

Kenan Aslanli*, January 10, 2018

Civil society and the petroleum sector: “Public brainpower” in the case of Azerbaijan

What is the “Public Brainpower” Concept?

In November 2017, the new book entitled “*Public Brainpower: Civil Society and Natural Resource Management*” (initiated by Dr. Indra Overland from the Norwegian Institute of international affairs - NUPI) was published by Palgrave Macmillan. The book discusses “*how civil society, public debate, and freedom of speech influence on the management of natural resources*”. The book puts forward the theoretical and the case-based applicable framework of the “public brainpower” concept. Overland (2017: 3) explains polycentricity, or the coexistence of different actors (*individual citizens, political parties, trade unions, charities, companies, research institutes, religious institutions, mass media*), freely expressing their views, as the main pillar of “public brainpower”. The author emphasizes that “*the more polycentric a society is, the greater is its ‘brainpower’: its memory becomes more comprehensive and multifaceted, the various actors can perform quality control on each other’s ideas and arguments, and it is more difficult to repress challenging thoughts*” (Overland 2017: 3). The “**public brainpower**” concept underlines the importance of creativity and free public debate for the successful long-term governance of natural resources. Effective governance of resource revenues also necessitates open public discussion for new institutional settings as well as checks and balances on existing institutions. The book explores the case studies of 18 oil and gas-producing countries including the case of Azerbaijan, the findings and conclusions for which I will briefly introduce in this paper, together with some necessary updates.²

The potential of civil society to influence petroleum policy

In Azerbaijan, the potential of civil society to influence petroleum policy is fettered by government restrictions and the weakness of civil society itself. Active civil society is a crucial factor in tackling rent-seeking attitudes and mismanagement of revenues and expenditure. Ideally, civil society actors in Azerbaijan should mobilize society to resolve critical public challenges and to share alternative information on government policy. Civil society initiatives

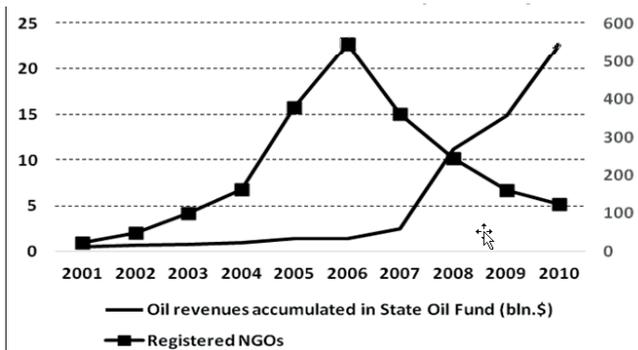
could identify whether the oil revenues said to have been distributed to citizens have in fact reached them. Given the apparent link between public finance transparency and corruption in countries rich in hydrocarbons and minerals, including Azerbaijan, a strong civil society can also serve as an anti-corruption tool. However, organizational shortcomings and government-imposed constraints have rendered civil society incapable of dealing with issues related to natural resource management in Azerbaijan. Individual members of the public are mostly excluded from policy-formulation, decision-making and opinion-shaping processes. Crucial decisions about the petroleum sector are made exclusively by officials and representatives of the government. Despite public initiatives aimed at promoting transparency and participation in the petroleum sector, there has been a growing monitoring and participation deficit in that sector. The role of civil society in Azerbaijan’s petroleum sector has been limited in terms of its contribution to public debate and the impact of that debate on policy-making and implementation. Moreover, the country has already started to isolate itself from international civil society initiatives on open government and good governance of natural resources. Azerbaijan is no longer a member of the Extractive Industries Transparency Initiative (EITI) and has “inactive status” in the Open Government Partnership.³

Oil revenues and civil society in Azerbaijan

The main symptoms of the ‘resource curse’ phenomenon can be found in Azerbaijan - including the stagnation of economic growth, deepening social stratification and autocratic governance that hampers inclusive institutional development. A primary challenge facing resource-rich and resource-dependent Azerbaijan is the finite character of natural resources in the long term and the lack of sufficient civil society monitoring of the oil and gas sector and the management of resource revenues.

Petroleum revenues dominate Azerbaijan’s national economy. Estimated total oil and gas revenues (oil profits and company tax payments) are forecast at

around USD 198 billion in net present value by 2024. The country now faces declining crude oil production, but natural gas production is rising. Despite a high average economic growth trend, Azerbaijan failed to diversify its economy between 2000 and early 2010s, when the country experienced colossal revenue flows into the national economy. In 2015, the oil sector generated 31% of GDP (compared with 52% in 2011); oil revenues accounted for 63% of the state budget and amounted to 86% of total exports.



Sources for statistics: (i) <http://www.oilfund.az> (SOFAZ annual report for 2013, page 29); (ii) Ibadoglu (2012, slide No.3)

Azerbaijan's oil revenues have increased in parallel with the weakening of civil society and other non-state actors. The chart above is a very indicative visual graph demonstrating the reverse correlation between growing oil revenues and numbers of registered NGOs in the country. A higher number of registered NGOs indicates a favorable civil society environment where civil society organizations do not see any serious political, legal or operational challenges to prevent them from functioning efficiently. The years 2006 and 2007 were a turning point for the rapid upsurge of petroleum income and a downward shift in the number of new civil society organizations in the country.

There are more than 2700 NGOs registered in Azerbaijan, with an estimated 1000 unregistered groups currently active in the country. Amendments enacted in February and November 2014 increased the penalties for local and international NGOs. Hefty fines and the requirement that local offices be registered further spurred international NGOs into leaving the country. Hundreds of civil society organizations remain unregistered because of the barriers created by the government. There is no clear evidence to confirm that the main civil society crackdowns by the administration coincided with the collapse in the oil price and oil production. Significantly, after a relatively long-lasting oil price drop

(2014-2016), the President has now emphasized the importance of structural reforms and civil control over politics by civil society.

Chronology of Stages and Latest Status of Civil Society Actors in Azerbaijan

The formation of modern, non-governmental organizations and an independent civil society sector in Azerbaijan began in the late 1980s. After gaining state independence in 1991, Azerbaijan obtained the opportunity to develop civil society in more favorable conditions. In 2000, the Law on Non-Governmental Organizations (public associations and foundations) was adopted⁴. Firstly, we should recognize civil society activists in any given country as most inspiring social mobilizers and change-makers who contribute to good governance and national development. However, generally speaking, creating an environment for civil society is constrained by the government's repressive measures and the organizational shortcomings of civil society institutions in Azerbaijan.

One of the well-known representatives of Azeri civil society, economist Dr.Gubad Ibadoglu, divided the history of civil society in Azerbaijan into three periods: (i) the establishment of civil society: 1993-2003; (ii) the development of civil society: 2003-2009; (iii) the suppressing of independent civil society institutions after 2009⁵. NGO legislation has been amended several times making retrogressive adjustments that significantly complicate the registration of grants and foreign donor organizations in 2013-2014. A decree by the President was issued to simplify the registration procedures of foreign donors and grants on the principle of the "single window" in January 2017. But in effect, no real simplification has taken place, and therefore, foreign donors have to register each grant project and transaction before any operations. Moreover, the Ministry of Finance has to approve the "economic viability" of the project after securing the official opinion of related line ministry.

It is no coincidence that during the last year (2017) almost no independent NGO grant project have been registered at the Ministry of Justice. In addition, the powers of the Ministry of Justice have been upgraded to allow the investigation of NGOs' documents under the excuse of combating terrorism. Besides legislative limitations, there are other constraints for civil society, including the arrest of activists, the confinement of NGO offices, the blocking of bank accounts, imposing fines, unjustified

taxes, travel bans or additional security checks for civil society activists at border control points and the deprivation of venues to organize project events.

The current state of civil society has a link with the prospects of open government and even local development. The government doesn't pay adequate attention to the principles of an international Open Government Partnership. Instead, the Council for State Support to Non-Governmental Organizations under the President of the Republic of Azerbaijan established a (inactive) Government-Civil Society Dialogue Platform in 2017. The aim was supposedly to promote open government with the participation of government agencies and pro-governmental NGO representatives in accordance with "National Action Plan for the Promotion of the Open Government for 2016-2018"⁶. The platform is to co-operate with the Government and Parliament on access to information, fiscal transparency and public participation issues. But this kind of new platform cannot contribute to a real improvement in the working conditions of NGOs, as the restrictive legislation has not been abolished in recent years.

Barriers to Non-state Actor Influence on Petroleum-Sector Management

Despite the Government's statement on simplifying the registration of grants and foreign donor organizations, there is no improvement in the status of independent NGOs in the country. Grants allocated by the Council for State Support to NGOs by the President do not offer any real support of local civil society, but instead represent government efforts to quash alternative opinions in the nation. International donor organizations are already reconciled to the fact that it is a real challenge to register their grants for registered and non-registered NGOs in Azerbaijan. In local pro-governmental media, the representatives of international donor agencies and independent civil society activists have been referred to as "traitors," "fifth column," and "spies of foreign powers." International organizations often claim that the Azerbaijani authorities use systematic measures to silence the opposition and the media. Finally, the government shows an unwillingness to create favorable conditions for independent civil society, media and other non-state actors.

The latest legislative amendments have made it more difficult for local and international NGOs to conduct their regular activities, including registration, raising funding from donors and completing

banking operations. These changes were accompanied by strong control measures, raids and even arrests (especially of those critical of the government). Some international organizations have characterized this as a civil society crackdown. This crackdown has also targeted civil society groups that work to promote transparency and accountability in the petroleum sector (e.g., National Budget Group and the EITI Coalition). Due to oppression by the authorities, civil society activists have opted for self-censorship, withdrawing from civil society activism altogether or leaving the country permanently. Some tax control measures and even severe criminal cases have been directed against civil society leaders and NGOs.

Considerable oil and gas revenues flow into Azerbaijan's economy, but the lack of civilian monitoring of the petroleum sector and revenue management could exacerbate the economic and governance challenges. Where there are large amounts of smooth oil money, considerable personal and institutional efforts go into trying to get a more significant share of it, so efficient management of public finance requires sufficient civilian supervision. But Azerbaijan's civil society has limited influence on government decision-making, particularly as regards public spending, oil and gas revenues and the petroleum sector. Hampered by lack of funding, some genuine NGOs are not able to address issues such as the misuse of oil money. Political parties, academia and other critical components of civil society are almost silent in Azerbaijan, for reasons both internal (*institutional capacity*) and external (*repression by the government*).

Concluding remarks and findings

The environment for civil society actors in Azerbaijan has deteriorated, making regular civil society activity almost impossible. Previously the atmosphere was relatively favorable, with little technical or political interference. The situation had already begun to worsen in 2008–2009, but the turning point came with the adoption of amendments to legislative acts and laws regulating NGOs in 2014. Azerbaijan's oil and gas revenues have been used to build a bigger government which has squeezed out the political parties, trade unions, independent media, civil society organizations and other non-state actors. The government has also displaced real non-state actors by establishing quasi-institutions like state councils to support the mass media, NGOs, trade unions and alternative political parties that are loyal to the government.

This has led to a profound power imbalance between state and non-state actors.

Azerbaijan lacks institutions and non-state actors with public watchdog functions, including civil society, independent media and political parties. Public-sector monitoring institutions that are independent of the executive, such as the Parliament, the ombudsman and Chamber of Accounts (an analysis and auditing body that oversees the state budget) are in practice powerless and do not exercise their supervisory functions adequately. The system of managing oil and gas revenues through budget mechanisms and fiscal policy processes is not entirely accountable, and the lack of an adequate external audit is often discussed in civil society circles. However, the government doesn't accept public criticism on petroleum-sector management. Money and power are concentrated among a small elite who have little to gain from being more transparent about the national budget and decision-making processes. Civil society is generally disengaged from the policy-making process; the political environment in the decade to 2017 has grown less favorable to pro-democracy groups, particularly NGOs.

There is an urgent need to recreate the appropriate environment for the local and international civil society actors. The new environment should include organizations working on accountability, transparency, and participation in the petroleum sector to operate in the country without any legal, technical, financial or political barriers. Registration and access to donor funding procedures should be simplified for NGOs and individual social activists. In addition, the arrest of civil society leaders and the widespread use of tax investigations should be stopped immediately. The contribution of civil society to the institutionalization of transparency in the country - including the oil-gas sector and revenue management - has been interrupted by the government in Azerbaijan and it needs to be restored swiftly.

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