Middle-East Journal of Scientific Research 14 (4): 516-524, 2013

ISSN 1990-9233

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DOI: 10.5829/idosi.mejsr.2013.14.4.2119

State and Civil Society Institutes Interaction in the Republic of Kazakhstan

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Abstract: This paper is to investigate the problems of interaction between the state of the Republic of Kazakhstan and two most important institutions of civil society-the mass media and local government. The author's interest in this subject is stipulated by the fact that the development of relations between the state and civil society, in particular, free and democratic mass media, as well as a sovereign, free-elected by local authorities, occurs in conditions of reformations of the entire system of the government of the country, search for more successful forms of interaction between government and society taking into account the peculiarities of national and international experience of formation of democratic life values based on developed civil society and legal government. The author conducted research of each of the institutions individually, international experience of governmental regulation of the mass media and local government. It is stated that the participation of civil society in the implementation of governmental regulation functions to the State occurs mostly through these institutions. The existence of the mass media institutions and local government in the state evidences the developed democracy. The author also raises the question on the necessity of decentralization of governmental power in the Republic of Kazakhstan, evaluating this process as complex and requires the detailed development and constant adjustment.

Key words: Civil society • Mass media • Communications policy • Local government • Devolution of power to the regions

INTRODUCTION

The Constitution establishes the basic principles and institutions of civil society-the rights of private property for any legally acquired property, rights and liberty for business activity, principles for establishment and operation of public associations, especially the parties and now widely produced NGOs [1].

The Constitution recognizes the principle of absolute and inalienable rights and freedoms, their limitations according to law in order to protect the constitutional order, public safety, human rights and freedoms, health and morals.

State policy in development and dealing with the information in the Republic of Kazakhstan could be defined as well-directed system of organizational, financial, legal and other measures undertaken by the State to establish and develop the information space and media support in the Republic of Kazakhstan, supported by the media [2].

Further improvement of legislation in media market is necessary to ensure its economic independence, as well as arrangement of their social and political control [3].

According to Morozov A.A. (Kazakhstan Institute of Strategic Research) arrangement the relations between the government and the media are necessary conditions for providing national security. Basic regulator of relations between the state, society and media in State could be law only. In this regard, it is interesting to turn to lawmaking experience of leading countries, whose power is relatively peacefully, legally, get along with the media [4].

Often the media are considered as technological or economic point-as a source of information or as a business entity. In some cases, this approach is valid. But it should not overshadow the main. The media are an essential element in the development of civil society. The state cannot be considered as democratic if the media element is weak or absent. At the current stage of development the value of the media as a social institution is increasing like never before.

The media's role as a civil institution, is the following: the media itself is civil institution, it is dynamic and powerful and delivers one of the most transparent and effective forms of feedback between the state and society, the media community promotes other civil institutions by providing them the valuable information support.

Also, the media should through its activities to strengthen society. They should promote the spirit of the people of Kazakhstan, its cohesion and the rise of patriotic feelings.

Mass media of Kazakhstan grew rapidly and dynamically in the years of independence. In 1991, Kazakhstan registered 600 newspapers and magazines, all were state-owned print media, in recent years the number has increased to 6641with very different forms of property "[5].

Freedom of speech, transparency is the undisputed attribute information field in Kazakhstan. Journalists' rights are protected by law, maintenance the rights is considered by public organizations. One of the most prominent is the International Foundation for Protection of Freedom of speech "Ad³lsoz", created by the initiative of the heads of non-governmental associations. The purpose of the Organization is establishment open society, through free, fair and progressive journalism in daily life. A fundamental principle of this work is to monitor violations of speech freedom through the correspondent network of fund. Operational analysis of disadvantaged situations from the point of law to the specific media allows you to select the most effective form of protection of civil institutions and journalists.

The media has tremendous power. Power-is the right to be heard and influence the behavior of another person. Any form of forced influence is limited. Power is based on the voluntary submission, coordination of interests-this is a democracy. Such power is vested in the press.

The role of the civil information institution does not occur immediately and brought to the forefront by. Strictly speaking, it is the power of public opinion; it is an ancient institution of public discussion of issues at the meeting on the rhetorical contest. Modern technology makes the process more perfect. Sitting at a computer and participating in the forum or exchanging views on the chat, you already are building power.

So the press recognition as unmarked member of the powerful opposition shows us the direction of the power and place of the media in the process. Withering away of the state is well known idea - it is not the idea of withering away of power, it is the idea of dying the enforcement with power, forcible subjection to own opinion of other

people. Power based on the belief and manipulation, it becomes the main form of power in modern society and in the future. The art of demagogy and communication skills are important institutions of power.

The media is one of the most powerful tools of formation of social space. Mass communication complements the direct experience of people doing creative and reproductive function [6]. At the same time, the mass media can create and implement in society the certain stereotypes which sometimes undesirable for authorities [7].

The need to survive forces the media guide by no ethical principles but considerations of profit, which causes bias and bias of the media.

The practice of financing media by the State could have a positive impact on the society development. Such national Republican newspapers "EgemenKazakstan" and "Kazakhstan Today" are not funded by the state, which has a positive impact on the development of society. On the one hand the process of privatization of these facilities provides society with the necessary freedom, guaranteed by the Constitution and laws of the Republic of Kazakhstan dated 23 July 1999 "On the Mass Media" (Article 2) and on the other makes it difficult to spread reliable information, since the publication of the media, the self-financing, can occur only through their own competitiveness, advertising or lobbying by any party.

The practice of financing the media can have a positive impact on the development of civil society. Such national Republican newspapers as "Egemen Kazakstan" and "Kazakhstan Today" are not funded by the state, which has a positive impact on the development of society. On the one hand the process of privatization of these facilities provides society with the necessary freedom, guaranteed by the Constitution and laws from 23 July 1999 "On the Mass Media of the Republic of Kazakhstan" (Article 2) and other makes it difficult to spread reliable information, since self-financed publication can occur only through their own competitiveness, advertising or lobbying by any party.

In Kazakhstan direct financing of the media by the state moved to state orders. This method is used successfully in various countries also permit to create favorable conditions for the development of independent press.

Social order enables the social tension: identifies and eliminates pressure points in the region, increases targeting of social policy, creates new jobs in the social sector; increases the efficiency of solving social problems, increasing the involvement of citizens in the process of solving social problems. On the other, a real increase of power: the optimization of the management structure, more efficient use of the budget, consolidates authority of government.

Relationship of state and individual are based on the right of citizens to satisfy the interest and other party is pointed in paragraph 3 of Art. 18 is the Constitution of the Republic of Kazakhstan. Feedback is made possible by the contribution to mass media of the Republic of Kazakhstan. But the size of this contribution is not corresponded by the potential of the media community of our state.

Although the years of independence Kazakhstan has created political, economic and legal conditions for the functioning the independent media, but the legal mechanism of their work still needs refinement.

The media should choose a clear position of protecting national interests. At this stage, there is need new law about media, which would take into account the real situation, freedom, speech and the protection of journalists from the pressure of the owners and tightened the responsibility of officials for intervention into free press.

On the other hand in the community for the media requires a clear definition of measure of responsibility for the violation of laws. Society requires freedom of speech, not freedom of defamation and disinformation.

Speaking regarding the competition among the media, it is important to note the role of the state to which you want to stop and prevent the monopolization of the market of the media, because there is a question about the reliability of information disseminated and this is a sign of the degradation of civil society.

Complete and accurate awareness of citizens about the activities of political parties and independent candidates, political pluralism in the media is an essential condition for the democratic development of the society and the state.

Analyzing the legislation of a number of democratic countries, an interesting pattern became clear: these countries prefer not to have the Press Law. Slander and security of the state and other such issues are addressed under the Criminal Code or other legislation. Such countries reject the idea of the "Law on the Press" for fear that its adoption will play a negative rather than a positive role. Therefore, those who express the idea of "Law about Publication" fear to have versa impact rather than positive. Any form of restrictions on these freedoms must be part of a different type of laws that apply to

citizens, corporations or groups, not to printing separately, in their opinion, should not take any special legislation, given the danger that such a law, emphasizing some general guidelines for the protection of freedom and non-censorship, almost becomes a listing of the many restrictions on journalism. This is position of the U.S. [8], Britain [9] and some other countries. However, many countries, including Western Europe have a different opinion [10].

The particular importance is the issue of radio and television. Broadcasting is referring not only to political information, but all work refers to public opinion and culture. Ensuring freedom of expression and democratic traditions require the state to refrain from any form of control except culture issues related to education of youth.

On the other hand, in almost all countries, the public and the government are keep the view that the broadcast should not be wholly owned by private business and to be guided exclusively by the law and the interests of commerce. In almost all democracies legislation establishes that radio and television should bear some social responsibility and established regulatory bodies dealing with broadcasting [11]. From 20-30 years of 20th century most of democratic countries decided that broadcasting plays such an important role in meeting the cultural, educational and social needs among population, it can not be considered only as a commercial, entertainment company [12].

These countries felt that it would also broadcast coverage of the most popular sporting event and send some information. However, they believe that public broadcasting will be constrained in program matters due to the fact that it will need to continually attract a large audience. On the other side were also convinced that, as democratic governments, it is inappropriate to establish control over the broadcast. So many different systems were created allow financing of broadcasting by public, not advertising and established independent of the government broadcasters [13]. In the councils of these corporations include individuals with expertise in various areas of public life, but not hold political office. Journalists should improve self-discipline and the use of extra-judicial and powerless ways of dispute resolution. Implementation of proposals of Experts was held not entirely, something was wrong, something is too expensive. But, nevertheless, the reform of the media produced so according to the National Agency for the Press and the media, more than double the number of newspapers and from the analysis of circulation of newspapers may be noted that a number of newspapers to precisely reform and begin to meet the requirements the most avid readers. However, they believe that public broadcasting will be constrained in matters of programming gear due to the fact that it will need to continually attract a large audience. On the other side were also convinced that they, as democratic governments, it is inappropriate to establish control over the broadcast. So many different systems that allow for the financing of broadcasting are by the general public, not advertising and established on the basis of law, independent of the government broadcasters. In the councils of these corporations include individuals with expertise in various areas of public life, but not hold political office. Journalists should improve self-discipline and the use of extra-judicial and not powerful dispute resolution. Implementation of proposals of Experts was held not entirely, something was wrong, something is too expensive. But, nevertheless, the reform of the media produced so according to the National Agency for the Press and the media, more than double the number of newspapers and from the analysis of circulation of newspapers may be noted that a number of newspapers to precisely reform and begin to meet the requirements the most avid readers.

Many in the media are no longer competitive, or at the mercy of well-being and financial sponsors. At present the right to receive the state order is determined by the result of the competition among the media, regardless of ownership. It is desirable in the law on the mass media to fix the rate of the state support of the media through public procurement on a competitive basis. The draft law on the media under consideration of the Mazhilis, placing such an order will only provide non-state media. Competition commission suggested forming the President of the representatives of the Government and its constituent bodies of the government, members of Parliament, representatives of non-governmental organizations and individual experts.

Modern Kazakh research proposed to merge into large publishing company for specific profiles, which will operate larger vehicles and more quickly improve the quality and range of products.

However, the public policy of the media should be directed to ensure that the information field of a sovereign state serves the interests of the country.

From the media, sometimes called the new branch is depended not only a moral and spiritual climate in society, but also the political, legal, cultural trends and traits that define the face of these states.

Implementing information policy, the media have an impact on the political process. They bring people together, unite them on conscious activity, ensure the safety of citizens and protect them from arbitrary: At the same time tolerance (tolerance) has not yet received wide circulation in the media. It involves the convergence of opposing points of view, to reach consensus. It is an essential feature of a truly democratic society.

One of the latest features of media development is the competition between TV channels in broadcast, newspaper articles, which increases the quality of information and thus the beginning of a trend, to relevant publishers to increase the professionalism of journalists, gradually restored the system of information links, improving material base of the printing industry. Despite the lack of public funds it is necessary to create conditions for the development of independent media, including on the part of information media (including and legal methods (i.e., judicial).)

In addition, the need to further improve the law itself "On mass media" in terms of a clearer definition of the relationship of owners, editors and journalists, raising security journalism, clarification of concepts, be more consistent, changes to the regulations on advertising [2].

Currently, all periodicals, except those in which the advertising is more than 2/3 of the printed material are exempt from VAT. In the electronic media turnovers on the production and distribution for its products, as well as advertising services are taxed at a zero rate. That is the Republican budget will reimburse 16% of the broadcasters of their costs for the production of their products. [2]

Practically, this means budget subsidies to establish their own TV and radio programs of all [2].

In the End We Came to the Conclusion That:

- Stability of the state in the modern world to a large extent depends on the understanding that, in fact, represents the independent broadcasting, if the State does not have a system of independent broadcasting. Ordinary citizens are losing confidence in the government, its institutions and activities. Freedom of information helps the government to create a civilized country, whose citizens are loyal and willing participants in society."
- Law "On Mass Media" (23 July 1999) was a step forward in the further democratization and reform our society.

In 2002 began the development of the new draft of the Law on the Mass Media in the Republic of Kazakhstan. The present bill introduced by MCISC in February 2003 at the II Congress of Journalists, has met strong criticism from the media community. In May 2003, the amended bill was discussed by the Permanent Council to develop proposals for the democratization and development of civil society. During the discussion, the bill proposed significant amendments that improve the bill. However, the Parliament was in fact sent the old version of the bill, prepared MCISC. The draft rules were prescribed to establish the limitation period of one year on disputes on protection of honor and dignity. The project is registered a number of rules to ensure the rights to receive quality information. More detail stipulated responsibility of the media for the dissemination of false information - or refutation, or collection of material and moral damages. In addition, the new draft law to declare state guarantees the protection of honor, dignity, health, life and property of the journalist as a person who pursues socially useful purposes, in connection with his professional activities. However, this project greatly enhanced the role and influence of the Ministry of Information to the media, making it a supervisory and monitoring body. To do this, the project was introduced, contrary to current legislation, the concept of media owners as independent of law. In addition, the project has expanded the list of grounds for refusal of preventive staged media registration, the list of grounds for suspension or termination of issue media and finally turned the media from independent legal persons in the structural unit of a legal entity-the owner of the media. Plus, the project has expanded the list of cases of abuse of the constitutional freedom of speech, does not distinguish between responsibility of the media, authors and original sources of information, leaving no change current legislation on deliberate media culpability in civil disputes on protection of honor and dignity. In general, the government bill significantly worsened the legal status of the media and journalists in comparison with the previous law on the mass media of the Republic of Kazakhstan in 1999 "[14] The President of Kazakhstan Nursultan Nazarbayev has vetoed the bill.

According to Klimkin [15] to identify a number of issues that require further improvement:

The need defines the legal status of the media.
 On the one hand, according to paragraphs 2.3 Art. 1 of the Act, under the media refers to the periodical, radio and television programs, documentaries, audio

and video recording and some form of periodic or continuous public distribution outlets, including WEB-sites in public telecommunication networks (the Internet, etc.). Under periodical printed publication understood newspaper, almanac and newsletter, annexes, with a printed name, number and the current produced at least once in six months. On the one hand, according to Part 1, the Article 2.5 of the mass media can be created in the form of a legal entity and the form of the structural unit. Obviously, the law on the subject made clear inconsistency in the definition of the legal status of the media information that they themselves radioteleprogramm, audiovisual recording. WEB-sites, newspapers, magazines, etc., can not in principle be legal persons....

There Is Procedure for Media Registration: It is the condition of the objections that the authority may deny the applicant for registration media, if previously they have been issued a certificate in respect of the media "with the same name and the proliferation of the same territory" (items 1 p. 3 Art. 10 of the Act). Obviously, this approach allows, for example, create newspaper "Egemen Kazakstan", "Kazakhstan Today", "Zan", "Law newspaper" in a single administrative - territorial units of the Republic of Kazakhstan. And the interests of the same name above the national newspapers under the law will not be violated."

As you know, the bill on the media, developed by the Ministry of Information, in April 2004, has been recognized by the Constitutional Council to be unconstitutional, in connection with which was not signed by President Nazarbayev. At the stage of preparing a draft law has been repeatedly criticized by international and Kazakh experts and NGOs.

This fact once again confirms the gradual development of civil society in the Republic of Kazakhstan and the presence of the Constitution, it is necessary to build a legal, democratic state.

With all of this to the establishment of new law "On mass media" is still open. It is necessary that the law met all constitutionally enshrined norms.

The Concept of Legal Policy of the Republic of Kazakhstan said that "the strengthening of civil society is intended to facilitate the gradual formation of institutions of local government." [3].

By this criterion, how effectively the local government in Kazakhstan, the population directly evaluates reforms and reforms carried out by the government. To everyday life can not be fully resolved only by state authorities. International practice shows that a reasonable authority power can be more responsive to the diverse needs of people.

Local government can be defined as a special type of government in which the functioning of a social and political system is not outside, but independently on its own basis, with the broad and active involvement of its structure in solution of internal problems.

The concept of local self-government in the modern world as typically involves two types of bodies: the local representative body, elected by the citizens of the respective administrative-territorial unit and decision-making on important local issues as well as the executive body to primarily carry out the decisions of the representative body and operational management.

Experts distinguish three models of local governance. In Anglo-Saxon, some officials are elected directly by the people. Committees have extensive powers of local representative bodies. The central government controls the local government through the courts and through the ministry [16].

In continental Europe and some other countries French model is extended. Here there is a combination of direct state and local governments. In this model, often, representative bodies are formed only in the administrative-territorial units, recognized by law as territorial communities [17].

In addition, in federal countries, the national Constitution regulates only the general provisions of the Local Government, laying the legal regulation on the subjects of the federation [18.p 83].

In unitary states, local control is regulated in different ways. As a rule, the central government is sending a representative to medium levels of government.

The competence of the local authorities in the first part: "the adoption of the local budget, utilities, environmental protection, cleaning of streets, sewers, schools, hospitals, public order [19]. Powers of local governments are divided into mandatory and optional.

Overall supervision central government through authorized prefects appointed Minister of the Interior, the administration of President [20].

In the Republic of Kazakhstan in the first years of independence, was the system of the Soviets of People's Deputies. By themselves, the Soviets were originally defined output channels of local interests, but later were strongly integrated into the vertical strong powerful totalitarian state. Of course, local issues are addressed directly the local level, but their formal representative

character did not contribute to the competence of deputies, most of who actually were approved on party lists and were semi formal electoral procedures.

Following the acquisition of sovereignty from 1991-1993 in the country have a unique situation where the local councils and the newly formed local administrations were many issues in a competitive position.

In our opinion, in the functions of government should not be part micromanagement and climbing into local issues if they do not touch the predefined national problems.

Local authorities shall be composed of representative bodies and created with their executive committees, functions and competences of local self-government might include: the regulation of public relations on their territory, managing community services, the disposal cost and other financial resources, coordination, monitoring and development assistance for enterprises, institutions, organizations, cooperation with state authorities and local self-organization of the population in managing the affairs of society and the state.

The Constitution of 1995 tried to reflect the recognition of the institution, but the current legal framework is not sufficient for the emergence of a full-fledged local government. By and large, in general the central and local authorities have formed. Local government, in our view, should take the empty niches and operate where local governance is not effective. Some of the functions that is not enough to effectively handle local public authority, can delegate to the executive bodies or co-management of government, it is the correct view is that the problems of local government is not a political concept, but one of the government in general. Development of self is possible only on the basis of correct and specific distribution of competences between the central and local governments. In other words, the central government, to some extent should be interested in the transfer of its powers to local authorities.

Local control with unitary structure is practically on the basis of local government and local representative bodies and local authorities have. In this regard, existing in Kazakhstan maslikhats are in the double position and their executive bodies, logically, should be local governments, but the latest on key issues of local control taken out of control maslikhats and mayors of local governments appointed superiors executive.

In Kazakhstan, in our opinion, to begin to define the social niche that could take the local authorities. Stagnant forms of territorial public self-cooperatives of apartment owners, the crucial issues of municipal services.

The Constitution-the basis of political and legal measures of the state aimed at the harmonious development of administrative-territorial units, in particular local government [21].

In accordance with the Decree of the President of the Republic of Kazakhstan, ¹ 633 of 23.06.2001, October 20, 2001 in 28 regions of Kazakhstan were held pilot elections rural governors.

The Constitution of the Republic of Kazakhstan, the Kazakh state defining democratic as it reinforces the most important pillars of democracy, especially in a democracy, the separation of powers between the legislative, executive and judicial, ideological and political diversity, as well as local government [22].

As the organization and conduct of the elections is not enough media coverage and the information was not provided in a complete and systematic form, the Department of Social and Political Studies under the President of KISR in November and December 2001 was carried out the analysis of the results of the event, which was organized in staff travel Rural districts in which the experiment took place. In Almaty region-Enbekshikazakh area Zhanasharsky Rural District and South-Kazakhstan-Tolebi district, Upper Aksu rural district. The experiment revealed the imperfection of the legislation:

- Solution of such an important issue as the legislative establishment
- All points concerning the election of the respective governors, passed without Parliament. Thus the procedure for the election of akims village level is entirely dependent on the executive branch;
- Not determined how they will shape the local budget, as the budget and village councils have no fixed income, or at least long-term norms of distribution of taxes, fees and charges from the territory, so the budgets of local governments will continue to be part of the budget of the region and the region and does not depend on the performance of the elected Mayor (the opinion of one of the participants in the experiment: "These elections not needed, as local mayors have no power, even of its own budget they do not");
- Lack of clear regulation: Under which of the branches of government should be elected mayor, what is the balance of his accountability local population and to higher authorities and others
- Although the term for which elected mayors is set at two years, however, not determine the mechanism of re-election of akims (opinion of one of the

participants in the experiment: "The difficulty lies in the fact that the district governorates can not dismiss the former mayor, as the law does not specify mechanism of removal from office appointed mayor, this shortcoming is "); not spelled out in a clear manner how to determine the ratio between the number of voters and the number of electors. For example, in the Upper Aksu rural district of South Kazakhstan region Tolebi live 1307 voters and the number of electors as defined by CEC-17 people, while on Zhanasharskomu rural district at 3030 voters-19 electors:

- Do not determine the status of the electors and generally do not explain the mechanisms of formation of groups of electors, the criteria for their selection;
- The lack of opportunity for political parties to participate in this election [23].

"In this election, the principle was maintained by the European Charter of Local Self-Government, i.e. direct election of the population elects the members of the representative body and then the members of the representative body - the head of the executive body, i.e. akim. But it must be understood that in pure form any foreign model of local self-government in Kazakhstan reality can not be moved. We have our own traditions, especially, its mentality. Given the experience of other transit countries and the historical experience of Kazakhstan, we need to develop its own system of local government" [24].

In the process of democratization of political power and public life in the Republic of Kazakhstan, one of the major problems is the reform of local government. Local government is one of the cornerstones in the building of a modern democracy. Issues of daily life, such as housing, utilities, personal safety, social security, etc., can not be fully resolved only by state authorities. We should not confuse the concept of local self-government, local authorities, as they have a difference.

The bodies of local self-government are the authority, who is elected directly by the citizens. Local government-the authority appointed by the central government. This is their main difference is that government-elected bodies, management-appointed. However, the election is not only property and the quality of local government. Local governments must have a certain set of powers and independence.

Local Government Act and other laws and regulations to ensure the implementation of the constitutional provisions have not taken despite the

Constitution provided for the period of two years.... January 23 a law of the Republic of Kazakhstan "On local government in the Republic of Kazakhstan", which put the local government in a more uncertain position [25].

Decentralization of power in a society of transits the most important questions of democratic development. The decentralization of power is subject to their laws, they include certain quantitative and qualitative social changes and the changes are the result of the democratization of society, separation of powers, the transformation of state power. There is the acquisition of the population of political rights and freedoms of private ownership, the process of privatization, the collapse of super-centralized state. Now there were a significant number of premises in the socio-economic, political and cultural spheres of life of Kazakhstani society, which can be the foundation for the decentralization of power.

Decentralization is the transfer of management functions from the central government to local authorities; enlarge the powers of subordinate authorities by superiors. The first approach involves a process of transfer of the balance of power from central to lower (local) level. It can be said that decentralization brings government to the people, creating the conditions for democratic governance.

The introduction of a working system of decentralized management-is complicated, long process, requiring detailed design. Decentralization reform requires sustained attention and constant adjustment and sometimes it must be done in several stages.

Without a differentiated approach to local conditions is no longer possible to carry out a successful economic policy. A shift in market reforms at the local level is reflected in the President of the country "Strategy" Kazakhstan-2050 ": New policies established state" in section 5 - "The concept of local government." A separate section is devoted to electing all representatives of government [26].

There are prosperity, security and the welfare of all Kazakhs. "Implemented under this program the central government policy of regionalization in principle is considered as an essential element of the decentralization of power.

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