

“Gun crime: post-Soviet”

A presentation made by Dr. Kamran Aliyev - Director of the Anti-corruption Department under the Prosecutor General of the Republic of Azerbaijan. The Hague, 2012. The 12th European Regional Conference of the IAP.

Dear colleagues,
Dear prosecutors,

The conference theme is a very interesting one and quite controversial theoretically, as well as from a practical point of view. There are many legal and even philosophical issues and definitions (people's safety and security; the role, functions and responsibilities of government bodies as well as those of citizens and so on) related to the topic, which are construed differently in various legal systems around the world. So I believe we should examine some of the issues in order to understand better the gist of the problem and to resolve some practical questions. During this presentation I will focus on the issues mainly using the experience of two post-Soviet countries: the Russian Federation and Azerbaijan over the last two decades.

1. Who is responsible for the safety and security of citizens?

During the Soviet regime providing for the security of its citizens was considered one of the main functions and duties of government, in particular its law-enforcement bodies. This was enshrined in the constitution and other laws. That was the principal philosophy of the legal system during the Soviet period. And we must recognise that almost everyone was content with this approach while their security was more or less guaranteed. At the same time citizens could, or had to, contribute to ensuring their own security and public order by taking part in different voluntary raids and surveys organized and controlled by law-enforcement bodies. In reality this was obligatory for people, in particular for certain groups of people, namely for students, pensioners and so on. Such participation was, as a rule, very formal and, of course, not effective.

During so-called ‘perestroika’ the crime situation in the country was deteriorating. There were many political, economic, social and other reasons for that, but today I would like to underline just one of them – the inability of the government and its law enforcement bodies to provide for the security and safety of citizens. As a

result, the number of violent crimes was rising, people's confidence in the capacities of the law enforcement agencies was falling, and more and more people were becoming dissatisfied with the situation.

So, in 1992 we did research in different regions of the former Soviet Union, mainly in Russia and Azerbaijan. The main aim of the research was to study trends in crime, the role of the law enforcement bodies, and the opportunities and abilities existing for people to help the law enforcement bodies to fight violent crime more effectively.

Our research demonstrated that the number of violent crimes was rising and the crimes were becoming more dangerous and severe. Thus, in 1992, 83% of the people interviewed claimed that the law enforcement agencies were not able to protect citizens against violent crime. In 1993 the number of dissatisfied respondents was even higher – 89%.

The interviews conducted with law-enforcement officials (police office, prosecution service, ministry of justice and so on) produced almost the same results. In 1992, 93% of the law-enforcement officials interviewed replied that the law enforcement agencies did not provide people with effective security. This meant that they evaluated their own activity negatively. In 1993, the number of law-enforcement officials dissatisfied with their own work was 95%.

As a result, many people were afraid of being victims of criminal attacks, the people were not confident of their own safety and security. Such views usually prevailed among members of different vulnerable groups of people, such as women, children, pensioners etc.

In 1992, 80% of women interviewed said that they were afraid of being victims of criminal attacks; 35% of them said that this was because of police not being on the streets, 30% explained this by the absence of lighting on streets and in other public places, 25% explained their view by the presence of many drunken people and so on.

A special survey was also carried out among victims of violent crimes. Only 15% of people who applied to the law-enforcement agencies said that they had been satisfied with the response. The other 85% of the people interviewed had not been satisfied with the law enforcement agencies' response. This meant that a huge number of people did not trust the law-enforcement bodies.

Such views had other negative consequences. 75% of people who had been eye-witnesses of criminal attacks had not intervened in the situation and had not helped the victims because they were not confident that in the event of having problems with the criminals in the future they could rely on the police.

2. What should and can citizens do if state bodies are not able to provide for their security and people are not satisfied with the government's work in fighting violent crime?

The worsening crime situation in the country made people and law-enforcement bodies look for new, more effective ways and methods to provide safety for citizens. In these circumstances more and more people tended to think that one of the best methods for improving the situation could be people's direct participation in providing security. 83% of the people interviewed said that citizens should take part in providing for their own security and public order. 95% of the law-enforcement officials interviewed shared that opinion. This meant that the law-enforcement officials realized their own inability to influence a crime situation deteriorating day by day and therefore they needed the assistance of citizens in this area.

There was another incentive for people's active participation in fighting crime, in particular violent criminal attacks. It accorded with international agreements that such involvement is considered part of citizens' political and social rights, rights which had been limited during the Soviet period and therefore needed to be widened due to the political situation in the former Soviet Republics. In other words, even if the law enforcement agencies manage to fight crime, we can't deny citizens' right to defend themselves and their families from criminal attack.

3. If people can and must take part in providing for their own security, by what means and methods should they do so?

For the law-enforcement bodies which accepted that people should be involved in fighting violent crime, the main question was how to do it, how to use their abilities more effectively. Even during the Soviet period people had to be active in combating crime, in particular violent criminal attacks. The research showed that in any average district there had been about 20 different forms and methods of people's participation in fighting crime. Unfortunately, most of them were quite formal and ineffective.

This situation came about in the following circumstances:

- According to the law such participation, its forms and methods were voluntary for citizens, but in reality it was obligatory for them and for the law-enforcement agencies as well;
- Only the interests of government and its agencies had been taken into account in the process of cooperation between law-enforcement bodies and citizens. The interests of the citizens had been ignored. For instance, people had to take part with the police in night raids on the streets where they worked, but they were more interested in cooperation on the streets where they lived, for their families' and relatives' security;
- Different forms and methods of involving people in fighting street crime had not changed or improved with changing circumstances.

Consequently, more than 50% of the citizens and law-enforcement officials

interviewed said that the government needed to find new forms and methods of involving people in fighting violent crime and providing security.

4. Active and passive means and methods of people's participation in fighting violent crime. Citizens' use of guns and other weapons?

In the new circumstances, all law-enforcement officials and citizens agreed that people should take an active role in their protection against violent criminal attacks, not only collectively, but also individually. This meant that various groups of vulnerable people needed to be taught different forms and methods of self-defence against violent crime, including street attacks. The forms of self-defence would depend on the circumstances, which could be divided into general, pre-crime and crime situations.

- A general situation means that all people, in particular members of vulnerable groups (the elderly, women, children, taxi drivers etc.) should be informed by appropriate law-enforcement officials about the crime situation in general, about their rights, duties and responsibilities, in order to avoid pre-crime and crime situations. They should also be informed where and how to apply in the event of real danger of a pre-crime or crime situation. In such situations, potential victims need to use passive methods in order to avoid difficulties.

- A pre-crime situation is when a person is in real danger of being a victim of criminal attack. To rephrase the idea, people face the likelihood of being victims. In such situations people need to use both passive and active methods to escape the situation and not allow it to deteriorate. Perhaps by using such means potential victims may leave the situation without damage or serious problem.

- A crime situation is when a person has already become a victim. He has suffered a violent attack and needs to leave the situation with minimum damage or not allow the situation to become more dangerous. The victim can escape the worst consequences and results of attack. In such situations victims, as a rule, need to use active methods of self-defence in order to minimize the negative outcome of the crime. Active methods could involve the use of different items: bags, knives, sprays and so on. Whether victims should use guns or other lethal weapons for self-defence in crime situations is a more problematic question.

5. The negative and positive consequences of citizens' use of guns and other kinds of weapon. The USA experience.

For a country where guns and knives had been banned from use in self-defence, the change was difficult to accept for some time. There was a psychological barrier to overcome.

Politicians, lawmakers, law enforcement officials and ordinary people who

believed that people should have the opportunity to obtain, keep and use guns in case of emergency, usually substantiated their position by citing the experience of the United States and some European Countries. In the USA and some European countries people were allowed to obtain and keep guns for self-defence. They would repeat that it is not the gun that kills people, but people kill each other. Accepting citizens' right to have a gun, in their opinion, should be incorporated into a special law.

A group of experts who were against keeping guns for self-defence would also point to the experience of the USA where, from their point of view, the level of violent crime was quite high and the crime situation was not so satisfactory. They thought that the presence of guns in people's hands was the main problem for law-enforcement officials, an additional source of tension in society.

While politicians, lawmakers, criminologists and law-enforcement officials were arguing, people began to obtain different kinds of guns in order to protect themselves and their families against criminal attack. This was happening in different Soviet Republics which had very difficult crime situations. What is more the situation was worsening day by day. There were various causes, including political, national, religious, economic, social and other circumstances. Simultaneously, some legislative authorities began to adopt new laws legalizing people's possession of guns. They did this under political pressure from some local political and economic groups. As a result, in the nineties in many republics of the former Soviet Union people had different kinds of guns. The people, as well as government officials, were happy because law-abiding people could defend themselves and their families against criminal groups and gangs.

6. But what happened in reality? Did it solve the problem of rising violent crime?

Unfortunately, the answer is much worse than negative. Instead of solving the problem, the new laws made it worse, making life more dangerous.

Therefore, at the end of the nineties and the beginning of 2000, governments in the former Soviet Republics started to reconsider and change their policy on fighting crime, including gun crime and other criminal attacks. They strengthened the role of state, in particular the law-enforcement bodies, simultaneously limiting citizens' right to hold guns. First of all, this policy was accompanied by the confiscation of illegally obtained and possessed guns and other kinds of weapons. The legal grounds for obtaining guns were also restricted. Gradually the law-enforcement bodies began to re-establish control over crime. As a result, the crime situation in post Soviet countries improved, people were more confident of their security.

As an example, we can look at the relevant statistics in Azerbaijan and other countries to understand better what happened in the crime situation over that period of time:

Republic of Azerbaijan

	1990- 15411 ----				1995- 19958-85.9% Total crimes - cleared				2000 13958-91.5% Total crimes - cleared				2005 18049 – 92.8% Total crimes - cleared				2010 23010 – 86.4% Total crimes - cleared			
	Registered	Cleared %	Sent to court		Registered	Cleared %	Sent to court		Registered	Cleared %	Sent to court		Registered	Cleared %	Sent to court		Registered	Cleared %	Sent to court	
			cases	Persons			cases	Persons			cases	Persons			cases	Persons			cases	Persons
Murder	482		263	310	604	84.8	450	569	325		284	383	288	93	271	306	276	95.4	247	291
Robbery	255		92	159	453	68.9	192	338	200		91	175	165	72.1	93	165	172	77.2	79	128
Hooliganism	715		215	308	977	97.6	595	745	1148		796	1004	1358	97.8	1141	1488	1261	91.1	1014	1420
Rape	65		53	72	70	98.6	56	56	46		64	84	44	97.7	157	187	16	94.7	134	144

Russian Federation

	1990		2005 3,554,738 – 47.8% Total crimes - cleared		2010 2,628,799 – 54.4% Total crimes - cleared	
	Registered	Cleared %	Registered	Cleared %	Registered	Cleared %
Murder	15,556	52.6	30,849	82.3	15,563	84.9
Hooliganism	17,086		30,041	37.7	7,219	40.7
Rape	15,009	48.5	9,222	80.7	4,907	90.3

7. Is the problem solved or not? A new challenge.

Unfortunately, we still have some problems in this field to be resolved in the future. There have been some dangerous criminal attacks in the post-Soviet countries in recent years which bring us to this opinion. One of them was committed in 2009 at the Oil Academy in the capital of Azerbaijan - Baku.

A criminal case was opened and the investigation carried out by the General Prosecution service with the Ministry of National Security and the Ministry of Internal Affairs proved that it was a terrorist act. But today I will share with you only information related to the mechanism of the crime and the personality of the criminal.

Description of the crime:

On 30 April 2009 there was a serious attack on one of the buildings of the Oil Academy located in the centre of the city of Baku. 22 year old Farda Qadirov, armed with a Makarov pistol approached the Academy at 9:30 a.m. without being checked, entered the lobby and started to shoot at everyone in the building. He was shouting, spreading panic among the people and frightening them. He climbed the stairs to the second and third floors, killing people as he went. This continued for 14 minutes and when the police arrived Qadirov committed suicide, shooting himself in the throat. In that 14 minutes, 11 students, teachers and other visitors had been killed. Another 15 people had been injured very seriously.

The person who committed the crime:

The person, who carried out the criminal attack, Farda Qadirov, was born in 1987 in Georgia, a citizen of the Republic of Georgia but ethnically Azerbaijani. He was chosen and recruited to organise an attack on people in Baku. The main purpose of the attack was to kill a lot of people in a central area of the city in order to frighten people, to spread panic, to make the population feel vulnerable and unprotected, to raise tension among citizens and to achieve other political goals.

Why was Farda Qadirov chosen and recruited for the crime?

He was uneducated, single, isolated, psychologically unstable, brutalised, dissatisfied with his personal life, demotivated, had serious problems with his parents and other relatives, was physically quite strong and sporty, he knew how to use guns and other weapons and could act very quickly.

How did he plan to commit the crime?

He was recruited by secret services in November 2008 and from then on he visited Baku several times, where he had some relatives and acquaintances. He rented an apartment. In Baku he sought out public places where many people gathered. After

studying some locations he decided to attack students and teachers in the main building of the Oil Academy. He chose that building because of its location in a central area of the city. He had also taken into consideration the fact that there would always be a lot of people, including overseas students. The absence of security services and check points were also among the circumstances which determined him to attack people there.

Farda Qadirov obtained the pistol in the capital city of Georgia – Tbilisi, where anyone can obtain some kinds of gun by just submitting a list of documents. So he bought the gun and 200 bullets in Georgia, paying about 200 euro. The gun and bullets had been smuggled to Baku in March 2009, about 40 days before the planned attack. So he brought the pistol and bullets to Baku and kept them illegally, because it is not allowed to obtain and keep any kind of gun on the territory of the Republic of Azerbaijan, except for hunting guns.

How was the crime committed?

The attack was committed at 9:30 a.m. on Thursday 30 April 2009. He arrived at the Oil Academy in a taxi, entered the lobby with the pistol and 100 bullets under his coat. Meeting no obstacle he started to shoot at everyone he met on the first floor and continued his attack, moving to the second and then the third floors. When the police, who were called by one of the students, arrived 14 minutes after the beginning of the attack, he committed suicide. In 14 minutes Qadirov fired 31 shots, killing 11 people and attempting to kill another 15 who were seriously injured.

Shortcomings and flaws in the work of different agencies, as established during the investigation:

- the very simple and easy process of obtaining a gun in a neighbouring country - Georgia;
- the absence of effective customs control at the Georgia-Azerbaijan state border;
- the absence of police control over migrants living in Baku without registration (Qadirov had a Georgian passport and so he needed special permission from the police and migration service to stay and live in Baku);
- the absence of any security service or checkpoint at the Oil Academy, and not only there;
- the late arrival of the police and incapacity of students to defend themselves.

The main lesson we learned from this crime is that our citizens were helpless and defenceless against the criminal. He could kill young students while he had the opportunity and bullets. This is very disturbing.

Since the crime the government and University officials have taken serious measures in order to provide for the safety of students and teachers by establishing

and strengthening their own security agencies. But we should not forget that such attacks can take place not only at universities and other premises, people can become victims even on the streets, squares and other public places. Therefore we need to consider how to enable our citizens to be more active in providing for their own security, to be more aware and better protected.

To summarise the presentation I would like to underline that the situation in a 'gun-free' independent Azerbaijan is better than it was under the 'armed citizens' period in the USSR – as statistics show. But events like the Oil Academy shooting can still occur, it may be significant that the weapon used was imported from a country with easier access to guns.

In the end it is not possible to ensure 100% security, but the question of how best to protect citizens still needs to be considered and balanced against citizens' freedoms.

Thank you very much for your attention!