

GENERAL ARTICLES

“Your debts are our problem” The politicization of debt in Azerbaijan

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Abstract: Unlike in other countries with debt-saddled populations, the issue of consumer debt has been weakly politicized in Azerbaijan. There have been no social movements of the kind that occurred around the financial crises in the United States, the European periphery, or even in Ukraine's post-revolution attempt at a “financial Maidan.” The lack of a public politics of debt left banks to act as predators, using a weak court system to intimidate people and obtain repayment of debts. Yet the constraints to the public sphere within which a contentious politics might unfold does not mean no such politicization exists. Using the example of Antikollektor, a successful anti-debt-collection agency in Baku, this article demonstrates the usefulness of building an understanding of civil society outside of the reductivist frames that shape recent debates over the authoritarian backlash against foreign-funded organized civil society in the former Eastern Bloc.

Keywords: authoritarianism, Azerbaijan, banking crisis, civil society, debt collection, politics of debt

Fiat iustitia, et pereat mundus

This tale begins with us waiting for a judge who doesn't show.¹ The reason for his absence was the short, energetic lawyer with salt-and-pepper stubble pacing beside me and punching a string of messages into his phone. Əkrəm Həsənov had come to the case late: the court had twice been in session to establish its details before he was engaged. But now he was here, the judge was running shy. The last court hearing had been canceled and this one set for a date that Əkrəm would have difficulty making. Yet here he was,

waiting. As four in the afternoon became six in the evening in the empty, polished corridors of the Sabunçu District Court, it became clear the judge would not be turning up at all that day.

The case was over the nonpayment of a dollar-denominated bank debt. The debtor had lost his job and absconded, so the court ordered the guarantor to repay the loan. Unable to repay it, he was found to be in contempt and threatened with imprisonment. He was now appealing this ruling and had called upon Əkrəm's Antikollektor organization to help him. İbrahim's was not an uncommon predicament. Following the oil



price crash of 2014 when the manat lost half its value against the dollar in two devaluations, many debtors struggled to service loans whose value had effectively doubled in local terms. The banks responded by doubling down on their efforts to recover these loans in the same bloody-minded spirit of a high-ranking state official who had announced publicly: “Canları çıxsın ödəsinlər!” [They’ll pay if it kills them!].²

Following the devaluations, contempt of court rulings were applied frequently to intimidate debtors and recover bank debts while circumventing the prohibition against imprisoning someone for debt in Azerbaijan.³ Əkrəm was challenging the use of this tactic. If the judge was to hold İbrahim in contempt of court, he first had to demonstrate the defendant had the means to repay the loan and was refusing to do so. At issue for the judge, though, was another question: “The judge won’t turn up because he’s in a difficult situation between two stones. Either he sets a precedent and says, ‘We can’t arrest him,’ or they arrest him and create a storm.” The choice was either to effectively declare court-sanctioned strong-arming by the banks unlawful or to have the embarrassment of Əkrəm submitting the case to the European Court of Human Rights (ECHR). In local parlance, the judge was in a position where “if he spat one way he would hit his beard and if he spat the other he would hit his moustache.” Faced with such a dilemma, he did the only thing he could: he prevaricated. To the judge’s relief, the case was eventually dismissed after the bank managed to locate the original loan holder.⁴

This was but one battle in a single-handed war that Əkrəm Həsənov has been waging against Azerbaijan’s banking system in the wake of the 2015 debt crisis. Əkrəm won some ten appeals against the imprisonment of debtors for contempt of court, effectively ruling it out as a tactic for pursuing debts. This success is surprising in a state that has cracked down heavily on organized civil society in recent years, considering it a destructive fifth column at the service of “foreign advisers and sponsors” (Mehdiyev 2008: 105).

Alongside a well-articulated ideology of national integration, based on the “strong state” as “the guarantor of the realization of the national idea in contemporary conditions” (Mehdiyev 2017: 260), Azerbaijani state elites have maintained a “spectacular mode of domination” (Grant 2014) with surplus itself enrolled to legitimize the social order. The oil price crisis of 2014–2015 fundamentally jeopardized this domination-through-surplus. The government struggled to continue financing prestige projects that had been intended to announce the country’s assumption of its proper position on the world stage: the inaugural European Games of 2015, Baku’s first Formula 1 race in 2016, and the 2017 Islamic Solidarity Games. The crisis also jeopardized government spending on social projects and hit business hard, leading to mass layoffs and an overall negative impact on poor and middle-class households. A shakedown of local businesses led to immediate capital flight and subsequent unsuccessful attempts to woo business back to the country revealed just how economically vulnerable the state was.

As a problem for all actors in the country’s financial and banking system—from the state elites who regulate and own the banks, to banking executives and loan officers, to debtors, creditors, and deposit holders—the issue of debt provides a crucial lens through which to observe the renegotiation and reshaping of ideas of the public good in Azerbaijan. It is in this context of fiscal and banking crisis in which government, banks, and households all fought for survival that Əkrəm Həsənov emerged as a public actor, seeking to provide a mechanism to resolve the contradictions between the interests of bankers and debtors. He set up an anti-debt-collection company, Antikollektor, through which he informed people what to do if banks sued them and represented cases in court. By astute positioning, Əkrəm was further able to forge an alliance between the interests both of debtors and of various groups of creditors affected by the banking system collapse.

Əkrəm’s success speaks volumes about the landscape of political action and the public

sphere such as they exist in Azerbaijan today. Baku is not a site for the kinds of agonistic public politics that have marked recent struggles over indebtedness in other peripheral contexts (e.g., Caraus 2016; Dalakoglou and Agelopoulou 2018; De Weerd and Garcia 2016; Mikuš 2017; Palomera et al. 2014). This case, then, sheds light on how politics occurs within a "fully authoritarian state" (Levitsky and Way 2010: 34). It allows us to look beyond the recent backlash against organized civil society to see how particular constituencies of interest may exist outside this framework and be enrolled in local contestations. It thus affirms the analytical usefulness of considering civil society from a Gramscian perspective. Pace nominal approaches that define it as separate from and oppositional to the state, as a discursive field, "civil society" helps produce the state as a crystallization of relations of order and hierarchy. It is the cultural and ideological counterpoint to coercive "political society." If in Gramsci's most succinct example, the medieval clergy helped frame the common sense that legitimated a feudal class order, then here we see in the politicization of debt a moment in the struggle for hegemony of an emergent class seeking to impose and stabilize a new common sense of the state against an authoritarian one.

Azerbaijan's oil and banking boom

As with other sites of "peripheral financialization" (Mikuš and Rodik 2018), Baku has seen a dramatic financialization of households, rapid extension of foreign-currency-denominated lending (with attendant currency and interest-rate risks passed onto customers), and little accompanying development of the regulatory framework to manage this. But the drivers are different. Azerbaijan's financialization has occurred as a result not of the extension of international banks into new markets but of the country's post-Soviet emergence as a petrostate and the rapid development of its national banking system to manage an enormous influx of petrodollars.

The banking sector was the key mechanism through which petrodollars were absorbed into the national economy. Some 43 banks managed the flood of money and accounted in 2012 for 93 percent of the country's financial assets (Conrad 2012: 1). Many of these were simple boutique banks such as were common in Ukraine before its 2014 debt crisis, and run as private cashboxes (*kassa*) for important oligarchs and their holdings companies. Most were tightly connected to the country's officeholders and their families. Other, less well-connected banks established retail lending business models based on deposit and loan portfolios. Most banks had an oligarch or *məmur* (state official) standing behind them, although their precise ownership was opaque and ran through the offshore trails so familiar to contemporary political economy (OCCRP 2015, 2017; for an account of this phenomenon in post-Soviet Central Asia more broadly, see Cooley and Heathershaw 2017). State authorities restricted international participation in the national market, requiring foreign financial institutions to work through local partners and limiting the stakes they could acquire in Azerbaijani banks. This reflects a political choice to protect a closed economy in which banks owned by politically exposed persons maintained substantial market share.

The opaque setup of the banking sector and its intimate connection with power are highly indicative of the imbrication of business with politics in Azerbaijan (Guliyev 2012; Safiyev 2013). It also makes eventual rationalization of the banking sector difficult, because those responsible for revoking bank licenses and so forth may find themselves treading on important people's toes. When the banking sector collapsed in 2015 and 11 banks lost their licenses during the course of a year, NBC Bank also had its license revoked and reinstated the next day with no explanation given for either the decision or its reversal. It transpired that NBC was owned by the Minister of Internal Affairs.

Bank lending began in 2003, but following reforms in 2011, the market expanded at a rapid pace as two major banks, Bank of Baku and

UniBank, started granting loans to all segments of the population. The high proportion of banks in this sector created enormous competition for customers, with interest of 15–17 percent paid on deposits and credits granted at rates of 26–40 percent interest. A former employee of one of these banks reflects: “The strategy was to give loans to everybody with an ID card, and to give successively larger amounts if they paid back the initial loan”—a sort of credit check by experiment. Beginning in 2014, Kapital Bank (owned by Pasha Holding, one of the biggest economic actors in the country) started giving loans to pensioners. Although pensioners might be considered a risky segment of the population, Kapital Bank is a state-agent bank with responsibility for administering social programs such as pensions. If necessary, the bank could secure repayment by directly accessing pension payments. By the height of the credit boom, 6.62 billion manats had been granted as consumer loans to 3.5 million recipients, almost 80 percent of the employed population (Salmanov 2014).

In a press article, journalist Hüquq Salmanov (2014) denounced the aggressive lending practices of banks, which were offering unsecured loans of anything from one hundred to ten thousand manats without proof of employment to customers who were already in debt to other banks, and promoting collectively guaranteed loans secured by up to four family members. For Salmanov, consumer lending was in some cases the only way of meeting the everyday needs of the population. Therefore, customers were being pushed into an ever deeper debt hole, with debt payments “three times higher than payments for taxes and utilities combined.” Azerbaijanis, as Salmanov saw it, were becoming “slaves of credit.”

The oil price crisis and banking bust

The oil price crisis of 2014–2015, when the price of oil dropped below \$40 per barrel, precipitated a currency crisis in Azerbaijan. Expecting a crisis similar to that of 2008, which, buoyed

by high oil prices, it had successfully weathered, the Central Bank attempted to defend the manat against other currencies. In so doing, its reserves fell from \$15 billion to \$4 billion before it was forced to concede defeat and announced the first of two currency devaluations on 21 February 2015: “Black Saturday.” Azerbaijan’s banks were terribly exposed to foreign currency (mostly dollar) loans and suffered immediately as they booked one-off translation losses of 34 percent when converting their balance sheets into manats. This was accompanied by a repayment crisis when the manat value of foreign currency loans increased as a result of the devaluation and delinquencies spiked. Banks responded by rescheduling many of these loans, but the long-term delinquency trend continued to rise. Nonperforming loans stood at 9.5 percent of total loans in 2015 and, according to an independent economist, had reached 40 percent by the beginning of 2017 (Samir Əliyev, personal communication). At the same time, panic set in, and people started converting their manat deposits into dollars to save them from further loss in real value. Almost half of manat deposits before the first devaluation had been transformed into dollars, causing the Central Bank to lose \$1.5 billion to \$2 billion in reserves in a single month. After the first devaluation, the dollarization of deposits reached 85 percent, and banks started giving credits only in dollars, so manat lending almost disappeared.

Eleven banks closed in the year following the devaluation. Standard Bank—one of the country’s biggest lenders—was put under the administration of the Central Bank and a newly established Financial Markets Supervisory Authority (FIMSA).⁵ But, as a local Facebook wit put it, Standard Bank “didn’t survive the medication” and was closed in October 2016. The International Bank of Azerbaijan (IBA), a bank of systemic importance, was also put into special measures, twice rescued from the brink of default, and filed for bankruptcy protection as it attempted to restructure \$3.3 billion worth of foreign debt. It was subsequently rescued by government increasing its stake to 80 percent,

injecting capital, and taking more than \$7.3 billion of nonperforming loans (bne IntelliNews 2018).

Following the first devaluation, there was much public speculation that, despite government claims to the contrary, the manat had not moved to a floating exchange rate and was instead still being falsely propped up (Lifitiyeva 2016). This was confirmed when a second devaluation reduced the value of the currency even further and the exchange rate climbed inexorably to almost two manats to the dollar. A black market for dollars rapidly emerged around Baku's train station, and the heads of Azer-Türk Bank and IBA (both state-owned) were dismissed for their seeming involvement in supplying it.

The overwhelming problem in the banking system was the high volume of dollar-denominated borrowing by banks, which, in the event of the devaluation, could not be met by their local assets. This issue was rather particular to Azerbaijan and did not occur in Russia or Kazakhstan, which also experienced sharp devaluations in relation to the oil price crisis. While foreign currency lending typically occurs because a borrower or lender is prepared to set the risk of fluctuations in the exchange rate against the prospect of a better interest rate in a foreign currency, there was a systemic reason for the high level of dollar-denominated lending by Azerbaijan's banks. Failures in interbank and Central Bank lending markets led banks to seek cheaper loans abroad, which they balanced with domestic loans issued in dollars. Balancing the books involved a huge amount of fraudulent practice, with banks denominating loans in dollars to unwitting clients but paying them out in manats. Immediately before the devaluation, there were reports of banks phoning up customers to change their contracts and redenominate loans in dollars.⁶

Another problem in the banking system was the high proportion of low-interest, uncollateralized lending to insiders and related parties. This was compensated for by the high rates of interest paid by ordinary citizens on their lending. This system functioned for as long as con-

sumers were able to pay down their loans. But when the payments dried up, banks could not recover this money. Some banks lobbied the state to "help citizens repay the banks" (Kerimli 2016). This was rebuffed by government, which thought banks should use their previous profits to cover their losses (Fins.az 2016).

Enter Antikollektor

Əkrəm Həsənov studied law at Baku State University and worked at the Central Bank for five years, ending his time there as head of its legal department. He then went into commercial banking, working for two years as head of the legal department at Bank of Baku (one of the biggest credit-giving banks in the country) and then as vice president of the Russian VTB Bank, which he left because of his growing awareness of malpractice and VTB was being used as a



FIGURE 1: Əkrəm Həsənov answering questions in one of several live broadcasts on Facebook (Bizim Yol 2017). This recording was viewed more than 25,000 times and received 183 comments, mostly from people explaining their situations and asking for help with their debts.

front for Federal Security Service activities in the former Soviet republics.⁷ Expressing an almost Enlightenment commitment to the public use of reason, his publication of a critical appraisal of Azerbaijani banking law in 2011 won him few friends; although he made it clear that as a lawyer at the Central Bank at the time these laws were made, he was as responsible as anyone else for the inadequacies of the republic's banking legislation. He then set up his own law firm, working in business and commercial law. He maintained contact with the banking sector, but, considering his bad relationship with the Central Bank, he worked predominantly with European banks giving loans to Azerbaijani ones.

Əkrəm kept up a running commentary on banking matters on his Facebook page. After the first devaluation, his posts achieved a measure of popularity and were picked up by local news websites. The public was hungry for information that was not being provided officially. Azerbaijan's economic system was nowhere near as strong as it was presented, and there was no public voice that would recognize this. This was compounded by serious blunders in official crisis communication, which eroded public confidence in the government: a week before the first devaluation, the Central Bank governor had declared there would be no devaluation. One of the most important questions to arise out of the devaluations was that of foreign currency lending. First was the question of its legality. Both Azerbaijan's constitution and civil code say the only legal tender in Azerbaijan is the manat. In the courts, judges interpreted this to mean borrowers should continue repaying loans at the exchange rate at which they were taken out, thus putting the costs of the devaluation upon the banks. The question reached the Constitutional Court between February and May 2015. Initially, the Constitutional Court sought a compromise position (Əkrəm wrote an advisory note on the matter). But eventually it concluded "all civil contracts denominated in foreign currencies are illegal, except for loans"

(CCAR 2015). The main argument brought in defense of this judgment was that any other solution would kill the banking system.

Facing bankruptcy themselves, banks pursued debtors mercilessly through the courts. The order of business posted at the entrance of the district court in central Baku's Nəsimi rayon consisted mostly of debt-recovery cases (see also Rəfiyeva 2016a). They also hounded citizens through debt collection agencies. One lawyer working at Antikollektor recalls: "There was a case of a person living in really poor conditions, he had a terrible apartment, and couldn't pay. And the bank had bailiffs phone clients and demand money. They told him to sell his kidney to repay the debt! Banks threatened clients, even stole their property. They once stole a car." This was Əkrəm's "Kohlhase moment" (see below), when he decided he no longer could arbitrate between the interests of bankers and the public at large but had to take a stand. Realizing banks were set on using the highly corrupted legal system to pursue their own interests as ruthlessly as possible, and understanding there was no possibility of finding compromise between them and the debt-straddled population, as he puts it, "I became a different person . . . I decided to help debtors in all possible ways, and hide any useful information from the banks."

He started a public education campaign in June 2015 to explain the legal consequences of not repaying debt, that it was illegal to imprison someone for debt, that debt collectors could not confiscate property, and "how to fight for their rights in court" (see also Rəfiyeva 2016b). He then set up Antikollektor in March 2016.⁸ This was in direct opposition to the dozens of debt collection companies that had been founded in the wake of the devaluations. He was very clever about it. He found central premises for the company, hired young graduates in law and instructed them in casework, and, through his advertising, made it look for all the world like a state agency. The reception of his office had a large sign hanging over it with the state emblem and photographs and quotes from the former



FIGURE 2: Black humor. Lined up to shoot the debtor, pilloried with a sign reading “credit debt,” is an array of banks including the two worst offenders (UniBank and Bank of Baku) and the Central Bank (here going by its former name, Milli Bank). This underlines a common sense that banks were in cahoots against the people (© Hafiz Nəsiroğlu, 2016).

and current presidents (father and son). Promotional leaflets were similarly adorned with quotes affirming the importance of the rights and dignity of citizens as the cornerstone of the republic. Antikollektor’s very slogan expressed a public service orientation: “Your debts are our problem” (*Borcunuz—problemimizdir*).

The thrust of Antikollektor’s work lay in addressing the sharkish lending and debt-recovery practices of banks and other credit providers. They won against a company that had sold a mobile telephone by hire purchase agreement illegally denominated in dollars and had pressed the customer to repay \$2,000 for a \$250 phone. Other cases involved banks misrepresenting dollar loans as manat loans. And still others involved credits that had been issued in manats

but that banks had proposed to change into dollars before the devaluation. There were cases in which banks had broken the law to claim 100 percent of a person’s salary directly from their bank accounts, rather than the legally stipulated total maximum of 50 percent over a necessary subsistence minimum. This even happened with pensions. Antikollektor also took on corporate casework, representing businesspeople who owed sums of up to \$200,000 (and in one case, \$3 million). By default, Antikollektor became the only voice to represent the interests of debtors in the public sphere: it educated debtors, sent official letters outlining clients’ situations to banks, and pursued cases through the courts. What followed was a war of position, of move and countermove, with each transforming the



FIGURE 3: Sign-in in the reception of the Antikollektor offices. The first quote, given in Azeri and Russian, is attributed to Heydər Əliyev and reads: “If the people of a country understand and can protect their rights, then even the smallest state will be as strong as the greatest country.” The second, attributed to İlham Əliyev, reads: “The human factor is the priority of our politics” (© Tristam Barrett).

overall landscape in which the conflict was being fought.

Banks first sought to use the courts to intimidate and imprison debtors. Antikollektor informed people not to be inhibited by the courts, and even advised people to use the court system, as banks didn’t have large enough legal departments to fight all cases. As noted earlier, they won several cases in which debtors had been wrongfully arrested. Banks responded by applying psychological pressure to debtors. They sent letters to neighbors, colleagues, employers, and family members to shame them and encourage families to take on debt repayments. Antikollektor responded by suing banks for “moral injury,” as banks had broken the law by sharing confidential banking information with third parties.

Əkrəm won his first case against UniBank, receiving damages of one thousand manats. This was followed by more victories. Banks responded by no longer sending letters but continued to make harassing telephone calls, which were harder to prove in court.

In May 2016, the head of NBC Bank (slogan: “Hər zaman yanınızda” [Always with you]) sent a list of problematic debtors to his friend the chief of police to have them arrested at the airport and prevented from leaving the country. Given the limited public sphere, this went unreported in the press, and Əkrəm discovered it only in August, when a man going on vacation with his family was detained by the police and contacted him. Əkrəm publicized the affair. The head of NBC phoned him, denied this

was occurring, and told him to phone him if it happened again. Sure enough, in October, an indebted businessman was stopped at the airport and arrested. By publicizing the affair and embarrassing the head of the bank and police, Əkrəm was able to stop this tactic. As this indicates, shame was an important tool in this war of positions: banks shamed debtors in front of their employers, neighbors, and families; Əkrəm named and shamed "corrupt" judges and publicized the wrongful arrests of debtors, threatening to embarrass NBC and the police. In another incident, the then head of FIMSA attempted to sue Əkrəm for corruption, and Əkrəm responded by embarrassing him publicly, forcing a climbdown.

In 2015, the country's bankruptcy legislation was amended to establish that natural persons could declare bankruptcy. Notwithstanding, the only legal instruments available were for the bankruptcy of businesses and legal persons. In April 2016, another amendment to the law further outlined the possibility of individuals filing for bankruptcy. Taking this as a cue to put the law into practice, Əkrəm prepared and published a bankruptcy filing form and set about filing two bankruptcy claims in the courts. The first judge returned the filing, writing that they needed to inform the creditor first. Əkrəm returned it to her with a note saying this could be done only after the court had accepted the filing. In the second case, the court declared the filing to be outside its competence and referred it to the Economic Court. Əkrəm received a letter from this court also claiming it could not take the case, but according to Azerbaijani law, if a case is referred to a second court, then the receiving court is obliged to hear the case. These cases are still pending, and Əkrəm suspects they will eventually be settled in the Constitutional Court.

All this led to an eventual softening of the attitudes of banks to debtors. After receiving an official letter from Antikollektor detailing the situation of a client, banks would treat customers more respectfully and agree to compromises such as changing the currency of the debt at a

discounted rate. These concessions were not required by law but were nevertheless prudent. One lawyer working at Antikollektor says: "After a year [of Antikollektor's activities], banks now agree to recover just 30 to 40 percent of loans and forgive the rest because the situation after court is really bad for banks. Most debtors are middle level or below middle level, earning 250 to 300 manat per month. They wouldn't be able to repay." As word got out about how to handle debt, courts were forced to arbitrate cases according to the letter and spirit of the law, banks increasingly sought compromises with debtors, and the government began to change the legal environment around debt and debt collection, the flow of clients to Antikollektor reduced to a trickle, and its staff reduced accordingly. Əkrəm's interests also changed. Instead of defending debtors against banks, he saw an opportunity to take his peasant's revolt even further.

Bank Standard

On 1 October 2016, the second-largest bank in Azerbaijan collapsed. The Deposit Insurance Fund, which was to perform the role of liquidator, received 460 million manats (\$288 million) in state credits from the Central Bank and returned this money to insured deposit holders. The 603 million manats (\$376 million) of outstanding uninsured deposits were left uncompensated. The head of FIMSA justified this position by claiming uninsured deposits were the fault of individuals who knowingly entered into unlikely get-rich-quick schemes such as child savings accounts with 20 percent annual interest and would therefore not be returned. Through Əkrəm's casework, he saw a double game was being played. While banks had gone to extraordinary lengths to recover debts through the courts, the outstanding creditors of the 11 closed banks were getting no support whatsoever. "My position was quite tough," he recalls, "because if a citizen doesn't repay they force him in all possible ways, but now we can see that they don't really do anything in the opposite

situation.” Notwithstanding, and perhaps representing a growing confidence among the population, some people had found their own solutions: a woman who had lost 160,000 manats in the Bank Standard collapse was pursued by Bank of Baku for a debt of 10,000 manats. She told them to recover the debt from Bank Standard.

In April 2017, it was announced that a commission of creditors would be opened for Bank Standard. This was the first such commission in Azerbaijan’s banking history. Əkrəm wrote to ask them to convene a general meeting, but with 140,000 outstanding creditors, this would have proven complicated. Instead, the commission opened with 15 members and no clear explanation given for these appointments. These members were representatives of the biggest officeholder-connected companies in Azerbaijan, which had also lost significant assets as a result of Bank Standard’s closure (Oxu.az 2017). Əkrəm wrote to the commission and FIMSA to inform them of his intention to attend the meeting. He stormed the meeting with 15 of his own private creditors and a few journalists in tow, announcing he would like them to participate and that if they were not admitted, then it must be assumed there were underhand dealings going on. After a dispute with the head of the Deposit Insurance Fund, chairing the meeting, who insisted the commission was not acting in bad faith, Əkrəm and his party of creditors were allowed to join the commission. Not only that, but Əkrəm was unanimously elected as chair of the board. “It’s funny,” he remarks, “I only wanted to be a member of commission; I didn’t expect to become the chairman.”

Since April 2017, Əkrəm has held six meetings of the commission and has used Facebook and news media to keep the public informed of its progress. This involved obtaining a full account of the assets and liabilities of the bank, revealing the extent of related-party lending that had occurred, reclaiming moneys that had been unlawfully disbursed as compensation to big players, and preparing cases against the auditor and the Central Bank for mismanagement leading to the collapse of Bank Standard.¹⁰

Discussion: The Michael Kohlhaas of the Caucasus?

Heinrich von Kleist’s 1810 novella *Michael Kohlhaas* recounts the historical tale of a merchant, Hans Kohlhaase, who, while taking his horses to the fair at Leipzig in 1532, is set upon by servants of a local nobleman and has two of his horses taken as surety for a newly imposed toll. On his return to pay the toll, Kohlhaase finds his horses in terrible condition and seeks legal redress for these damages. It is a story told at the moment of the birth of the early modern state, and poignantly dramatizes the struggle to assert the rule of law over a prevailing system of political influence, patronage and kinship connections. Described by philosopher Ernst Bloch as “the Don Quixote of rigorous bourgeois morality” (1961: 93–96), Kohlhaase’s commitment to the law led him into a peasant revolt and ultimately to his being broken at the wheel in 1540. The tale of Əkrəm Həsənov, though less dramatic, exemplifies a similar moment in the refiguring of the state in Azerbaijan. His battle to reform a closed and unrepresentative court system based on informal ties and bribery, and his insistence on using every instrument of the law at his disposal to oppose the personalized interests of bankers and produce a state of law, sheds light on the nature of both state and civil society in Azerbaijan, as the emergent products of dynamic contradictions between the interests of various stakeholders.

There is a remarkably weak interface between citizens and the state in Azerbaijan, with few of the mechanisms of compromise and negotiation that have been found in other polities marked by authoritarian rule. The “bargained authoritarianism” (Lee and Zhang 2013) of the Chinese state, for instance, entails a much stronger and responsive interface with its citizenry. The present situation certainly has roots in the closed *nomenklatura* elite of the Soviet period, during which time Azerbaijan was described as a “stolen republic” (Zemtsov 1976), and has been magnified in the subsequent post-socialist transformation, where rule by “absentee land-

lords" (Bauman 1998: 9–26) has produced a popular sense of abandonment by the state (Barrett 2014). Civil society organizations promoted by the Western development consensus during the post-socialist "transition" have had little traction with state structures or influence on society more broadly. Indeed, they have rather acted as a focus point for a disaffected, English-speaking, and outward-looking young intelligentsia (Sampson 1996) and have been increasingly cracked down on by a government seeking to insulate itself from the liberalizing effects of globalization. In 2017, Transparency International (2017) announced the near cessation of its legal representation activities in the republic with the following statement: "The blanket ban on foreign grants has brought the country's civil society to a halt and has dealt a devastating blow to civic initiatives across the board."

This fits a broader assault on civil society that is occurring in authoritarian states around the world (Diamond et al. 2016). Yet, to measure the health of civil society nominally—by the promotion or repression of nongovernmental organizations—is to ignore the emergence and manifestation within authoritarian political systems of mechanisms of negotiation, deliberation, and, ultimately, compromise. A more relational approach, such as that adopted by Gramscian theory, would see civil society as not outside but as part and parcel of an ever-emergent state form. As an instrument of hegemony, civil society is the cultural counterpoint to coercive political society, and the two together produce the state (Bobbio 1979; Gramsci 1971). In this figuration, the state may also be seen not as the sum of its institutions—the bureaucracy, legislature, and so forth—but as the crystallization of a set of relations through which hierarchy and order is produced in society (see also Jessop 2007). This relational approach to the state also permits theoretical consideration of the oligarchical state as imbricating both political office holders and the economic elites to whom they are tightly connected (if not identical). In accordance with local understandings, the banking apparatus and its owners can thus be seen as

very much part of the state rather than separate from it, and the agonistic politics taking place in the courts then becomes a question not merely of adjudicating over a banking crisis but of producing a particular state form.

As an arena of discussion and thus discourse, civil society stabilizes the hegemony of the state while allowing its purposes to become subject to challenge and refiguration in the interests of different social actors. This is an important insight. In his civic and legal actions, Əkrəm Həsənov does not represent a resistance to but rather participates in the production of a particular state form. Through the issue of debt, a topic around which the interests of many different actors coalesce, and through the public use of his reason, Əkrəm is part of a process by which an emerging urban middle class seeks to draw the state apparatus away from oligarchic interests and reshape it to rather classic bourgeois ends: by instating the rule of law as the basis for economic development. This is a project voiced by other members of Azerbaijan's economic public sphere, including within government and by various independent economists and their associated think tanks. In the words of one academic friend, such figures form the "shadow cabinet" of Azerbaijan.¹¹

As a former Central Banker and a businessman with a stake in the system, Əkrəm may be exceptional. But the way his case unfolded demonstrates that he need not be. In this situation of crisis, where debt has become a problem for everyone—from banking and state elites to customers, deposit holders, debtors, and creditors—the core power holders were clearly interested in allowing a competent and "responsible" actor from within the system to expand the space of law away from the prevailing oil-driven relations of continued vertical dependency and corruption. This lone actor, however, has been able to enroll popular support in a context of declining state legitimacy resulting from the fiscal and banking crisis and, in so doing, has expanded the space for civil claims-making and the establishment of binding and codified law, applicable to everyone.

In an essay broadening the concept of civil society beyond the democracy-promotion models common in the 1990s transitions from communism, Chris Hann notes that all societies have “some space for maneuver between the personal and the public. They, too, have specific practices and normative codes through which people are made accountable and responsible to other members of society” (1996: 18–19). The success of Antikollektor points to the nature of the actually existing public sphere in Azerbaijan, not as “an overriding antagonism between state and society” (8) but as a space where affairs of common interest in relation to the government of social life are aired, or as Əkrəm puts it, “a mechanism of compromise.” An unanticipated form of civil society, then, may be taking root in Azerbaijan. Əkrəm gets this implicitly: “It’s interesting for me, because this episode with Bank Standard is one of first signs of civil society. When you say ‘civil society,’ people in Azerbaijan usually think about political projects, but that’s not real civil society; what *we* do is.”

In January 2018, a change in the law came into effect so that only registered lawyers, of which there are nine hundred in Azerbaijan, can represent parties in courts. This means Əkrəm cannot delegate casework to his staff but must represent clients himself. At the same time, it also means debt collection agencies have had to suspend their own activities for lack of lawyers; and because of Əkrəm’s early successes prosecuting banks for violating client confidentiality, banks are no longer allowed to pass information onto debt collectors.¹² In this sense, Antikollektor achieved its primary aim: it destroyed the *kollektors*. And Əkrəm Həsənov, by acting *as if* the law works as it should, and holding others to behave *as if* it does, is part of a broader struggle to produce a new state form in Azerbaijan.

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Notes

1. The Latin phrase means “Let justice be done, though the world perish” and is quoted on the cover photo of Əkrəm Həsənov’s Facebook profile.
2. All translations are my own unless otherwise indicated.
3. The relevant provision is stated in Article 1 of Protocol no. 4 of the European Convention on Human Rights, to which Azerbaijan is a signatory, and incorporated into Azerbaijani law as Article 4.6 of Constitutional Law no. 404-IKQ, 24 December 2002, “On Regulation of the Exercise of Human Rights and Freedoms in the Republic of Azerbaijan.” The provision under which debtors were arrested is Article 528.1 of the Code of Administrative Offenses (İnzibati Xətalar Məcəlləsi) on “failure to comply with the legal request of a bailiff concerning the enforcement of judicial decisions” without a valid reason.
4. Əkrəm Həsənov did ultimately bring three complaints to the ECHR, and the court began communication on these cases in September 2017 (ECHR 2017).
5. Widely seen as a reprimand to the Central Bank for its incompetence in handling the oil price crisis, the establishment of FIMSA is indicative

- of reformist struggles within the government. The strength of the reformist wing was reflected in cabinet reshuffles in April 2018, as well as the wide expansion of the highly successful one-window "ASAN Xidmət" (Easy Service) document service, which significantly reduced opportunities for petty corruption.
6. Banks seeking to balance their books started changing the currency of loan contracts as early as October 2014. Promotional campaigns offered to reduce debts by consolidating loans and letting clients pay in a single dollar-denominated contract.
 7. It is noteworthy that VTB was subsequently implicated in the Paradise Papers, as the instrument through which Russian state funds were transmitted to Twitter and Facebook (Houlder 2017) and is now subject to US sanctions.
 8. The Antikollektor was very much a not-for-profit project, motivated by Əkrəm's perception that there was nobody to advocate against the predatory behavior of the banks, and treated as an intellectual-cum-practical experiment to see what could be done. He invested his own capital into the company and did not charge for consultations and actions taken out of court (although his staff felt even a nominal fee would have made clients more appreciative of the service they were offering). He did charge a small fee, depending on the status of the client, for cases that went to court, and for bigger executives who used his services.
 9. I discuss the sociology of debtors elsewhere (Barrett, forthcoming). Although Antikollektor's clients were by definition those with problematic debts, findings from a household survey (n = 300) conducted in September 2017 confirm poorer households tended to be more indebted, subject to higher interest rates, and far more exposed to dollar-denominated lending than were rich households. Contrary to local narratives of irresponsibility, debts were most frequently incurred to meet the costs of everyday household reproduction or misfortune, such as for medication or hospital expenses.
 10. The liquidation commission found 60 percent of Standard Bank's loan portfolio consisted of uncollateralized lending to regime insiders. A post-collapse audit of the bank's assets by KPMG showed 90 percent of the portfolio consisted in bad loans. This is ironic, because KPMG was in charge of audit before the bank's collapse and should have identified these irregularities (Əkrəm Həsənov, interview, October 2018).
 11. Although not directly oppositional to the state, the "constructive opposition" is not immune to harassment. Authorities have not permitted physical meetings of the Republican Alternative Party (its opening congress was held online), several members have spent periods in prison, and its leader remains imprisoned.
 12. Furthermore, following popular unrest in January 2019, a compromise was found over the issue of foreign-currency-denominated loans. The president signed a decree providing for the equitable conversion into manats of loans less than \$10,000, the restructuring of overdue loans at preferential rates (1 percent per annum), and the according discontinuance of related court cases (PAR 2019). These provisions have yet to be implemented.

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