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Improving the Legislative Framework For Archival Work in Azerbaijan

Abstract

This article explores the issue of improving the legislative framework of archival work in Azerbaijan. Azerbaijan's archival system has significant historical importance and plays a vital role in preserving the country's cultural heritage. However, in the modern era, there are some legal gaps and issues that complicate the efficiency of archival work and the protection of information resources. The article includes an analysis of existing legislation on archival work in Azerbaijan, a study of international experience, and proposals for the improvement of national laws. The main objective is the implementation of new legal measures for the more transparent, effective, and modern management of archives. The article concludes with recommendations to strengthen archival legislation in Azerbaijan, apply modern technologies, and align with international standards. The implementation of these recommendations will contribute to strengthening the country's archival system and better preservation of its cultural heritage.

Keywords: Archival Work, Archival Legislation, Archival Studies, Archival Work in Azerbaijan

Azerbaycan'da Arşiv Çalışmaları İçin Yasal Çerçevenin İyileştirilmesi

Öz

Bu makale Azerbaycan'da arşiv çalışmaları için yasal çerçevenin iyileştirilmesi konusunu ele almaktadır. Azerbaycan'ın arşiv sistemi önemli bir tarihi öneme sahiptir ve ülkenin kültürel mirasının korunmasında hayati bir rol oynamaktadır. Ancak modern çağda, arşiv çalışmalarının verimliliğini ve bilgi



<https://dergipark.org.tr/tr/pub/atdd>

kaynaklarının korunmasını zorlaştıran bazı yasal boşluklar ve sorunlar bulunmaktadır. Bu makale, Azerbaycan'da arşivcilikle ilgili mevcut mevzuatın analizini, uluslararası deneyimin incelenmesini ve ulusal yasaların iyileştirilmesine yönelik önerileri içermektedir. Temel amaç, arşivlerin daha şeffaf, etkili ve modern yönetimi için yeni yasal tedbirlerin uygulanmasıdır. Makale, Azerbaycan'daki arşiv mevzuatının güçlendirilmesi, modern teknolojilerin uygulanması ve uluslararası standartlara uyum sağlanması için tavsiyelerle son bulmaktadır. Bu tavsiyelerin uygulanması, ülkenin arşiv sisteminin güçlendirilmesine ve kültürel mirasının daha iyi korunmasına katkıda bulunacaktır.

Anahtar Kelimeler: Arşivcilik, Arşiv Mevzuatı, Arşiv Çalışmaları, Azerbaycan'da Arşivcilik

Introduction

Archival work in the Republic of Azerbaijan, as an integral part of the national information space, plays a crucial role in preserving the state's memory and transmitting historical and cultural heritage to future generations (İsmayilov & Khalafova, 2022b). The significance of archives for society is increasingly recognized, as archival documents form the essential informative foundation of the state's political, economic, social, and cultural life. In the modern era, the rapid development of information technology and the processes of digitization require new approaches to archival work. There is a need to align the legislative framework concerning the management, preservation, and use of archives with the demands of modern times. Specifically, the formation of digital archives, issues of information security, copyright, privacy, and freedom of information call for new approaches in archival legislation. The Law on "Archival Work" in Azerbaijan was adopted in 1999. However, this law does not fully address modern challenges and needs improvement in several areas. While various normative legal acts, presidential decrees, and decisions by the Cabinet of Ministers regulate archival work, the formation of a comprehensive legislative framework remains a current issue. The purpose of the article is to analyze the existing legislative framework on archival work in Azerbaijan, identify problems, and present directions for improvement.

1. Objectives of the Article

- Study the formation and development stages of archival work in Azerbaijan; (İsmayilov & Khudiyeva, 2023).
- Analyze the existing legislative framework; (İsmayilov & Məhəmmədli, 2024).
- Identify problems and deficiencies; (İsmayilov, Mahammadli & Gasimli, 2023b).
- Define ways to improve the legislation on archival work (Karabalina, Maydangalieva, Satygalieva, Ahmetalina & Mahammadli, 2018).

2. Research Object The existing legislative framework on archival work in the Republic of Azerbaijan.

3. Research Subject Problems in improving the legislation and directions for its development. Modern scientific sources, legal acts of the Republic of Azerbaijan, materials from the State Archive Department, international practices, and internet resources were used in preparing the article.

4. Main part

Archival science, information, and document preservation are crucial scientific fields that are rapidly developing in the modern era. Archives, as document resources reflecting the past, history, culture, economy, and legal structures of society, preserve the memory of both the state and society. Archival science studies the theoretical and practical aspects of the collection, preservation, management, and use of these documents.

The theory of archival science has developed over various periods and has raised numerous modern issues (Ismayilov, Mahammadli & Khudiyeva, 2022). With the rapid development of digitization and information technologies, practices and approaches in this field have changed. Therefore, archival theory must consider not only traditional principles but also modern technological trends and their impact on archival management.

This article aims to analyze the contemporary problems of archival theory, particularly the emergence of digital archives, data preservation, accessibility, and ethical issues. Developing both theoretical and practical approaches to solving these issues is crucial (Ismayilov & Aliyeva, 2023). The article will also examine the challenges existing in the field of archival science in Azerbaijan and the directions for development in this area.

5. Development of Archival Science Theory

While archival science has a centuries-old history, its theory has become more complex and multifaceted in the modern era (Kazimi, Abdullayeva & Ismayilov, 2020; Kazimi, Abdullayeva & Ismayilov, 2020). Archives are not only places for storing state documents but also sources of information reflecting the legal, economic, and cultural life of society. As a result, the theory of archival science not only deals with issues of document preservation and conservation but also addresses its usage, accessibility, ethics, and technological problems.

6. Formation of Archival Science Theory

Archival theory began to develop as an independent scientific discipline in the late 19th century. At that time, the preservation and storage of archives were studied primarily from legal and practical perspectives (Kazimi & Mahammadli, 2021). However, in the 20th century, the rapid development of information technologies, including the emergence of electronic documents, led to the formation of new theoretical approaches in this field.

One of the key stages in the development of archival science theory was the establishment of the International Council on Archives (ICA) in 1948. This organization has played a pivotal role in creating international standards and conducting relevant research in the field of archival science (Kenzhebayeva, Urmurzina & Mahammadli, 2018). ICA's recommendations regulate the preservation of archives, the application of digital technologies, and the protection of documents from a theoretical standpoint.

7. Development of Digital Archival Science

The emergence of digital archives has marked a turning point in archival science theory (İsmayilov & Khalafova, 2023). The application of information technologies has enabled the storage, preservation, and sharing of documents in electronic format. Digital archival science theory studies how documents can be preserved, stored, and utilized more effectively and securely through digital tools (Kushzhanov & Dashqin, 2019b).

8. Modern Archival Science Issues

Contemporary issues in archival science theory arise from both technological and legal/ethical aspects (İsmayilov, Mahammadli & Gasimli, 2023a). The following key issues are of particular concern in response to modern challenges:

8.1. Digital Document Preservation and Protection

The preservation and protection of digital documents is one of the most important contemporary problems. With the rapid development of digitization, special technical and legal measures are required for the long-term preservation of these documents (İsmayilov, İsmayilov & Mammadova, 2019). Issues related to the security of electronic documents and their legal status are becoming increasingly relevant.

8.2. Data Accessibility and Usage

The accessibility of archives is one of the most critical problems of both contemporary times and archival science theory. The principle of information freedom requires that data be made openly and transparently accessible (Ismayilov, 2022). However, in many countries, including Azerbaijan, access to archival documents is still limited. Legal and technical barriers to the preservation and use of documents exist at both the state and individual levels.

9. Ethical Issues in Archival Use

The confidentiality of certain documents, the protection of personal data, and the safeguarding of social rights are some of the fundamental ethical principles in archival science (Kushzhanov & Dashgin, 2019a).

10. Modern Challenges to Archival Science Theory

The current era of archival science theory brings new challenges related to digital technologies and the rapid development of information systems (Kushzhanov & Mahammadli, 2019b). Among these challenges are the digitization of documents, information security, adapting archives to technological innovations, and harmonizing with international standards.

11. Creation and Management of Digital Archives

The creation of digital archives is one of the most vital tasks of modern archival science. The development of new theoretical approaches to the creation, preservation, and management of digital documents is necessary (Heydar, 2023). Ensuring the storage, encryption, and long-term accessibility of digital documents is a significant problem in modern archival work. Furthermore, modern archival management systems must be developed to ensure the accessibility of digital documents. The preservation of archival documents in electronic format and easy access to them are important steps in making archives publicly available.

12. Security and Legal Framework of Archives

The security of archival documents, particularly the preservation of digital documents, is one of the most serious problems of the modern era. Information security, the storage of archives in the digital environment, and the protection of electronic documents from unauthorized interference are of significant importance (Balginova, Maydangalieva, Satygalieva & Mahammadli, 2018). There are risks related to the loss, alteration, or destruction of electronic data. Additionally, the legal framework of archival documents, their protection, usage rules, and

confidentiality are contested areas within modern archival science theory. The right to access archives, the protection of personal data, authorship rights, and intellectual property are integral parts of modern archival legislation.

13. International Cooperation and Standardization of Archives

International archival practices are an essential part of modern archival science theory. International cooperation and the application of standards regulate the storage, preservation, and use of archival documents in different countries. International organizations, particularly the International Council on Archives (ICA) and UNESCO, have developed several recommendations and standards related to the protection and preservation of archival documents. The implementation of international standards plays a crucial role in regulating the preservation of archival documents and ensuring their accessibility. It also facilitates cooperation among archives from different countries and the exchange of documents. Azerbaijan is also working on improving its archival legislation in accordance with these standards.

Here is the translation of the text into English:

14. Future Development Directions of Archival Theory

The future development of archival theory is primarily related to the advancement of information technologies. The rapid progress of digitization and the strong influence of the internet are fundamentally changing the approach to archives and their management. These changes also require the emergence of new theoretical approaches in the preservation and use of archival documents.

15. Development of Digital Archives

In the future, the importance of digital archives will continue to increase. Digital archives will play a crucial role not only in the storage of documents but also in their accessibility and use. The preservation of archival documents in electronic format and the facilitation of access to these documents will be one of the main directions of future archival theory.

16. Preservation of Archival Documents and Ethical Issues

In the future, the preservation of archival documents, information security, and ethical issues will become even more important (Ismailov & Bayramova 2022b). Issues such as the protection of personal data, adherence to privacy principles, and ethical guidelines will require more attention in modern archival networks.

17. Development of Education and Research in Archival Science

Education and research are of great importance for the development of the field of archival science. Specialists trained in archival science should use not only traditional methods but also modern technologies. Educational programs will focus on digital archiving, information security, ethical issues, and the teaching of international standards.

18. Modern Problems of Archival Theory

Modern problems of archival theory, particularly the application of digital technologies and the preservation of archival documents, are of great importance in relation to the challenges of the modern era. Solving the challenges in this field requires the development of new theoretical approaches and the application of technological innovations. The future of archival work will be shaped by modern approaches to creating digital archives, document preservation, and international cooperation.

19. Archives as a Source of Historical Memory

Archives play a vital role in preserving the historical memory of every state. In Azerbaijan, archival work has a multi-century tradition and has undergone various stages of development throughout different historical periods. The establishment of archival work in Azerbaijan dates back to ancient times. During the Shirvanshahs period, which had a rich urban culture, as well as during the Safavid state, various documents and state-important materials were collected and preserved. However, the archival work of this period was mainly based on individual initiatives and the preservation of documents necessary for state administration. When Azerbaijan became part of the Russian Empire, changes occurred in the organization and management of archives. At this time, archives began to form as part of administrative governance. In the early 20th century, steps were taken in Azerbaijan to organize state archival work. During the Azerbaijan Democratic Republic (1918–1920), special attention was given to the organization of archival work, and efforts were made to establish state archives. However, these activities could not be fully realized due to the political situation in the country. During the Soviet period, archival work in Azerbaijan developed as a key aspect of state policy. The Azerbaijan Central State Archive was established in 1921. In the following years, various regulatory documents were adopted, and the archive network expanded. In 1958, the adoption of the "Law on Archival Work" by the USSR marked a new phase in the activity of archives. This law played a key role in regulating archival activity in the republics.

After Azerbaijan gained independence, legal regulation in archival work was restructured. In 1994, the State Archive Department was established by the Cabinet of Ministers of Azerbaijan. In 1999, the "Law on Archival Work" was adopted, which became the main regulatory and legal document for organizing, managing, preserving, and using archives in the country.

In the modern era, archival work in Azerbaijan has developed and become an integral part of the state information system (Bayramova 2024b). The management of archives, the application of modern information technologies, and the implementation of digitization processes play a crucial role in the development of this field.

20. The Legal Framework of Archival Work

The legal framework for archival work in independent Azerbaijan was established with the adoption of the "Law on Archival Work" in 1999. This law regulates the management of archives, the formation of state archival funds, and the preservation and use of archival documents.

20.1. The "Law on Archival Work" (1999)

The law defines the basic principles of archival work, the composition of the archival fund, the types of archives, the rules for storing documents within the state archival fund, the use of archival information, and the handling of confidential documents in archives.

According to the law, the state archival fund includes:

- Documents reflecting the activities of state authorities, institutions, and organizations; (Kazimi & Balayeva, 2024).
- Scientific, cultural, and historically significant materials;
- Archival materials of individuals, etc.

The law also determines the organizational structure of archival work:

- The State Archive Department of the Republic of Azerbaijan;
- Regional state archives; (Kazimi, Ismaylov & Rzayeva, 2023).
- Local archival bodies;
- Special-purpose archives.

However, it should be noted that the 1999 law does not fully address the requirements of modern information technologies and the processes of digitization (Kazimi & Agamirzaev, 2021).

20.2. Other Regulatory and Legal Acts Related to Archival Work

In addition to the "Law on Archival Work," the following legal documents also regulate archival activities:

- The "State Secret Law" of the Republic of Azerbaijan; (Irada, 2022a).
- The "Law on Access to Information" of the Republic of Azerbaijan;
- The "Law on Information Protection" of the Republic of Azerbaijan;
- The "Electronic Signature and Electronic Document Law";
- Presidential decrees and orders of the Republic of Azerbaijan;
- Decrees and orders of the Cabinet of Ministers;
- Instructions and regulatory documents from the State Archive Department.

These documents form the legal basis for archival activities. However, it is evident that there is a need for an updated regulatory framework to address modern challenges in the field of archival science.

21. State Archive Department's Activity

On September 24, 2002, by the decree of the President of Azerbaijan, the State Archive Department was reorganized as the National Archive Department of the Republic of Azerbaijan. The Department is responsible for the formation of archival funds, the preservation of documents, their digitization, and their public presentation.

21.1. Comparing National Legislation with International Standards

International archival practices, especially those of UNESCO, ICA (International Council on Archives), and ISO standards, define the main directions of archival work. The archival legislation of European countries is based on progressive practices, with a special focus on regulating digital archives.

Azerbaijan's legislation in this field has some gaps:

- The creation and management of digital archives are not fully regulated;
- Mechanisms for the long-term preservation of electronic documents are underdeveloped; (Ismayilov & Khalafova, 2022a).
- Legal mechanisms for information security and the protection of confidential documents are not aligned with modern requirements.

21.2. Improving the Legal Framework for Archival Work

In modern times, the strengthening of information security, the widespread use of digital technologies, and the development of e-governance require the formulation of new approaches in archival work. Adapting the legal framework to modern requirements is essential to ensure that archives serve as an information resource and safeguard the state's historical memory (Tofiq, Oqlu & Kazimi, 2022).

21.3. Problems with Current Legislation

Analysis of the current legal framework shows that some normative legal acts do not fully address the innovations and modern challenges in the field of archival work (Bayramova, 2024a). The main problems are:

- The legal status of digital archives is not clearly defined;
- The rules for storing and using electronic documents are incomplete;
- There is an insufficiency of technical and legal mechanisms for the long-term preservation of documents;
- Archival information systems' security issues are not reflected in the legislation; (Qasımlı & Məhəmmədli, 2024a).
- Limited access to archival documents for physical and legal persons;
- Gaps in the application of international standards in archival work; (Qasımlı & Məhəmmədli, 2024b).
- Inefficiency of dual governance and control mechanisms.

21.4. Directions for Improving the Legal Framework for Archival Work

To address these issues, it is essential to improve legislation in the following directions. The preparation and adoption of a new "Law on Archival Work." This law should address:

- The legal status of digital archives; (Nadir, & Sevda, 2022).
- The rules for storing and using electronic documents; (Oqlu, 2021).
- The technical conditions for document preservation; (Oqlu, Nadir & Tofiq, 2023).
- The mechanism for applying international standards;
- New procedures for public access to archives.

22. Preparation of regulatory acts on digital archives and information security

Against the backdrop of the expansion of the digitization process, legal mechanisms for information security in archives should be developed, and normative documents should be adopted in this regard (Muhammadli, 2023).

22.1. Determination of technical standards for the long-term storage of electronic documents

Legal mechanisms should be created based on internationally recognized ISO standards, particularly ISO 14721 (OAIS model), for the long-term preservation of electronic documents in archives (Mahamadli, 2018).

22.2. Use of archival data as an open information resource

In order to expand the right to access information, a legal framework should be created for the use of archival data over the internet, and access to archives through electronic portals and platforms should be ensured (Mahammadi, 2024).

22.3. Harmonization of normative documents with international standards

Azerbaijan's normative and legal framework for archival work should be improved based on documents and recommendations from international organizations (UNESCO, ICA, ISO, etc.). (Məhəmmədli, 2024).

Conclusion

Although the legislative framework for archival work in Azerbaijan has passed a certain stage of development, the requirements of the modern era and the rapid development of information technologies make it necessary to improve it. The existing legislation, particularly the Law of the Republic of Azerbaijan on "Archival Work" adopted in 1999, defines the main directions for the management of archives, preservation, and use of documents. However, there are gaps and shortcomings in certain areas. One of the main issues is the improper regulation of the legal status of digital archives and electronic documents, as well as the rules for their storage. All these issues, especially information security, the protection of confidential data, the long-term preservation of documents, and ensuring public access to information, are not reflected in the legislation, and this makes it necessary to improve the existing laws. A new "Law on Archival Work" should be adopted to improve the legislation on archives in Azerbaijan. This law should define the legal status of digital archives and address the storage, use, and long-term preservation of electronic documents.

At the same time, it is necessary to prepare new normative acts to ensure the security of archives, in line with international practice. Steps to align Azerbaijan's archival legislation with international standards and apply modern information technologies will significantly contribute to the development of archival work in the country and the provision of information to society. The modernization of archival work is also important for preserving the state's historical memory. The implementation of these recommendations will enable the development of Azerbaijan's archival system in accordance with international standards and provide future generations with accurate and reliable information.

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