

3 scientific journals and 1 scientific works collection are published at the Faculty, “International law and integration problems” (in English), “Azerbaijan law journal”, “Student law journal”, in addition, “Human rights and information law” scientific works collection. Moreover, 2 annual conferences are organized together with foreign and national academic institutions and their materials are published. We are planning to manage 4 new international conferences at our faculty.

As it is seen, Azerbaijan law school leaving locked up Soviet-style educational system in past, has achieved remarkable success in terms of integration and development, as well as formulated new version program and strategy for preparing national professionals. Nowadays, we can say that Baku State University Law Faculty is carrying main part of this workload in the country. It is combined with independent principles laid down in cornerstone of continuing, successful internal and external state policy, also closely linked with formation and development of advanced thinking.

References

1. Aliyev A.İ. Human rights. Textbook. Baku, 2014, 490 p.
2. Helen M. Stacy. Human Rights for the 21st Century. Stanford University Press Standford, California, 2009, 260 p.
3. Jack Dnnelly. Universal Human Rights in Theory and Practice Cornelly. University Press. Ithaca and London, 2013, 320 p.
4. Manfred Nowak. Introduction to the International Human Rights Regime. Koninklijke Brill NV, Leiden, 2002, 365 p.
5. Rene Provost. International Human rights and humanitarian law. Cambridge, Cambridge University Press, 2002, 420 p.
6. Rhona K.M. Smith. Textbook on International Human Rights. Second edition. Oxford, Oxford University Press, 2005, 404 p.
7. Shelton D. Remedies in International Human Rights Law. Oxford, 2001, 388 p.

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THE ROLE OF WHISTLE-BLOWERS IN ENSURING ACCESS TO INFORMATION

In many instances journalists and citizens may have very limited access to certain information contained in the state agencies databases. Therefore, the role of whistleblowers in the transfer of information of public importance is undeniable. In order to prevent chilling effect on whistleblowers, there is a need in legislation protecting them from prosecution or any other form of

harassment. Reviewing relevant Azerbaijani legislation, we should admit that there is no legal definition of a “whistleblower”. The term somehow similar to “whistleblower” used in our legislation is “information sources”. According to the Law of the Republic of Azerbaijan On freedom of information Documents and other data carriers covering information in order provided for in the legislation, information of mass media, information sources of open speeches shall be considered as information sources(1). Obviously, information sources do not stand for natural persons, however bearing in mind that information sources may play a significant role in determining the identity of whistleblowers, we can somehow link this provision with protection of whistleblowers. Besides, the editorial board and journalists are not allowed to disclose the source of information or any information on the identity of a whistleblower without his/her consent (2). Editor or journalist in the following cases shall be forced by the court to open their sources of information: for the protection of human life; with the purpose to prevent heavy crime; to protect the person accused or suspected in conducting heavy crime (2). Of course, this provision in national legislation is aimed at maintaining the confidentiality of journalistic sources.

The case-law of the ECtHR also highlights the principle of non-disclosure of sources. Sources may be revealed only in exceptional cases and where public and private interests are at stake (3, p.33). Having regard to the importance of the protection of journalistic sources for press freedom in a democratic society and the potentially chilling effect an order of source disclosure has on the exercise of that freedom, such a measure cannot be compatible with Article 10 (art. 10) of the Convention unless it is justified by an overriding requirement in the public interest (4, § 39). In *Guja v. Moldova* the Grand Chamber found a violation of Article 10 and said: “the Court notes that a civil servant, in the course of his work, may become aware of in-house information, including secret information, whose divulgence or publication corresponds to a strong public interest. The Court thus considers that the signalling by a civil servant or an employee in the public sector of illegal conduct or wrongdoing in the workplace should, in certain circumstances, enjoy protection. This may be called for where the employee or civil servant concerned is the only person, or part of a small category of persons, aware of what is happening at work and is thus best placed to act in the public interest by alerting the employer or the public at large. In the light of the duty of discretion referred to above, disclosure should be made in the first place to the person’s superior or other competent authority or body. It is only where this is clearly impracticable that the information could, as a last resort, be disclosed to the public. In assessing whether the restriction on freedom of expression was proportionate, therefore, the Court must take into account whether there was available to the applicant any other effective means of remedying the wrongdoing which he intended to uncover.”(5, §§ 72-73).

Regarding upholding the rights of whistleblowers, we should review legal constraints imposed by laws. For example, Law of the Republic of Azerbaijan on access to Information provides classification of information. Depending on the form of access, the information is classified as publicly accessible or with limited access (6, atr.34). Access to confidential information is limited by law. Official secret, professional (doctor, attorney, notary), commercial, investigation or judicial secrets with access limited in order to protect the lawful rights of individuals, entities, agencies, organizations and other legal entities, irrespective of the type of ownership, as well as private information are the confidential information (6). It is worth looking more closely into commercial secret among all other confidential information as the target object of most investigative journalists is corruption scandals. When considering the legislation on commercial secret, we see that some legal provisions may have chilling effect on journalists and whistleblowers. According to the amendments and additions made to the Azerbaijani Law on Commercial Secrets dated 2012, information on natural and legal persons in compliance with the requirements of this Law shall be regarded as commercial secret, except for the following:

4.1.2.- information laid down in constituent documents (except for information on founders, participants of commercial legal entities and their interest held in the share capital) (7, art.4). This means that all information laid down in constituent documents except for information on founders, participants of commercial legal entities and their interest held in the share capital is publicly accessible. Hence, conducting journalistic investigations without access to information on shareholders is virtually impossible and meaningless. Nonetheless, facts of violation of legislation and abuse of authority by state officials are not classified as confidential information (8, art.7). Here we do see contradiction in national laws. For instance, there is no legal space for journalists to investigate into the corruption facts, violation of national legislation or abuse of power by state officials and to transmit them to the criminal prosecution authorities or spread it to the general public through the mass media because collecting of a data which is commercial or bank secret, by abduction of documents, payoff or threats, as well as by other illegal way with a view of disclosure or illegal use of these data is punished by the penalty at a rate from hundred up to five hundred of nominal financial unit, or corrective works for the term up to one year, or imprisonment for the term up to two years (9, art.202). It may be concluded that the absence of a uniform legislation on protection of whistleblowers and the contradiction between legislative acts have an adverse effect on legal certainty and transparency. The abovementioned provisions entailing criminal liability of potential whistleblowers and investigative journalists for unveiling facts constituting commercial secret may have a chilling effect on them. I think it is worth drafting a uniform legislation for protection of whistleblowers.

References

1. Law of the Republic of Azerbaijan On freedom of information, art. 7.
2. Law of the Republic of Azerbaijan on Mass Media, art. 11.
3. Toby Mendel, A Guide to the Interpretation and Meaning of Article 10 of the European Convention on Human Rights p. 33.
4. Goodwin v. United Kingdom, (App. no. 17488/90), 27 March 1996, § 39.
5. Guja v. Moldova, (App. 14277/04), 12 February 2008 §§ 72-73.
6. Law of the Republic of Azerbaijan on Access to Information, art. 34.
7. Law of the Republic of Azerbaijan on Commercial Secret, art. 4.
8. Law of the Republic of Azerbaijan on State Secret, art. 7.
9. Criminal Code of Azerbaijan, art. 202.

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THEORETICAL AND LEGAL ASPECTS OF LEGAL EDUCATION IN THE REPUBLIC OF GHANA

Policy makers, politicians, and academicians all saw the need for training legal professionals who could assist in the transformation of Ghana's Legal Systems and aid in the development of Ghana. They made various inquiries into the state of Ghana's Legal Education. More importantly, they recognized the pressing need for adequate legal training. Many viewed law as a critical instrument in Ghana's development, and the training of legal professionals formed a cornerstone in the scholarship in Ghana. Thus, Ghana's Legal Education developed dramatically immediately after independence [1].

It must be noted that, the professional legal education/ training in Ghana is regulated and supervised by the General Legal Council (GLC) which was established in 1958. In performing its functions, it is amongst others laws guided by Legal Professions Acts 1958 and LI 1296. Not much of a problem in terms of accessibility was encountered during the initial stages of its establishment until after the year 2000 onwards where a number of law faculties were established in some of the universities in Ghana. Hitherto, the University of Ghana, Legon, was the only university accredited to run academic law degree leading to the award of the LLB certificate which was/is a prerequisite for admissions into the Ghana Law School to study for the professional law program after which you will be called to the Bar and be able to practice as a lawyer. In all these while, the General Legal Council had only one Professional Law School which at its initial stages of establishment was operating from the supreme court building until it moved to its present location called the "Markola Law School." This restriction meant that, the university of Ghana which was at the time, the only university mandated to train students for the