principles that are new to our country. Among such principles, political diversity and a multiparty system have taken center stage. It is possible to say that the same situation is typical for all post-Soviet countries, in general, for other countries of the world that have taken a new step on the path of democratic development. From this point of view, the ideas of civil society based on the realization of the right of association, and the research on the normative-legal and practical bases of the realization of these ideas are of great relevance not only for individual countries but also globally. This is because such studies create a complete picture of the strengths of civil society, thus fully confirming the crucial role of the right of association in the human rights system.

It is known that the world community recognizes the right of association as a right belonging to the basic category of human rights. International documents provide for a wide range of aspects of the right of association, indicating its central place and role in the basic human rights system. In this case, the approach to the issue is observed within different associations. The formation and activity of various social associations are observed in society. Depending on the nature of each of them, the fact that different aspects of the right of association are reflected in various international documents and conventions requires a more sensitive and serious approach to the problem. Thus, it would not be correct to consider the existence of numerous international documents, which express different aspects of the right of association, only as a positive sign. Of course, the fact

that the right of association is enshrined in various international documents indicates the degree of its importance or significance. However, it should be borne in mind that such diversity often creates uncertainty and contradiction. From this point of view, conducting research on the chosen research topic allows finding answers to many theoretical, as well as practical questions. It also stipulates certain recommendations. Thus, a more concrete and precise expression of the right of association in both national and international legislation will provide a clearer and more coherent picture.

For example, we see that in practice, the right of association is implicitly enshrined in Article 18 of the Universal Declaration of Human Rights. Thus, Article 18 of the Declaration states: "Everyone has the right to freedom of thought, conscience and religion; This right includes the right to change one's religion and belief, and to practice one's religion or belief, both alone or in association with others, openly or privately, in teaching, worship, and in the performance of religious rites and ceremonies".<sup>1</sup> Article 20 of the Universal Declaration of Human Rights enshrines the right of association more clearly. Thus, Articles I and II of Article 20 of the Declaration state: "Everyone has the right to freedom of peaceful assembly and association. No one can be forced to join any union".<sup>2</sup> Freedom of religion is enshrined in the Convention on Human Rights and Fundamental Freedoms. While this is enshrined in Article 10 of the Convention, Article 11 states that everyone has the right of association with others. The International Covenant on Civil and Political Rights, adopted on December 16, 1966, also established the right of everyone to associate with others. In general, our research has revealed that at the present stage, the right of the world's states to unite is enshrined in a separate article. Such a situation is clearly observed in the constitutions of European

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<sup>1</sup> Universal Declaration of Human Rights // Adopted on December 10, 1948: [Electronic resource] / <https://is.gd/SLjzg4>

<sup>2</sup> Universal Declaration of Human Rights // Adopted on December 10, 1948: [Electronic resource] / <https://is.gd/SLjzg4>.

countries. For example, in this regard, Article 9 of the Constitution of the Federal Republic of Germany states that all Germans have the right to form their own unions and societies. It should also be noted that the issue of restriction of the right of association is also reflected in the same article. Thus, the right of Germans to unite is realized as long as this unification does not contradict the legislative and constitutional structure. Otherwise, the formation of any union or association<sup>3</sup> is prohibited. It is also possible to find similar provisions in the constitutions of other European countries. In general, our research has shown that the right of association may in fact be based on more than one article of an international instrument. The existence of common features of all this is revealed as a result of research and analysis. From this point of view, the importance of conducting research in this direction is quite large.

At the present stage, the scope of activities of public associations is significantly expanding. Public associations, which are generally described in foreign literature as non-governmental organizations, are particularly active in the protection of human rights and freedoms. Among such rights, the right of association occupies a central place. The legal status of public associations, the regulation of their activities, the development of civil society and the protection of human rights and freedoms require clarification of both domestic and international legal dimensions. From this point of view, a comprehensive study of various aspects of the right of association, both at the national and international levels is very important in terms of forming full ideas about the development trends of the legal and political system of society, the activities of state bodies, the establishment of democratic principles and so on.

If we look at the world experience, we have observed that there are certain contradictions between the axiological and structural approaches to public associations as the institutional basis of civil society. Extensive research has been conducted to find

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<sup>3</sup> Конституции зарубежных государств: Великобритания, Франция, Германия, Италия, Соединенные Штаты Америки, Япония, Бразилия: учебное пособие / Сост. сб., пер., авт. введ. и вступ. ст. В.В. Маклаков. – 6-е изд., перераб. и доп. – Москва: Волтерс Клувер, – 2009. – с. 116

answers to numerous questions related to various aspects of civil society. However, the theory of state and law has not developed a serious universal approach to it. In this regard, the study of various aspects of civil society within the chosen topic and comprehensive analysis of the place and role of public associations in this context are of great importance for the development of the theoretical foundations of the idea of civil society. This point is also very important for political and legal science in Azerbaijan.

It should also be noted that neither Azerbaijani nor world science will fully explain the legal nature of public associations, and there is no single approach to their types and organizational-legal forms. In general, referring to our research conducted, we believe that the legislative framework has not been formed to classify all public and non-profit organizations that exist and operate in society and to reflect the principles of their establishment and operation. Thus, it is possible to conclude that accordingly, not every aspect of the nature of the right of association has been theoretically determined. This should be considered as a point indicating the importance of wider research in this area.

It should be emphasized that research on the issue of the right of association is especially relevant. For the Republic of Azerbaijan, which has chosen the path of democratic development since the first days of its independence, the issue of building a civil society has been and continues to be in the center of serious attention. Civil society building is a member commitment to the realization of the right of association. In this regard, at this stage, the constitutional provisions on the right of association act as one of the most influential elements of state-building.

Of course, by forming a key element of civil society in the Republic of Azerbaijan, the issue of achieving their quality indicators, rather than the number of public associations, is relevant. Possible forms of public associations determine the self-organization of other elements of civil society. It is public associations that provide the required level of interaction between the state, society and the population. Obviously, the initial beginning of all this is the provision of the right of association and the level of their

implementation. From this point of view, in the Republic of Azerbaijan, where the idea of civil society has been successfully implemented, it is very important to conduct research on the practical problems of the legal framework and securing the right of association.

The right of association has been central to the system of fundamental human rights and freedoms and has been the focus of special attention from researchers around the world. Researchers from Azerbaijan, Russia and the West have conducted various research projects to study various aspects of the right of association. The right of association in the Republic of Azerbaijan has been studied in the context of general human rights, in scientific works devoted to the problems related to the establishment and activity of civil society and public associations. At the same time, it should be noted that the right of association has not been fully studied in Azerbaijani science.

In the presented dissertation, for the first time in Azerbaijan, the right of association was studied as a separate theoretical and practical problem. However, in the works of a number of Azerbaijani researchers, it is possible to come across issues related to the right of association, civil society, and the formation and operation of public associations. Among such researchers it is possible to mention A.Aliyev<sup>4</sup>, R. Mammadov<sup>5</sup>, Z. Aliyev<sup>6</sup>, A. Sadigov<sup>7</sup>, E. Aliyev<sup>8</sup>, T. Huseynov<sup>9</sup>, S. Aliyev<sup>10</sup>, Sh. Aliyev<sup>11</sup>.,

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<sup>4</sup> Əliyev, Ə.İ. Müasir Beynəlxalq Hüquqda İnsan Hüquqları, Əhali və Miqrasiya Problemləri / Ə.İ.Əliyev. – Bakı: NAT Co Publishing, – 2007. – 488 s.

<sup>5</sup> Məmmədov, R.F. Azərbaycanlı qaçqın və məcburi köçkünlərin problemləri beynəlxalq təşkilatlar müstəvisində. – Bakı: Səda nəşriyyatı, – 2016. – 231 s.

<sup>6</sup> Əliyev, Z. Avropa İnsan hüquqları məhkəməsi.Dərs vəsaiti. Bakı: hüquq ədəbiyyatı, – 2010. – 275 s.

<sup>7</sup> Sadıqov, Ə. Bələdiyyə hüququ. Dərs vəsaiti. – Bakı: Elm və təhsil, – 2011. – 144 s.

<sup>8</sup> Əliyev, E.Ə., Hüseynova, F.E. Beynəlxalq hüququn prinsipləri:anlayışı və sistemi. Bakı: “Günəş-B” nəşriyyat poliqrafiya müəssisəsi, – 2017, – 164 s.

<sup>9</sup> Hüseynov, T.İ. Azərbaycan Respublikasının ekoloji təhlükəsizliyi: beynəlxalq hüquqi və dövlətdaxili aspektlər: / hüquq üzrə elmlər doktoru dis-nın avtoreferatı. / – Bakı, 2018. – 41 s.

F.Mehdiyev<sup>12</sup>, Z.Asgarov<sup>13</sup>, L.Hüseynov<sup>14</sup>, P.Bayramova<sup>15</sup>, M.Məmmədov<sup>16</sup>, R.Məmmədov<sup>17</sup>, A.Gasimov<sup>18</sup>, Z. Jafarov<sup>19</sup> and others.

Professor Amir Aliyev is the person who conducted the largest research in the field of human rights in the Republic of Azerbaijan. Having fundamental works in this field, A. Aliyev studied a number of topical issues of human rights and came to important conclusions and made proposals to improve the relevant legislation. He is the author of textbooks "Human Rights", "Human Rights in Modern International Law, Population and Migration Problems", works like "International Legal Protection of Human Rights", "International Legal Regulation of the Status of Foreigners and Stateless Persons: Theory and Practice" and others are one of the richest sources in the human rights section of Azerbaijani jurisprudence.

Research scientist Zaur Aliyev has conducted extensive research on human rights protection mechanisms and methods of protection. His work entitled "European Court of Human Rights"

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<sup>10</sup> Əliyev, S.F. İnsan hüquqları sahəsində beynəlxalq hüquq normalarının realizəsinin dövlətdaxili təminat mexanizmləri: / hüquq üzrə elmlər doktoru dis-nın avtoreferatı. / – Bakı, 2018. – 39 s.

<sup>11</sup> Əliyev, Ş.İ. İnsan hüquqları sistemində sosial hüquqlar: nəzəri və praktiki məsələlər. Dərs vəsaiti. – Bakı: Bakı Universiteti nəşriyyatı, – 2008. – 368 s.

<sup>12</sup> Mehdiyev, F. Nəzəriyyə və təcrübədə insan hüquqları. Azərbaycan Hüquqçular Assosiasiyası / F.Mehdiyev. – Bakı: Adventa MMC, – 2013. – 405 s.

<sup>13</sup> Əsgərov, Z.A. Konstitusiya hüququ / Z.A.Əsgərov. – Bakı: Bakı Universiteti Nəşriyyatı, – 2002. – 632 s.

<sup>14</sup> Hüseynov, L. Beynəlxalq hüquq / L.Hüseynov. – Bakı: Qanun, – 2012. – 368 s.

<sup>15</sup> Bayramova, P. Fövqəladə vəziyyət şəraitində insan hüquqlarının müdafiəsi: monoqrafiya / P.Bayramova. – Bakı: Azərbaycan Universiteti nəşriyyatı, – 2004. – 184 s.

<sup>16</sup> Məmmədov, M. Heydər Əliyev və insan hüquqları // Azərbaycan. – 2009, 10 iyun, № 124. – s.3.

<sup>17</sup> Məmmədov, R. Qanunun aliliyi və insan hüquqlarının müdafiəsi mexanizmləri: məlumat kitabı / R.Məmmədov. – Bakı: Azərneşr, – 2009. – 416 s..

<sup>18</sup> Qasimov, A.M. Əmək hüququ. Dərslik / A.M.Qasimov. – Bakı: Letterpress, – 2016. – 840 s.

<sup>19</sup> Cəfərov, Z. Əmək hüquqlarının müdafiəsi üsulları kontekstində əmək mübahisələrinin hüquqi tənzimlənməsi: monoqrafiya/ Z.Cəfərov. – Bakı: Qanun nəşriyyatı, – 2010. – 471 s.



published in 2010 is of particular importance in this field. In the work in question, the scientist conducts extensive analyzes of the concept and essence of human rights, lists domestic and international mechanisms for ensuring these rights, and comments on the effectiveness of existing protection mechanisms. In his work, Z. Aliyev clarifies the methods and means of applying to the court, noting the role of the European Court of Human Rights in guaranteeing human rights.

Among the research scientists, the scientific studies of Afsar Sadigov, doctor of legal sciences, can be noted. The scientist's multidisciplinary researches are mainly energy security, energy law, international economic law, etc. although it covers similar areas, our scientist analyzed the role of communities in local self-government on national and international legal grounds in his work entitled "Municipal Law", published in 2011. This was also important for our research in the context of people uniting and organizing their own governance structures.

Among the research scientists, Dr. Subhan Aliyev's works were considered noteworthy for our research topic. Thus, among the numerous studies of Subhan Aliyev, his doctoral dissertation of legal sciences was very important for us. Although S. Aliyev conducted research in the direction of administrative law, his dissertation work called "Mechanisms of domestic security of the implementation of international legal norms in the field of human rights" could be a reference point for our research at some points. Because, when we are talking about the internal mechanisms of guaranteeing human rights, the provision of the right to association, which is one of the human rights, is essentially the same as the internal guarantee mechanisms mentioned in the work.

Among the sources we use in our research, I would like to mention Zahid Jafarov, a doctor of legal sciences, among the local scholars. Although Z. Jafarov's main field of research is people's labor rights, when we look at the researcher's works, we see that he conducts comprehensive analyzes with a complex approach to issues. For example, in Z. Jafarov's work "The valid procedure for resolving labor disputes in the context of methods of protection of

labor rights", he broadly explains the role of labor collectives and trade unions as one of the methods of protection of labor rights, which, viewed from another angle, is the realization of the right to unite forms.

Researcher F.Mehdiyev studied the problem of human rights in detail in his book "Human Rights in Theory and Practice". First of all, the book provides information about the source of human rights. There is also a classification of human rights. In this case, three generations of human rights are considered. It is noteworthy that human rights are considered in the context of non-governmental organizations. Along with all rights, the issue of freedom of assembly and association was also considered separately.

Researcher Z.Asgarov in his book "Constitutional Law" touches on issues regulated by constitutional law. In addition, some aspects of the Constitution of the Republic of Azerbaijan adopted in 1995, as well as amendments and additions to the Constitution are discussed. One of the main issues is human rights and freedoms. Detailed information is also provided on the constitutional laws governing them. It also provides information on the fundamental rights and freedoms enshrined in the Constitution of the Republic of Azerbaijan.

Another well-known researcher L.Huseynov, in his book "International Law", explains the essence of modern international law, provides information about its main directions and institutions. In addition, opinions are voiced on international regulations and Azerbaijan's place in international law. The issues under consideration also touch upon the issue of human rights and freedoms.

Professor Alish Gasimov, one of the well-known Azerbaijani scientists of the Republic of Azerbaijan, also studied the mechanisms of the realization of the right to association, the role, place and other aspects in the protection of labor rights.

Rustam Mammadov, one of the well-known Azerbaijani scientists, expressed the general international legal principles of the right to association, and Etibar Aliyev expressed his approach to the right to association in the context of the principles and sources of

international law. Turgay Huseynov, one of the well-known Azerbaijani scientists, reviewed and analyzed the issue in the ecological context, and Shahriyar Aliyev in the context of social rights.

It should be noted that other Azerbaijani researchers also touch upon the problem of the right to unite and public associations in the context of the problem of human rights and freedoms. In general, the development of the idea of civil society in Azerbaijani science at the present stage also opens the way for wider discourses around the problem of the right of association. In general, although there are some scientific works on the activities of public associations in Azerbaijan, the organizational and legal basis of their establishment, a comprehensive study of the legal nature of the right of constitutional association has not been conducted in jurisprudence. There is also a need to study the legal framework and universal principles of restricting the right of association.

There are serious grounds to say that the problem of the right of association is widely studied in Russian science. Thus, the right to unite in Russian science has almost always been in the center of serious attention of researchers. It should also be noted that in Russian science, the right of association is considered mainly in the context of evaluating the establishment and operation of public associations. Among the Russian researchers A.Azarov, D.Maliy, V.Mikheyev, S.Afanasyev, N.Belyakovich, I.Gerasimov, S.Dorofeyev, A.Kurakin, Y.Lebedeva, K.Tokmakov and others can be specially mentioned. In the works of the above-mentioned Russian researchers, they consider the essence of the right of association, their normative legal bases and the mechanisms of their realization. Researchers have also conducted extensive analysis of the problem of restricting the right of association. In addition, the nature of public organizations, their place and role in the development of civil society, and the right to unite has been in the spotlight when analyzing issues. The right to association in Russian

jurisprudence was studied in detail by A.Aliyev,<sup>20</sup> V.Lysenko,<sup>21</sup> D. Alimov,<sup>22</sup> A.Markitantov,<sup>23</sup> V.Soldatov,<sup>24</sup> V. Pronkin<sup>25</sup>, and others. However, the right of association is also poorly studied in Russian jurisprudence. Restrictions on the right of association were generally made in the context of the study of political and civil rights. D.Maliy<sup>26</sup> and V. Konnov<sup>27</sup> differ from scientists conducting research in this direction.

The right of association has been studied in more detail by Western researchers. Thus, it is in the Conventions and numerous legislative acts adopted in the West that the normative-legal bases of the right of association are expressed. Researchers such as A.Kassier,<sup>28</sup> P.David,<sup>29</sup> V.Fikencher,<sup>30</sup> D.Hubert,<sup>31</sup> K.Kausch,<sup>32</sup>

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<sup>20</sup> Алиев, А. А. Конституционное право граждан на объединение в системе прав и свобод человека и гражданина / А.А.Алиев. – Москва: ЮНИТИ-ДАНА, – 2014. – 168 с.

<sup>21</sup> Лысенко, В.В. Общественные объединения как форма реализации конституционного права на объединение в Российской Федерации: / дис. кандидата юридических наук. / – Москва, 2001. – 150 с.

<sup>22</sup> Алимов, Д. А. Конституционное право на объединение: механизм обеспечения и пределы ограничения: / дис. кандидата юридических наук. / – Ростов-на-Дону, – 2001. – 194 с.

<sup>23</sup> Маркитантов, А. В. Негосударственные объединения в Российской Федерации: теория и практика конституционно-правового регулирования: / дис. кандидата юридических наук. / – Екатеринбург, 2002. – 195 с..

<sup>24</sup> Солдатов, В. В. Защита конституционных прав юридических лиц в Конституционном Суде Российской Федерации: / дис. кандидата юридических наук. / – Челябинск, 2007. – 240 с.

<sup>25</sup> Пронькин, В. Н. О свободе ассоциаций // Известия высших учебных заведений: Правоведение. – 1993. – № 5, – с. 38-45.

<sup>26</sup> Малый, Д.А. Конституционное право на объединение в Российской Федерации / Д.А.Малый. – Москва: Юридический центр Пресс, – 2003. – 79 с.

<sup>27</sup> Коннов, В. А. Правовые основы ограничения политических прав и свобод граждан по зарубежному и российскому законодательству. – М.: Издательство Московского университета Министерства внутренних дел, – 2003. – 116 с.

<sup>28</sup> Adem, Kassie Abebe. Human rights in the Ethiopian Constitution: a descriptive overview // Mizan Law review, – 2011. Vol. 5. No.1, – p. 41-71

<sup>29</sup> David, P. Forsythe. Human Rights in International Relations / David, P. Forsythe. – Cambridge University Press, –2013. – 29 p.

<sup>30</sup> Fikentscher, W. Freiheit als Aufgabe / W.Fikentscher. – Tübingen, – 1997. – 212 s.

H.Kohl,<sup>33</sup> L.Levin,<sup>34</sup> E.Petersman<sup>35</sup> have conducted research on the problem of the right of association in the West. The above-mentioned researchers have conducted research on the protection of human rights and freedoms in general.

Also in this context, the issue of ensuring the right of association has been in the spotlight. In general, the question of determining the full place of the right of association in the fundamental human rights system in Europe is still accepted by the majority as unsettled. In addition, there is still a serious need to increase scientific efforts to create a clear and universal legal framework for restricting the right of association.

**Object and subject of research.** The object of the study is the right of association in general. The subject of the study is the issues related to the definition and guarantees of the right to association and the international documents used in the study of this right, national legislative acts, adopted state programs, local and international court practices.

**Goals and objectives of the study.** The main purpose of the study is to determine the place of the right of association in the human rights system. In order to achieve this goal, it was decided to perform the following tasks in the dissertation:

- to analyze in detail the essence and content of the concept of human rights;

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<sup>31</sup> Hubert, D. The Responsibility to Protect - Research, Bibliography, Background: Supplementary Volume to the Report of the International Commission on Intervention and State Sovereignty / D. Hubert, G. Thomas. – Canada: International Development Research Centre, – 2001. – 427 p.

<sup>32</sup> Kausch, K. Defenders in Retreat Freedom of Association and Civil Society in Egypt/Working Paper / Documento de trabajo, – Madrid, – 2009. – 81 p.

<sup>33</sup> Kohl, H. Freedom of Association, Employees' Rights and Social Dialogue in Central and Eastern Europe and the Western Balkans: [Electronic resource] / H. Kohl. – Berlin: Friedrich-Ebert-Stiftung, – 2009. – 112 p.

<sup>34</sup> Levin, L. Human rights Questions and Answers: [Electronic resource] // L. Levin. – UNESCO publishing, – 2009. – 232 p.

<sup>35</sup> Petersmann, E.U. How to Constitutionalize International Law and Foreign Policy for the Benefit of Civil Society? // Michigan Journal of International Law, – 1999. no. 20, – p. 1-30.

- to consider the process and stages of the historical formation of the human rights system;
- to study the specifics of fundamental human rights;
- analysis of normative-legal bases of protection of human rights;
- to determine the essence of the right of association, to reveal its content with the help of the apparatus of concepts;
- determination of the right to association in the human rights system;
- to consider the problem of normative-legal regulation of the right of association;
- to determine the role of the right of association in the formation of civil society;
- to study the principles and mechanisms of ensuring the right of association;
- consideration of normative-legal bases of restriction of the right of association;
- to discuss the constitutional and legal basis and the problems of ensuring the right of association in the Republic of Azerbaijan.

**Research methods.** The methodological basis of the research is formed by a set of methods that allow solving the tasks arising from the goals set within the framework of the research. Both general (formal logical, systematic-structural analysis, historical approach, generalization of scientific and practical materials) and special scientific methods (comparative jurisprudence, logic, statistical analysis, monitoring, etc.) were used in the process of writing the dissertation. At that time, a comparative analysis of the legislation of a number of states, which includes the right to association, was carried out, and suggestions were made regarding the application of the exemplary norms reflected in the legislation of developed states to national legislation and practice. The theoretical basis of the research is the works of Azerbaijani, Russian and European researchers in this field. In addition, the research referred to the Constitution of the Republic of Azerbaijan, legislative acts in the relevant direction, as well as international normative and legal sources, and the relevant cases of the European Court of Human

Rights were studied.

**The main provisions of the defense. The following new scientific propositions expressing the scientific novelty of the research are submitted for defense:**

1. In the first years of the independence of the Republic of Azerbaijan, national leader Heydar Aliyev defined the implementation of complex measures for the protection of human rights and freedoms and the creation of a rich normative base as one of the priority directions of state policy. After the national leader Heydar Aliyev returned to the supreme political power for the second time, the field of legal and democratic society building and human rights became the center of serious attention. The draft constitution prepared under the direct leadership of the national leader Heydar Aliyev conditioned the opening of a new page for the reliable provision of human rights and freedoms. Comprehensive steps have been taken in the direction of creating a normative-legal base that will enable effective provision of human rights and freedoms. This point clearly expressed how sensitively human rights and freedoms are treated in the Republic of Azerbaijan. In general, from the very first days of his activity, the Great Leader demonstrated that the issues of protecting human rights and building a democratic society were a priority for him. The outstanding services of the National Leader Heydar Aliyev in the direction of the realization of the right to unite, which is one of the human rights, should be noted.

2. In 2003, with Mr. President Ilham Aliyev coming to political power in the Republic of Azerbaijan, large-scale works were started in the direction of ensuring human rights and developing efficient defense mechanisms, as in all fields in the republic. In particular, the provision of state financial support to non-governmental organizations (NGOs) freed NGOs from dependence on external forces and directed them to become true civil society institutions. With the adoption of a new law on political parties in 2022, it created conditions for citizens to benefit from a more progressive law that meets the challenges of the time.

3. Human rights are rightly assessed as a category that forms

the central pillar of constitutionalism. In support of this idea, it can be justified that human rights as a legal phenomenon express the content of the constitutional-legal regulation of social relations. For democratic legal states, constitutional rights that allow citizens to freely participate in the public and political life of the state should be considered as a more important category.

4. The right to association provides citizens with a guarantee for the joint protection of their interests, and creates a good basis for the existence of other constitutional rights. For example, the right to association plays a key role in ensuring rights such as freedom of assembly and freedom of speech. Indeed, as a result of our analysis, we have confirmed that these rights are declarative without the right to association being guaranteed.

5. The possibilities of limiting the right to association or completely preventing its realization within the framework of special legal regimes are expressed in international legal acts, and this can be considered as a legal regulation in the field of realization of the right to association. Here we mean special legal regimes, emergencies, war, etc. can be understood. That is, the realization of the right to association should not cause negative consequences in the society, and most importantly, it should not cause the violation of the rights of others.

6. Human rights act as an object of international legal regulation. Of course, civil rights are based on human rights. Thus, human rights are characterized as civil rights from the moment they are established in state legislative acts. Because here the issue of regulating state-citizen relations is already emerging. This is the point that determines the boundaries of human rights and civil rights. However, it should also be noted that in most cases "human rights", "civil rights" and "personal rights" are presented as synonyms. Defining boundaries between these concepts serves specific points. For example, in order to explain more precisely the nature of human rights, sometimes there is a need to demarcate.

7. Human rights constitute the initial beginning of all other numerous rights. The basic rights and freedoms of a person and a citizen are born with it. So, a person has these rights and freedoms



from the day he opens his eyes to the world. These rights determine the legal status of the individual, and their protection by the state is one of the main obligations of the state.

8. In general, human rights have characteristic features unique to them. During the analysis of the issues related to the right to association, its main characteristics in interaction in the international and national legal system should be considered, and the important importance of the right to association for the international and domestic normative-legal system should be emphasized.

9. If, as one of the forms of realization of the right to associate, similar rules for the registration of public organizations and non-governmental organizations established for limited liability companies that are commercial groups are applied in the Republic of Azerbaijan, if online registration opportunities are created for the registration of public organizations and non-governmental organizations as well it will be possible to achieve the solution of many problems expressed by the citizens.

10. One of the important factors in detecting and preventing problems arising during the realization of the right to association is legal creation and effective application of existing legal norms. For the creation of international law, taking the practice of developed countries as a basis should be an important direction. In addition, legal responsibility should be mentioned as a preventive measure in ensuring the right to association, and a number of scientific-theoretical-practical recommendations should be based on this.

11. In almost all democratic countries of the world, by regulating basic human and civil rights at the level of national legislation, they ensure the superiority of international legislative acts in relation to national legislation. So, after such regulation, the states have assumed concrete obligations in the field of guaranteeing human rights and freedoms. The degree to which they comply with these obligations is monitored by certain international bodies. It is possible to be sure of this by looking at the constitutions of most countries. Such an opinion should be noted that the realization of the right to association is possible only in a single connected system of domestic and international legal protection mechanisms.

12. The right to associate, which stipulates the formation of public associations operating in various spheres of public life, has led to serious discussions about which basic category of human rights in jurisprudence it belongs to. In the course of our research, we have determined that the right to association is mainly attributed to the category of political rights by some researchers. However, as we believe, it is not correct to attribute the right to association to the category of political rights only.

13. When analyzing the nature of public associations, which act as the main element of civil society, it is important to touch on the characteristic feature of non-commercial organizations. Thus, non-profit organizations may or may not belong to the category of public association. Defining boundaries between them is very important. The level of participation of a non-commercial organization in civil-legal relations acts as a criterion for determining such a border. A non-profit organization that is not a public association, as a rule, acts as an active participant in civil circulation. In general, analyzing the ratio between public organizations and non-governmental organizations, we came to the conclusion that all public associations registered as legal entities are non-profit organizations. The exact differences of these associations should be determined by normative legal acts.

14. In the framework of our research, public associations created as a result of the realization of the right to association and to which organizational-legal regulation is applied in relation to their creation and operation are considered as voluntary, non-governmental, non-commercial organization of individuals. That is, it is a result of the legal realization of the right to freedom of association. We believe that such a scientific approach allows us to reveal the legal nature of public organizations. On the one hand, public associations are independent collective institutions that express the interaction between civil society and the state, and on the other hand, they are a form of realization of opportunities accepted at the international level about freedom of association as an important type of human rights.

15. Comprehensive analyzes of public associations once again

proved that they are the main indicator of civil society and the most important condition for its development. By acting as a bridge between civil society and state power, public associations ensure the elimination of many contradictions in society. Public associations also testify to the legal nature of the state, respectively. The creation of public associations and the expansion of their activities indicate good prospects for the construction of civil society and the strengthening of democratic principles. The processes related to the registration of these associations should be further simplified.

16. The dynamics of the status of public organizations represents the development of humanity and personality. The establishment of the right to association in the system of basic human rights and freedoms at the international legislative level has also determined the international legal status of public associations. The right to association is directly related to the development trend of civil society. From this point of view, our studies led to the conclusion that if the right to freedom of association is not guaranteed, there can be no reason to talk about the state of civil society. Ensuring the right to association should be considered as the main condition for the creation of public associations.

17. The right to associate also includes the freedom not to associate. Therefore, methods of more effective protection of the rights of people who have joined any political associations under certain threats and pressures should be developed.

18. Although globalization and integration processes bring a lot of benefits to humanity, in some cases, easy integration processes facilitate the expansion of the ranks of radical religious associations and terrorist organizations. We emphasize that it cannot be possible within the power of any state to deal with the mentioned problem individually. In this direction, new forms and methods of international cooperation should be developed in order to comprehensively deal with existing and possible problems.

19. Since the right to association is not an absolute right, its limitation is also provided for in international documents. But when we look at the number of cases dealt with by the European Court of Human Rights regarding the right to association, we witness

thousands of cases. Therefore, more specific regulations regarding the limitation of the right to association should be defined.

20. A review of the world experience proves that by providing a real guarantee of the right to association, the state achieves a certain stability in society, in addition to fulfilling the obligations it has assumed. Thus, the public associations created as a result of the guarantee of the right to association, in many cases, assume a certain part of the solution of social problems and condition the weakening of social tension. In fact, in most of the modern world states, the state purposely entrusts the solution of more social problems to public associations. Of course, for this, both normative-legal and necessary practical conditions must be provided for public associations to operate more efficiently. From this it can be concluded that the more seriously the state guarantees the right to association, the more political, social and economic progress can be said in the society. However, it should also be noted that, in addition to this, it is very important to apply effective regulatory mechanisms in the field of realization of the right to association.

**Scientific novelty of the study.** The main scientific innovation of the study is that, for the first time in Azerbaijani science, an attempt was made to determine the place of the right to association in the human rights system. In addition, our research has led to the achievement of a number of scientific innovations. For the first time, analyzes were conducted to determine the conformity of the normative-legal basis of the right to association with the provisions of international legislative acts in the Republic of Azerbaijan. It has been determined that the normative-legal basis of the right to association in the Republic of Azerbaijan was formed based on the provisions of international legislative acts. It has been established that although the possibilities of limiting the right to association are established in national and international legislative acts, the universal and effective mechanisms that will prevent the abuse of this possibility are not clear. It turned out that public associations, in addition to acting as a very powerful tool in the direction of joint protection of the common interests of citizens, can create serious threats to society if their activities are not regulated.

Uncontrolled exercise of the right to association can sometimes lead to violation of the fundamental rights and freedoms of others. In this regard, there is a need to further improve the universal principles of limiting the right to association within the framework of the law. The right to association is one of the most important institutional means of civil society formation. One of the most important conclusions we have come to based on our research is that freedom of association plays a very effective role in the development and functioning of a market economy. As we know, a real market economy can function effectively only in a democracy.

**Theoretical and practical significance of the study.** It is possible to justify the theoretical importance of the results of the study by the fact that they deepen the scientific-theoretical understanding of the essence of the right to association. Also, it is possible to note the important theoretical significance of the results of the research in terms of the formation of ideas about the dialectical relationship between the civil society building process and the realization of the right to association. It is possible to use these results during further scientific research. It is possible to use the results of the research work in the process of improving the normative-legal basis of the right to association. In addition, the dissertation can be useful for the preparation of teaching-methodical materials.

**Approbation and application.** The main provisions, results and practical recommendations of the dissertation were published in the authoritative scientific journals and collections of scientific articles of AR, USA, Belgium, Turkey, Russian Federation, Latvia and Ukraine, reflected in the author's published works, abstracts and speeches of his reports at scientific practical conferences.

**The name of the organization in which the dissertation work is performed.** The dissertation was completed at the International private law and European Law department of the Faculty of Law of Baku State University.

**The total volume of the dissertation with a sign, indicates the volume of the structural units of the dissertation separately.** The research work consists of an introduction, five chapters

containing fifteen paragraphs and thirty-two paragraphs, results and a list of references.

## **MAIN CONTENT OF THE DISSERTATION**

In the Introduction part of the dissertation, the researcher substantiated the relevance of the research, gave detailed information about the object, and noted the scientific innovations.

Chapter I of the dissertation consists of 3 paragraphs and 9 items. It is called the legal nature of the right of association and its place in the human rights system. The first paragraph of this chapter examines the Right of association: the essence, origin and stages of historical development, the concept and legal nature of freedom of association, the legal difference between the concepts of "Association" and "Assembly", the formation of ideas of the right of association and the current state of the right of association attention is drawn.

The author shows that despite the fact that the problem of citizens' rights to association is being studied quite actively at the current stage, the roots of the issue go back quite deep in history. The history of the right to association naturally begins with the period when public institutions began to emerge. The ideas that will be the basis of the modern ideas about the right to association include the ideas of Aristotle, Plato, Cicero, Epicurus, Marcus Averil, etc. it is possible to find in his works, which once again proves that the ideas about the right to unite have been familiar to people since ancient times. It can be said that at almost all stages of historical development, there have been heated discussions about the right to association. Thus, it is known that Martin Luther, Thomas Aquinas and others put forward valuable ideas about the problems of human dignity and the status of personality in society. The emergence of serious theories about the right of association in the new period testified to the dynamic increase in the level of relevance of the problem.

In Ancient Egypt and the countries of the Ancient East, the formation and development of public institutions took place mainly

through the formation of professional associations. In other words, by organizing their joint activities, the owners of certain professions also created the initial examples of social associations. It is clear that the main purpose of creating such professional associations was to ensure common welfare or interests. In ancient Greece, citizens' associations began to take on a completely new meaning, and in many cases even served political purposes. In ancient Rome, public associations were initially formed as a sum of social associations, which later played a rather influential role in the formation of companies into corporations. The study of the history of the creation of public associations clearly shows that the formation of non-state associations is directly related to the development of society and state institutions. In turn, non-governmental organizations have played an important role in the development of society and the state. During the Middle Ages, after the fall of the Western Roman Empire, non-state associations began to develop in Europe, the first universities. Thus, the formation of students' and teachers' trade unions in universities created the initial basis for the formation of non-state unions. At the same time, associations of merchants and entrepreneurs in Europe were of more serious importance.

In medieval Europe and during the Renaissance, the formation of the non-state sector was based on two forms of associations of citizens: trade unions; business unions.

The second paragraph of the first chapter lists the specific features of the Right of association, the place of the right of association in the system of constitutional rights of man and citizen, forms of the right of association, existing problems in exercising the right of association and the characteristics of the right of association as a key element of the state.

The plaintiff notes that the right to association has a complex nature as it covers various areas of life. At the legislative level, issues of creation and operation of separate types of public organizations are regulated. At the modern stage, the theory and experience of the functioning of public organizations in any country that has taken the path of democratic development is an important element of building a civil society. Legal regulation of the activities

of public organizations and protection of their rights is the basis of the development of the legal state in various fields. From this point of view, the precise determination of the place of the right to association in the system of constitutional rights of a person and a citizen constitutes one of the most important directions of scientific activity of researchers. Studies prove that there is generally no unified approach to the classification of human and civil rights and freedoms in legal science. For this reason, certain differences are evident in the classification of human and civil rights and freedoms. Nevertheless, the constitutional rights of a person and a citizen are generally political, economic, social, cultural, etc. classification is carried out in the direction. Most researchers support the inclusion of the right to freedom of association in the category of political rights. The right to association includes the possibility of participation of human associations or organizations in the political life of society. This point is clearly expressed in the Constitutions of modern democratic legal states.

Paragraph 3 of this chapter examines the impact of the right of association on the formation of civil society. The paragraph analyzes the basis for the formation of civil society and substantiates the right of civil society to unite as a "product".

The researcher states that the existence of the civil society, its formation is impossible without new public-individual institutions reflecting equal civil rights and personal independence. A person becomes a true citizen only when he has high moral qualities based on democratic principles, personal dignity, independence, individuality, respect for the rights and freedoms of others, and fulfills universal laws and regulations. This new type of personality is created in a different relationship with social associations and institutions. New social individuals not only do not dissolve in collectives, but, on the contrary, acquire a personal social essence as an individual, stand morally high, and establish relations with others at the level of a pure, true citizen. In order to achieve this, people's psychology, worldview, economic and social status must fundamentally change.

In order for the society to have such citizens, it should operate



on the basis of the following principles:

- equality of rights and freedoms of all people in the political world;
- protection of citizens' rights and freedoms in accordance with international legal norms;
- the economic independence of individuals, and that independence is based on the right of everyone to private property and to be properly evaluated for halal labor;
- creation of opportunities guaranteed by law for citizens to unite in associations independent of the state and parties, meeting their interests and professional level;
- independence of citizens in creating parties and movements;
- creation of necessary material-technical, psychological-spiritual conditions for the development of science, culture, educational centers for the formation of citizens as independent, cultured, morally pure, socially active, responsible individuals before society;
- the existence of a mechanism that regulates and stabilizes relations between state-civil societies and ensures the safety of the latter's activities. This mechanism, whether formal or informal, means legislative acts, democratic election of people's representatives to various bodies of the country, self-government institutions, etc. is held.

A society operating on the basis of the listed principles can stand in organic unity with a democratic, legal state created instead of a totalitarian regime.

Chapter II of the dissertation also consists of 3 paragraphs and 9 items. In general, the title of the chapter defines the forms and mechanisms of ensuring the right of association. This chapter first focuses on ensuring the right of association: indicators and mechanisms, identifies the range of subjects of the right of association, and analyzes the normative basis of the right to join associations as an example.

It is noted that the constitutions of the post-Soviet republics established the rights of citizens to form political parties and public organizations that would operate within the framework of the

Constitution and laws. In the Constitution of the Republic of Azerbaijan, the right to unite is defined as the right of everyone to create any non-profit association, political party, trade union, and to join them. The fact that the right to association is clearly established in the constitutions of most of the world's states testifies to its high importance. Indeed, the right to association can make a significant contribution to general development, as well as ensuring the protection of specific interests of people. The right to association allows solving most social problems without the participation or intervention of the state. Constitutional-legal regulation covers mutual relations between the state and public associations. Although the state does not interfere in the affairs of public associations, it guarantees their free activities. This should be seen as guaranteeing the right to association.

When talking about ensuring the right to association, it should be noted that it is closely related to a number of other constitutional rights. For example, to unite in meetings, rallies, demonstrations, etc. it finds its expression in organized collective events. Public organizations are interested in obtaining opportunities to freely disseminate information about their activities, plans, goals and objectives. In addition, they make suggestions to the authorities and defend the interests of their members in the courts. Therefore, the right to association is necessarily closely related to freedom of mass information, freedom of thought and speech. Moreover, the right to association is closely related to the concept of the rule of law. The legal state acts as an effective mechanism for the protection of human rights. It is the existence of a legal state that conditions the provision of the right to association. Thus, the legal state provides all the necessary conditions for the free functioning of various political parties and public associations.

In the second paragraph of the chapter, the right of association is examined in the synthesis of national legislation and practical experience of individual countries. The experience of the Russian Federation as a major power in the region and the Republic of Georgia as a neighboring country has been extensively analyzed. At the same time, this section draws attention to the experience of

leading European Union countries, the experience of American countries and African countries in the field of the right of association, and their relevant legal frameworks and mechanisms for the practical implementation of this right have been studied and compared. The last paragraph of the chapter defines the principles of ensuring the right of association, the legal basis for relations between public organizations and public authorities, the legal basis for restricting the right of association and the perspective forms of the right of association.

Chapter III of the dissertation consists of 2 paragraphs and 5 items. The title of the chapter is "International and national (domestic) legal sources of the right of association." This chapter defines universal international acts regulating the right of association. The first paragraph examines the right of association in the Universal Declaration of Human Rights, the right to accede to the Convention of the International Labor Organization, and the normative legal content of the right of association in the 1966 UN Pacts. The second paragraph of the chapter defines regional international acts regulating the right of association. In this section, the "European Convention on Human Rights and Fundamental Freedoms" and the "European Social Charter", one of the main sources in the field of human rights, are analyzed in the context of the normative-legal source of the right of association.

Chapter IV of the dissertation consists of 5 paragraphs and 3 items. The title of the chapter is called International Organizational Mechanisms for Ensuring the Right of association. This chapter first defines the legal basis for international organizational mechanisms in the field of the right of association. The example identifies UN mechanisms for ensuring the right of association, mechanisms for ensuring the right to join the International Labor Organization, European Union mechanisms for ensuring the right to join, and existing Council of Europe mechanisms for ensuring the right to join, and compares them with other mechanisms. At the same time, this chapter refers to the legal basis of the appeal to the European Court of Human Rights on the right of association and the case before the European Court of Human Rights on the right of

association as practical examples, and substantiates the perspective significance of the case presidents. The chapter also analyzes the mechanisms of the Commonwealth of Independent States (CIS) in the field of ensuring the right of association.

Chapter V of the dissertation consists of 2 paragraphs and 6 items. The title of the chapter is "Constitutional bases and the state of ensuring the right of association in the Republic of Azerbaijan". The chapter first defines the constitutional and legal basis of the right of association in the Republic of Azerbaijan and analyzes the international conventions to which the Republic of Azerbaijan has acceded on the right of association and their legal consequences.

This chapter examines the right of association in the Republic of Azerbaijan: the current situation and prospects in the legal context. At the same time, this chapter deals with the legal basis for the establishment and operation of non-governmental organizations (NGOs) in the Republic of Azerbaijan, the legal basis for the establishment and operation of political parties, the legal basis for the establishment and operation of religious associations, trade unions, etc. related issues have been extensively analyzed with theoretical and practical examples.

In the **Conclusion** part of the dissertation, our research work to determine the place of the right of association in the human rights system has reached a number of important results. The results of the conducted research are summarized in 28 items:

1. Based on our research and analysis, our preliminary conclusion is that human rights are rightly regarded as a central pillar of constitutionalism. In support of this idea, it can be justified that human rights as a legal phenomenon express the content of the constitutional-legal regulation of social relations. For democratic legal states, constitutional rights that allow citizens to freely participate in the public and political life of the state should be considered as a more important category. As a result of our research, we once again clarified that the most important of such rights is the constitutional right of citizens to unite. The right to association provides citizens with a guarantee for the joint protection of their interests, and creates a good basis for the existence of other

constitutional rights. For example, the right to association plays a key role in ensuring rights such as freedom of assembly and freedom of speech. Indeed, as a result of our analysis, we once again determined that these rights are declarative without the right to association being guaranteed.

2. Based on the results of our research, we can note that there are boundaries that separate human rights from civil rights. In order to have deeper ideas in this direction, defining the boundaries between human rights and civil rights is an important condition. Here, as the main characteristic feature, we can note that human rights are inseparable from the individual and are based on natural foundations. Whether or not human rights are expressed in the legislative acts of the state does not have any effect on its existence. That is, human rights exist in all cases. Accordingly, consideration of human rights at territorial and national levels would not be correct. Our studies once again confirmed that human rights act as an object of international legal regulation. Of course, civil rights are based on human rights. Thus, human rights are characterized as civil rights from the moment they are established in state legislative acts. Because here the issue of regulating state-citizen relations is already emerging. This is the point that determines the boundaries of human rights and civil rights. However, it should also be noted that in most cases "human rights", "civil rights" and "personal rights" are presented as synonyms. Defining boundaries between these concepts serves specific points. For example, in order to explain more precisely the nature of human rights, sometimes there is a need to demarcate.

3. Human rights constitute the initial beginning of all other numerous rights. The basic rights and freedoms of a person and a citizen are born with it. So, a person has these rights and freedoms from the day he opens his eyes to the world. These rights determine the legal status of the individual, and their protection by the state is one of the main obligations of the state. In general, human rights have characteristic features unique to them. Our research made it possible to determine that in almost all democratic countries of the world, by regulating basic human and civil rights at the level of

national legislation, they ensure the superiority of international legislative acts in relation to national legislation. So, after such regulation, the states have assumed concrete obligations in the field of guaranteeing human rights and freedoms. The degree to which they comply with these obligations is monitored by certain international bodies. It is possible to be sure of this by looking at the constitutions of most countries. Thus, the Constitutions of modern European countries state that the protection of human rights and freedoms is the responsibility of any government.

4. The review of the international legal and domestic situation of the right to association has shown that at the modern stage it has found its expression at the level of the supreme legislation of the countries of the world. The right to association is clearly established in international legislative acts and conventions. The states that have ratified these conventions have assumed certain obligations. The right to unite in the Republic of Azerbaijan implies the realization of several rights at the same time. For example, the right to join trade unions, the right to join political parties, the right to join political parties and other non-union associations, etc. The right to association, which determines the formation of public associations operating in various spheres of public life, has caused serious discussions about which basic category of human rights it belongs to in jurisprudence. In the course of our research, we found that the right to association is mainly classified as a political right by most researchers. However, as we believe, it would not be correct to unambiguously attribute the right to association only to the category of political rights. Also, there are many researchers who support the inclusion of these rights in the category of other rights. Thus, the right to associate does not only mean the establishment of associations operating with political motives or achieving political goals and participating in their work. In practice, the creation of public associations and participation in their activities in the direction of protecting interests of a completely different nature is observed quite often. Due to its many characteristics, it seems more logical to classify the right to association as an individual right. However, in the context of such an approach, the issue of the

legitimacy of the right to unite during the creation of political organizations remains a serious question.

5. When analyzing the nature of public associations, which act as the main element of civil society, it is important to touch on the characteristic feature of non-profit organizations. Thus, non-profit organizations may or may not belong to the category of public association. Determining the boundaries between them is very important. The level of participation of the non-commercial organization in the civil-legal relations acts as a criterion for determining such a border. A non-profit organization that is not a public association, as a rule, acts as an active participant in civil circulation. Although obtaining income is not the main goal of the activities of such non-profit organizations, this goal is almost always pursued in the activities of such organizations. In the activity of public associations, the purpose of obtaining income is almost not observed or is very insignificant. Public associations always operate in the moral-cultural or political levels of public life. Other non-profit organizations never operate on a political level. Their activity in the spiritual and cultural field is related to entrepreneurial activity, that is, activity in the economic field of society. In general, analyzing the ratio between public organizations and non-governmental organizations, it is possible to conclude that all public associations registered as legal entities are non-profit organizations. However, not all non-profit organizations are characterized as public associations.

6. Within the framework of our research, public associations created as a result of the realization of the right to association and for which organizational-legal regulation is applied in relation to their creation and operation are considered as voluntary, non-governmental, non-commercial organization of individuals. That is, it is a result of the legal realization of the right to freedom of association. We believe that such a scientific approach allows us to reveal the legal nature of public organizations. On the one hand, public associations are independent collective institutions that express the interaction between civil society and the state, and on the other hand, they are a form of realization of opportunities accepted

at the international level about freedom of association as an important type of human rights. Complex analyzes of public associations once again proved that they are the main indicator of civil society and the most important condition for its development. By acting as a bridge between civil society and state power, public associations ensure the elimination of many contradictions in society. Public associations also testify to the legal nature of the state, respectively. The creation of public associations and the expansion of their activities indicate good prospects for the construction of civil society and the strengthening of democratic principles. When determining the level of realization or guarantee of the right to freedom of association, it is necessary to pay attention to the possibilities of creation and activity of public associations. The situation regarding the creation and activity of public associations acts as a kind of indicator of the level of realization of the right to association.

7. The dynamics of the status of public organizations represents the development of humanity and personality. The establishment of the right to association in the system of basic human rights and freedoms at the international legislative level has also determined the international legal status of public associations. Thus, ensuring the right to unite should be considered as the main condition for the creation of public associations. Therefore, the right to unite is directly related to the development trend of civil society. From this point of view, our studies led to the conclusion that if the right to freedom of association is not guaranteed, there can be no reason to talk about the state of civil society. Based on our research, one of the conclusions we reached was that public organizations created for the purpose of protecting common political, social and other interests have been able to bring about profound changes in the social and political life of world states and even political and economic transformations. For example, during the US and French revolutions, which are well known from history, public organizations acted as the most effective driving element. But at the same time, limiting the right to association, which is the initial beginning of the creation of social organizations, protects the society



from many contradictions and conflicts. Thus, the rights of association, which are not protected within the framework of the law, with the expectation of concrete principles, may lead to the emergence of serious problems for security, public order and the realization of the basic rights and freedoms of others.

8. As a result of an in-depth analysis of the world states or international experience in general, it was found that the principles referred to during the creation of non-governmental organizations are almost identical. Summarizing, we can present these principles as follows:

- volunteerism;
- having common interests and goals;
- non-governmental nature of the unions;
- the participation of members in the work of the association is of a personal nature;
- having a single organization;
- the legality of the creation and operation of the union.

It should be noted that the universal principles of creation and operation of public associations have been precisely expressed in existing international legal acts or conventions. Individual states have expressed these points in their national legislative acts in a manner consistent with international acts. One of the main factors determining this reality is that states also have obligations related to such universal principles.

9. One of the characteristic features of the problem of public associations is that its various aspects are defined as the subject of different legal fields. So, based on our analysis, we can note that the constitutional law directly establishes the right of everyone to unite and, accordingly, regulates the constitutional-legal status of public associations. Administrative law regulates the activity of public associations in order to obey the general legal regime in state administration. At this time, the legality of the duties and functions of public associations is ensured, and their mutual relations with executive authorities are regulated. The control functions of the state in relation to the activities of public organizations are regulated by financial, labor and environmental legal norms. Civil legislation

expresses the status of organizational-legal forms of all non-commercial organizations. International law distinguishes the characteristics of international non-governmental organizations and determines their consultative status with international intergovernmental organizations. All these points indicate that the right to association is the object of regulation of various legal fields, which once again determines its rather complex nature.

10. It should be noted that when analyzing the creation and activity of non-governmental organizations, their place and role in society, it is necessary to emphasize one point that attracts attention. This point is that since the middle of the last century, the number of non-governmental organizations operating in the direction of human rights protection has increased significantly. It should be noted that fifteen non-governmental organizations were involved in the process of drafting the Universal Declaration of Human Rights. These non-governmental organizations participated in the process in an advisory capacity. In the following periods, the activities of non-governmental organizations in the field of improving the normative-legal basis of human rights protection and generally in the field of human rights protection have continuously increased. For example, in 1993, a world human rights conference was held in Vienna, the capital of Austria. Approximately 1.5 thousand non-governmental organizations participated in the work of the conference. Theo van Boven, the former director of the UN Human Rights Center, assessed this as the most significant historical event that occurred after the Second World War. According to him, the emergence of all these organizations in the international arena and covering almost all continents testifies to the universality of human rights components. This development is the foundation of the human rights movement. Theo van Boven even went a little further and argued that without these organizations, the field of human rights would be miserable. Indeed, the serious activity of non-governmental organizations in the field of human rights protection has caused noticeable qualitative changes in this field.

11. In general, the reality accepted by the world community is that in the 21st century, non-governmental organizations have

become the most active participants in almost all areas of international life. Addressing this issue, former UN Secretary General Kofi Annan said that for decades, non-governmental organizations have closely participated in the preparation and implementation of UN programs and supported this process. Civil society organizations are more ready than ever to form coalitions, organize, and mobilize for common interests and goals on a global scale. Of course, the increase in the activity of civil society institutions and, in general, the steady increase in their number, in itself indicates the emergence of a wider range of guarantees for the right to association. The fact that non-governmental organizations have shown serious activity in the field of human rights protection has also, accordingly, caused significant qualitative changes in the field of more reliable protection of the right to association.

12. We believe that the cooperation of various structures of the UN with non-governmental organizations should be defined as a special object of analysis. Because this cooperation mostly covers the field of human rights. In 1946, the Department of Public Information of the UN was established. The establishment of this department in itself indicated a high appreciation of the importance of cooperation with non-governmental organizations. The UN General Assembly has imposed obligations on the Department of Public Information to cooperate with and assist the information agencies of various countries. Also, close cooperation with governmental and non-governmental organizations in the direction of expanding information about the UN in individual countries is recommended. It should be taken into account that the nature of the relations of non-governmental organizations with UN structures or institutions varies depending on the goals, locations and mandate. Intensification of contacts between the structures of the UN and non-governmental organizations means that the problems of the development of civil society in the countries of the world are in the center of attention. Currently, more than 1,500 non-governmental organizations are represented in the Public Information Department of the UN, in the UN Secretariat as consultants. This gives the UN good opportunities to maintain and expand contacts with people

from all over the world. Also, through non-governmental organizations, the population of the world's countries gain opportunities to solve certain problems, as well as problems related to the protection of their rights and freedoms, at the UN level. All these points we have mentioned clearly prove that non-governmental organizations act as a driving force for the establishment of civil society ideas and condition joint action in the field of human rights protection on a global scale. In this regard, if we have paid attention, we have determined that international organizations, especially the UN, cooperate comprehensively with non-governmental organizations in the field of protection of human rights and freedoms.

13. Our analyzes of the activity of public associations, their place and role in society, as well as the problem of legal regulation, allowed us to determine that there are certain shortcomings. These shortcomings mainly concern the field of legal regulation of creation and activity of public organizations. In general, it is possible to consider these shortcomings:

- confusion of the civil-legal status of public organizations and other non-governmental non-commercial organizations and their main activity issues in legislative acts. This causes contradictions in the regulation of the same issues with general and special norms, the repetition of legal norms in normative acts;

- the presence of numerous, and in most cases not fully justified, legislative requirements in relation to public associations and other non-governmental non-profit organizations. Such a situation seriously complicates the realization of the right to association;

- lack of a single system of classification of public associations and non-commercial organizations;

- the presence of numerous state structures that control civil institutions. In most cases, their functions almost completely duplicate each other. Of course, this also hinders the complete free activity of public associations, therefore, it also prevents the full realization of the right to association.

It should be noted that these are not all the shortcomings that

we have mentioned. As we have already noted, such a deficiency is observed in the majority of world countries. In this regard, we believe that there is a need to make serious improvements in the field of normative-legal regulation of the creation and activity of public associations.

14. One of the points we determined during our research was that the interaction of the right to association with economic rights is mainly evident in the fact that the economic sphere is not left out of the activities of public organizations. This is due to the fact that the economy is closely connected with the social sphere. However, it should also be taken into account that public organizations are not created just to achieve economic goals. In general, according to the results of our research, we can justify the universal nature of the right to association. So, as a rule, the nature of the right to associate is determined by the designation of public associations created using it. Depending on the nature of the created public association, the right to associate can be classified as political, social and economic rights.

15. A review of the world experience proves that by providing a real guarantee of the right to association, the state achieves a certain stability in society, in addition to fulfilling the obligations it has assumed. Thus, the public associations created as a result of the guarantee of the right to association, in many cases, assume a certain part of the solution of social problems and condition the weakening of social tension. In fact, in most of the modern world states, the state purposely entrusts the solution of more social problems to public associations. Of course, for this, both normative-legal and necessary practical conditions must be provided for public associations to operate more efficiently. From this it can be concluded that the more seriously the state guarantees the right to association, the more political, social and economic progress can be said in the society. However, it should also be noted that in addition to this, the implementation of effective regulatory mechanisms in the field of realization of the right to association is also very important.

16. There is a connection between the right of association and the rule of law. In the absence of a legal state, it is possible to speak

only of the formal nature of the right to association. Because the legal state acts as the main guarantor of the right to association. The conditions required for the realization of the right to association are possible in a legal state. One of the main signs of a legal state is the right to association. Real opportunities exist for the development of civil society in a legal state. Therefore, the legal state guarantees the realization of the right to association in any case. A state governed by the rule of law undertakes to guarantee the right of association and strictly complies with them. Because the existence and development of the legal state itself directly depends on the level of realization of the right to association. Also, one of the conclusions we reached was that the right to association is directly related to political and ideological pluralism.

17. In general, the right to unite also conditions the manifestation of individual skills of citizens. So, since the right to unite is not only political, but also related to social and economic activities, people or citizens also realize their individual skills within the framework of associations or public organizations created on the basis of the principle of voluntarism. The right of association also reveals the identity of interests. Thus, the right to association allows the creation of associations of people or citizens with similar interests and goals. It is unreasonable to talk about the importance of realizing the right to association in the absence of common interests and goals. In many cases, the realization of the right to association is situational. As people's interests are variable, the sectoral nature of the right to association is correspondingly variable. Nevertheless, the right to association in any case implies association with others for common interests and purposes. The content of the right to join is determined according to the nature of the field in which it is realized. So, accordingly, it can be social, political, economic, cultural.

18. All legal acts related to the framework of constitutional rights can be considered mainly on two levels or they can be classified into two categories. In the first case, legal acts are actively implemented by subjects. In the second case, it is realized by refraining from certain actions. The right of association

complements these aspects. That is, the right to association gives opportunities to be evaluated as both positive and negative. Thus, citizens have the right to create their own associations or to participate in the work of existing associations based on the motives of achieving common interests or goals, but also have the right not to do what we have mentioned. Therefore, citizens can exercise their right to association through both active and passive behavioral mechanisms. The mechanisms of realization of the right to association are manifested in the creation of public associations, participation in the work of existing public associations and consciously refusing to join public associations.

19. In any case, even in modern times, heated debates are going on about which category of rights the right to join belongs to. The complex nature of the right to association makes it difficult to categorize it as a political or social right. This point in itself prevents the full understanding of the essence of the right to association. Therefore, there are still many issues that need to be explored in the right to association.

20. The review of the regulation of the right to association at the level of international law and national legislation has made it possible to determine that it is established in the constitutions of most states at the modern stage. Also, this right refers to association in associations belonging to separate fields of activity. For example, the right to "associate in trade unions", the right to "associate in political parties" and the right to join completely different unions, etc. Such diversity often makes it difficult to fully regulate all aspects of the right to association. We believe that the provision of the right to unite separately for each field of activity significantly reduces the efficiency of the normative-legal regulation. A review of the activity experience of the non-governmental sector in most countries of the world allows us to conclude that public associations are an integral part of modern society. In general, public organizations represent an important element of civil society. Without the self-organization of various citizen initiatives, the truly efficient functioning, structuring and development of social mechanisms, and, accordingly, the whole, sustainable well-being of

human life are impossible. At the same time, the institutionalization of public associations is being observed at the legislative level within the framework of modern realities.

21. The importance of realizing the right to association has been established in numerous international legislative acts and conventions. The states that have joined these conventions have taken concrete obligations on themselves in the field of guaranteeing the right of association. In most cases, rights that enable other activities or conduct can also be viewed as rights of association. This point requires further specification of the provisions on the right to association. In addition to the issue of ensuring the right to association, the possibilities of its limitation have been expressed in both national legislation and international legal acts. This requires special conditions and justification. Thus, the right to association can be limited on the condition that it is strictly justified by the goals of ensuring security, public order, and preventing the violation of the rights of others. At the same time, as a result of our research, we were able to determine that fully functional and universal normative legal bases for limiting the right to association have not been formed. There are also no reliable mechanisms to prevent the possibility of restricting the right to association from being used to gain an advantage in the political arena. In this regard, we believe that it is important to carry out serious improvement works in this direction.

22. According to the international legislative acts ratified by the Republic of Azerbaijan, the right to unite in emergency situations can be partially or completely limited. If such restriction occurs as a result of emergency situations of a socio-political nature, then it can be considered justified according to international normative and legal acts. The most important justification should be that the right to association is limited in order to prevent violation of the fundamental rights and freedoms of others. As a rule, natural and man-made situations should not be presented as grounds for limiting the right to join. Limitation of the right to association may be considered justified if there is no other way to overcome the emergency situations that have arisen. In normal legal regulatory



regimes, the right to association can be restricted only for the purpose of ensuring the universal constitutional values expressed in the supreme law of each state. For example, one of such values is that a citizen should not violate the rights of others when exercising his rights.

23. A legal democratic state with a civil society creates suitable conditions not only for the formal creation of public associations, but also for their real activity. This is possible in cases where the perfect foundations of the activity of public organizations are formed from a legal point of view. Because, in this case, the dynamic activity of public associations is observed. The full fulfillment of the right to association by everyone also has a positive impact on the formation of elected bodies of power and the implementation of control over their activities, the development of a system of direct and opposite relations between the authorities and local associations, the implementation of local self-government, and the protection of public order. . This, in turn, creates a good basis for the realization of the main ideas expressed in the category of civil society. In particular, it should be noted that the activity of associations existing at the level of municipal institutions is important for their further development. That is, the right to unite directly determines the development of local government institutions and the formation of civil society. Also, based on its essence and operational characteristics, we can justify that the associations created as a result of the realization of the right to association can be considered as a typical form of public administration.

24. The right to association should not be considered only as the right of citizens to create public associations for the sake of common interests and goals or to join an already existing association. Also, the fact that citizens have real opportunities to refrain from these processes should be considered as the realization of the right to unite. That is, a citizen cannot be forcibly involved in this or that organization under any circumstances. Therefore, he also has the right not to participate. Both in the Republic of Azerbaijan and in most countries of the world, the legislation in the field of legal regulation of the right to association is not sufficiently

systematic. Thus, the right to unite is expressed both in the constitution and in many other legislative acts. For example, the Law of the Republic of Azerbaijan "On Trade Unions", the Law of the Republic of Azerbaijan "On Political Parties", the Law of the Republic of Azerbaijan "On Children's Rights", etc. we can give an example. Accordingly, it is possible to mention the legislative acts adopted in other countries. This can sometimes lead to certain contradictions. There is a need to create a universal basis for the realization of the right to association, which will be applied to all cases in the field of legal regulation. It would be more appropriate to regulate the creation and operation of all public associations on the basis of a single legislative act.

25. From the time of its independence to the present period, great successes have been achieved in the field of democratic legal state building in the Republic of Azerbaijan. The process of building a society, in which the founder of the modern state of Azerbaijan, the National Leader Heydar Aliyev, was treated with great sensitivity to pluralistic, democratic, human rights and freedoms from the first days of his return to the supreme political power in Azerbaijan, has gained serious dynamism. A continuous rise in civil, political and economic activity has been observed in Azerbaijani society. This process is developing with greater dynamism today. All this indicates that the civil society building process is intensively underway in Azerbaijan. The rapid expansion of the area of public associations in the Republic of Azerbaijan indicates the activation of the citizen initiative. On the one hand, this allows the application of informal mechanisms in the direction of protecting the interests of this or that social class, and on the other hand, it creates the basis for the application of more efficient methods of state regulation in the relevant direction. From this point of view, in the Republic of Azerbaijan, we can note that the increase in the activity of public associations in the conditions where the right to association is actually guaranteed indicates good prospects for building a civil society.

26. The normative-legal basis of the right to association in the Republic of Azerbaijan was created on the basis of international

legislative acts. From the first years of its independence, the Republic of Azerbaijan joined various conventions in the field of protection of human rights and freedoms and undertook certain obligations. Also, there is a constitutional guarantee of the right to association. The effective role of the right to association in the process of civil society building in the Republic of Azerbaijan is clearly observed. In this regard, the expansion of the idea of civil society inevitably strengthens the demands for the guarantee of the right to association. The practice of limiting the right to association is consistent with the relevant provisions of international conventions. Based on the results of our research, we can note that there is a need to define more precise principles and mechanisms of limiting the right to association in Azerbaijan.

27. Legislation in the field of legal regulation of the right to association in the Republic of Azerbaijan, as well as in most countries of the world, is not sufficiently systematic. Thus, the right to unite is expressed both in the constitution and in many other legislative acts. This can sometimes lead to certain contradictions. There is a need to create a universal basis for the realization of the right to association, which will be applied to all cases in the field of legal regulation. It would be more appropriate to regulate the creation and operation of all public associations on the basis of a single legislative act. We believe that the existence of a single system of classification of public associations and non-commercial organizations can have a positive effect on the development of the community in the country.

28. The development of civil society in Azerbaijan is considered one of the main priorities of the state. In this direction, regular work is being done to ensure all the standards set by international organizations. Our observations show that in the process of registration of NGOs, which are the core of civil society, in the relevant state body, sometimes undesirable situations occur. In order to fundamentally solve this issue, we suggest that the "one-stop" electronic registration system applied to the registration of commercial legal entities should also be applied to the legal registration of NGOs with certain appropriate additions and

amendments. We believe that electronic mechanisms for state registration of public associations should be developed. In this case, the relations between the founders and the state body conducting the registration will be more transparent and the procedure will be easier.

**The following scientific works were published by the author in connection with dissertation research:**

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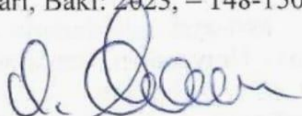
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