

The Actual Problems of State and Legal System of the Republic of Kazakhstan

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Abstract: The article deals with topical issues of statehood. In this concept differ statehood and state. Revealed three types of state of the Kazakh people. It is noted that the development of Kazakhstan's statehood is greatly influenced by the geographical and territorial factor. Kazakhstan's geographical position, climatic conditions, a gradual increment of the territory inhabited by peoples of different, but at the same time in many respects similar conditions of life, traditions and religions have created unique country-specific. These features predetermined occurrence of some unique features of Kazakh statehood such as Eurasian idea, state paternalism, traditionalism, teamwork mentality and legal culture. The article concludes that the Kazakh statehood historically formed as a democracy. Nomadic lifestyle objectively imagined freedom. The right of the Kazakh people was founded on the principles of justice, freedom, equality and humanism. The main sources of law were customs. Conclusion about the necessity of perception in the legal system of Kazakhstan legal values of the Kazakh people. Feature statehood advocates the Republic of Kazakhstan presidential form of government. The article presents the views of the scientific analysis of the leading scientists on the presidential form of government. Given the scientific analysis of the features of the legal system of Kazakhstan. Concluded that the presidential form of government is the most optimal for the Republic of Kazakhstan. Also concluded that the Republic of Kazakhstan is consistently carried out legal reform. Especially for improving law enforcement. Much attention is paid to the internal affairs bodies. In the legal, democratic state police provide law and order and public safety in the prevention and control of crime, providing a wide range of social services to the population. The main direction of policing is to protect the existing state system and security as a nation as a whole and its individual citizens.

Key words: Government • Legal system • President • Human rights • Law enforcement • Police • Police

INTRODUCTION

At the end of the twentieth century there were two rare in the history of the event. First-instantly collapsed the USSR, which was considered a mighty superpower. Second-in place of one federal state formed 15 independent states. Formation of a new type of state and a new legal system.

As a result of the collapse of the USSR Kazakhstan became an independent sovereign state. December 16, 1991 on the world map a new state-the Republic of Kazakhstan, which is already in the next year-March 2, 1992 became a full member of the United Nations.

In the course of its historical development, the Kazakh people have created three types of statehood. The first type-nomadic state. Feature nomadic state is democratic in nature, is expressed in human freedom, personal responsibility and mutual power. People was the source of state power to the fullest. Note the presence of customary law based on the principles of humanism and justice. Nomadic state was abolished in connection with entry into the Russian Empire.

The second type-the Soviet state. Here Kazakhstan was part of the USSR as a united multi-ethnic state. Despite the fact that formally the Kazakh SSR was considered state within a state, i.e., a full republic of the

Soviet Union, Kazakhstan essentially had no autonomy, independence and sovereignty, totally dependent on the center. For example, the territory of Kazakhstan could be changed by the decision of the Allied authorities. For example, part of the Southern Kazakhstan was assigned the Uzbek Republic without the consent of the people of Kazakhstan, with adverse consequences [1, p. 157].

The third type of state-independent state-sovereign Kazakhstan. Since independence have been resolved such issues as the form of government, the structure of the state, state functions ethno social characteristic state. The people of Kazakhstan is the source of state power.

Statehood is closely linked with the legal system. A distinctive feature of the legal system of the Republic of Kazakhstan is a constitutional recognition and giving priority to natural rights and freedoms. The Concept of Legal Policy of the Republic of Kazakhstan for the period from 2010 to 2020 states: "In order to ensure compliance with national law, new challenges need to further improve the standard-setting and enforcement of the state" [2].

Kazakh scientists note that the work carried out to improve the legal system gives positive results. So, now entered the international valuation standards regulations. This will fully take into account the interests of citizens, society and the state, to ensure effectiveness, efficiency and rationality of the law [3].

Contemporary Development Strategy Kazakh statehood based on the full maintenance of the unity of the country's national security. Here, the highest values of the state- recognized legal life of such phenomena as the "integrity of the state", "State and National Security", "the sovereignty of the state". This idea enshrined in the Development Strategy of Kazakhstan-2050 [4].

The purpose of this article-the study of topical issues related to the development of the state, state and legal system of sovereign Kazakhstan. To achieve this goal we believe it necessary to solve the following problems. First, uncover the factors affecting the development of statehood of Kazakhstan. Second, consider the historical development of the Kazakh state. Third, to justify the connection state with a form of government. Fourth, consider the further development of modern Kazakhstan statehood.

State and Statehood: Statehood is a much broader concept than the state. In the theory of law is defined as a state political authority that manages the company within a certain territory. While statehood is defined as a

complex set of elements, structures, institutions, public authorities, as well as non-political components due to identity (specificity) socio-economic, political, moral and spiritual living conditions of each nation or union of peoples at a certain stage of development of society [5, s. 34].

Statehood-a form of society at a particular historical time, the qualitative characteristics of its elements and institutions is the main content and certain line of society and the state.

In this case the state of society, the structure of social relations affect not only state power, its structure, but also other institutions, including non-political nature, such as economic, social, spiritual, and other information systems, as well as the international situation.

The History of Kazakh State: We believe that the Kazakh state was formed as a democratic due to the nomadic way of life. This meant freedom of nomads, based on knowledge of the laws of nature in the first place, as well as to the strict observance of customs and not bound to rigid frameworks written laws. Academician S.Z. Zimanov, describing the right of the Kazakh people emphasized, "Kazakh law, the main sources of which were customary regulatory system, cultural traditions of the Great Steppe, manifested for centuries astonishing vitality and resilience in terms of direct and indirect dominance of outlandish, powerful impact of their ideology. Envious vitality of the Kazakh law in its original, pristine form in spite of all the changes and revolutions that swept steppes of Kazakhstan on, because it is based on the very structure and in its regulatory system lay folk and freestyle, the natural freedom of the individual, then there are moral ideals and principles that are compatible with the eternal aspirations of man and mankind. It was one of the fundamental reasons that Kazakh law was stronger swords usurpers and their treatment" [6, p. 23-24].

We believe that the formation of the modern legal system of Kazakhstan should be used experience and achievements of the legal culture of the Kazakh people. And there are important principles of traditional legal culture of the Kazakh people. The most significant principle of formal equality. This principle is refracted in the legal freedom of all members of the traditional Kazakh society, respect for the individual and no slavish worship of power, not enslavement oppressive attitudes, freedom-loving lifestyle to develop folklore, in all spiritual culture of the people.

Deem it necessary to address the question about the use of the legal system of Kazakhstan western democratic institutions. Understanding the advantages and disadvantages of Western legal culture and the possibility of transferring to the Kazakh soil leads us to the conclusion that it is necessary a reasonable combination of the values of Western legal culture and legal achievements of the national culture, the use of previous historical legal experience. We believe that the legal system of Kazakhstan needs to develop, based not on the formal borrowed from developed countries, democratic principles and the rule of law, and on the principles of law and democracy, which would organically traditional values of the peoples of Kazakhstan. At the same democratic principles and the rule of law will not enter into conflict with the values of traditional cultures of Kazakhstan. Otherwise the formal borrowing democratic principles and the rule of law may arise insoluble contradictions in various fields, including legal.

Factors Affecting the Development of the State of Kazakhstan: Kazakhstan's geographical position, climatic conditions, a gradual increment of the territory inhabited by peoples of different, but at the same time in many respects similar conditions of life, traditions and religions have created unique country-specific. These features predetermined occurrence of some unique features of Kazakh statehood such as Eurasianism, state paternalism, traditionalism, teamwork and much more.

Note that the development of statehood also have a significant impact phenomena such as mentality and legal culture. Without this understanding it is practically impossible to get a positive result in any conduct whatsoever state transformations. We subscribe to the opinion of the scientists that the development of Kazakhstan's statehood main impact was historical and geographical factors. These include the special geographical and environmental factors, climatic conditions, the presence or absence of the threat of natural disasters (earthquakes, floods, droughts), environmental conditions and the state of the environment, the presence of minerals and natural resources (suitable for agriculture land, fresh water deposits fuels and minerals). Known Kazakh scholar, ethnographer A. Seidimbek notes that economic-cultural type of Kazakh people was formed over the millennia in harmony with the ecosystem. "For centuries, the Kazakhs were friends with nature, had a kind of economy, the basis of life, based on the nomadic customs and practices " [7, p. 554].

Note that Kazakhstan is a unitary state. Academic G. Sapargaliev stresses that the territorial integrity of Kazakhstan has developed historically. Historical facts prove the illegitimacy judgments and opinions about the alleged "accident" of education in Kazakhstan [1, p. 209].

Note that the natural and geographical factors may create for the development of a solid foundation of the state, or, conversely, to restrain him. For example, the French philosopher Montesquieu established a link with climate laws. He believed that the description of the site affects the spirit of the people who live here. These views were expressed by Montesquieu, in such works as "Persian Letters", "The Spirit of Laws". Here are some statements thinker: "From the differences in the needs generated by the difference of climates, there is a difference in lifestyle, but from differences in lifestyle-difference between the laws". "The cold climate makes people stronger, and hence more active, productive, purposeful. Heat accustoms to sloth, effeminacy, indifference" [8].

Thus, the development of the Republic of Kazakhstan as a unitary state originates historically.

Statehood and its Relation to the Form of Government: Statehood linked to form of government. As is known, Kazakhstan presidential form of government. The modern model of presidential government in the Republic of Kazakhstan was formed from a number of factors. At the same time, according to Kazakh scientist B.A. Mukhamedzhanov were incorporated traditions state of development of Kazakhstan in the pre-Soviet era, as well as state-building experience of the Kazakh SSR and leading the trend improving governance in the economically and politically developed countries of the world [9, p. 12].

For the Republic of Kazakhstan, as well as other former Soviet republics, in the conditions of the legal state and civil society is most preferred presidential form of government.

Referring to the opinion of the Kazakh scientist B.A. Mailybaev. The monograph "Formation and evolution of the Institute of the Kazakhstan President: Problems, Trends and Prospects (experience of political and legal studies)" B.Mailybaev emphasizes: "Presidential power is necessary for the organization and establishment of a complex system of social relations in the economic, socio-cultural, administrative and political spheres, creative, integrative and enforcement activities. Other branches of government are not able to take on a

given set of functions in full view of the diversity of public relations, has taken on a special dynamic in Transition" [10, p. 34].

Academic S. Sartayev emphasizes that with the collapse of the USSR led to a crisis of state power as a whole, the formation of a political vacuum, a complete rupture of legal continuity of the country, the only true and legitimate was the creation of a strong presidency [11].

Choosing a form of government is not done randomly and arbitrarily, and in response to specific traditions of the society, and this choice consciously adopted as a means of solving the problems presented by these traditions. We emphasize that in the government's ability to provide the main is integrity, sovereignty, security, order and society. Purpose (mission) of state power is seen not in itself, but to ensure that its needs, interests and goals of society, united in the State.

Based on current political realities of Kazakhstan, we believe that the establishment of the presidential system fully reflects the social needs and is based on the respective political culture associated with the historical role of the President. We believe a fair opinion of the leading scientists of Kazakhstan, including B. Malinowski that the presidential form of government of the Republic of Kazakhstan, established by the Constitution of 1995, it meets the realities of the transitional period and contributes to the stability of gradual political modernization of the country. It is in this historical context, it is necessary to address the issue of improving the prospects of the presidential system in Kazakhstan, turning it into a presidential-parliamentary republic [12].

Development of Modern Kazakhstan State: Modern Kazakh statehood in the international context is developed on the basis of approval of Kazakhstan in the international arena as a sovereign and independent state, involved in international communication as an independent entity. The process of strengthening relations with the Republic of Kazakhstan of the Commonwealth of Independent States. Kazakhstan acts as the initiator of many integration programs within the Commonwealth of Independent States, the Eurasian Economic Community.

Note inclusion of Kazakhstan in the processes of globalization and the participation of the Republic in international organizations of universal character (United Nations, International Monetary Fund, OSCE, etc.). In 2010, Kazakhstan chaired the OSCE. Of great importance is the participation of Kazakhstan in

international organizations such as the SCO, CSTO, CIS ATC. It is first necessary to ensure the safety of individuals and society to preserve the territorial integrity, independence.

In Kazakhstan, a developed legal system, while recognizing the priority of the principles and norms of international law and international treaties of the Republic of Kazakhstan.

Role of the Police in Ensuring the Stable Development of the State and Legal System of the Republic of Kazakhstan: The Republic of Kazakhstan is on the path of building a democratic, legal state and civil society. This desire led to a change in the functions of law enforcement. A special place in a legal state occupy the bodies of internal affairs.

Police-one of the oldest and most essential components of world civilization, starring in the internal security of any country. Note that the mechanism of the totalitarian state police tasks are the use of repressive forms of activities in the implementation of the will of the state.

In the legal, democratic state police act in another capacity. Repressive and punitive functions, most of them are giving way to the task of ensuring law and order and public safety, the prevention and control of crime, providing a wide range of social services.

Police is one of the main links of the mechanism of the state. The main direction of policing is to protect the existing state system and security as a nation as a whole and its individual citizens. Referring to the legislation of Kazakhstan. So, Art. 1 of the Law on Internal Affairs of the Republic states that "the internal affairs bodies are special state authorities responsible in accordance with the laws of the Republic of Kazakhstan inquiry, preliminary investigation and operational-search activity, as well as executive and administrative functions for the protection of public order and public security, the prevention of and suppression of criminal and other illegal encroachments on the rights and freedoms of man and citizen, the interests of society and the State " [13].

Currently improving police operations mainly focused on strengthening law enforcement functions, and lay the foundations of preventive activities against criminality, as well as establish and strengthen contacts with the population.

However, there is the relative independence of the police in the state mechanism. The police, on the one hand, as an element of this mechanism follows the general laws of functioning of the state mechanism. On the

other, due to their specific police operate in isolation. Here police apparatus demonstrates a degree of autonomy in the state and determines its own logic of action. In this context, the important task of monitoring police activities and their society.

One of the main problems in the police are now professional socialization problems, raise awareness and professional culture workers, and generally improve the image of the police problem.

The problem of public control over the police is in the center of the legal science. It must be emphasized that the police as part of the state mechanism is for the citizen and society, and the need, and the risk and protection, and threat. Disabilities administrative arbitrariness of the police in the process of implementation of government decrees and enforcement of the order depends on how the law, legal norms determine the competence of the police and direct the activities of its subsidiaries.

Currently in other developed countries the problem of creating the desired image and prestige maintain adequate policing is constantly in the spotlight of both science and practice.

The same problem is still relevant for Kazakhstan. We present data from a sociological survey. In Kazakhstan, conducted a survey of public opinion, from 10 to 15 September 2012. It was attended by 2,304 people from 16 cities. According to the data, 61.8 percent of respondents said they trust the security forces. Confidence in the protection of the state 43.2 percent of respondents feel Kazakhstan. The question-Do you feel the threat to personal safety and that of your loved ones-51.2 % of the respondents answered in the negative, they feel threatened only 25.8 % of respondents, 23 % found it difficult to answer. Fully confident in the ability of the state to protect in case of terrorist attacks, ethnic or religious conflicts only 15.7 % of respondents. Partly believe such protection 43.2 % of respondents did not believe-26.5 %. 14.6 % of respondents found it difficult to answer [14].

We believe that these data indicate a low level of confidence in the citizens of Kazakhstan to the police. In this connection it is necessary to make continuous efforts to improve the image of the police officer. Law enforcement agencies need to be in constant contact with the media. Note the need for close cooperation between police forces with the population. No other authority of the State is not in a close relationship with the community while participating in political and civic education of the population.

Some Ways to Improve Operations Police in the Republic of Kazakhstan: The uniqueness of police activities is as follows. Police there is an element of the state mechanism for implementing the public interest and public policy. Police acts as the most capacious in terms of law enforcement functions performed, institution guaranteeing the rights and freedoms of citizens.

Police activities carried out appropriate social and political control. However, the State expects its citizens not only trust, but also the development of certain social qualities. Citizen is not enough just to obey the law, it is necessary for him to play more positive role. Legal State law does not simply provide their citizens to participate in political and public life, and in some cases interpret this right as a duty. Currently, the state intended to provide only basic human needs and to assist its own activity.

Organization of policing in a democratic state faces several challenges. The main one is to determine the optimal compatibility of the entire spectrum of police functions with democratic principles, respect for political pluralism, respect for the rights and freedoms of citizens. The difficulty is the need correlation political component of policing with other police functions. Implementation of the Police confronted with the negative perception of the population methods used by police to solve its tasks [15].

We believe that in a democratic state are the most effective forms of social control. Police activities will be effective when a high level of social trust in the state as a whole.

We believe that special attention should be given to the media in the mechanism of social control over policing. Be aware that the media represent public opinion and the defenders of society.

CONCLUSION

Thus, at the present time in the Republic of Kazakhstan is an active process of further strengthening the independent Kazakhstan's statehood. This takes into account new threats and challenges posed by globalization, the growth of negative phenomena such as terrorism and extremism. The legal system of Kazakhstan is also formed adequately modern level of development of civil society and the establishment of democratic institutions. Note that in the Republic of Kazakhstan conducted a systematic legal policy, which aims to further democratization of the institutions of state and society.

Statehood of the Republic of Kazakhstan is associated with a presidential form of government. President allows you to integrate the legislative and executive branches of government into a single operating mechanism based on a system of checks and balances, their effective interaction. The President, having weighty authority thus should be guided by the parliamentary majority and in accordance with this policy to build.

President as a national political leader carries out basic functions aimed at consolidation of the entire multinational Kazakhstan society. One of the main achievements of the President of the Republic of Kazakhstan is the head of state to ensure political stability in modern conditions.

In the mechanism of the state occupy a special place law enforcement. As representative of the state and society as a political power must fully protect and fulfill human rights. Police have a special place in the law enforcement system. One of the most pressing problems in the RC are issues of increasing professional legal culture of the police, the formation of a positive image of the police, as well as improving the public trust the police authorities.

Today Kazakhstan is on the threshold of a new phase of political modernization. The main objective of ongoing political reforms in Kazakhstan was originally aimed at building a democratic state with a developed civil society, which, in turn, is possible only on the basis of a well-functioning market economy. And we can safely say that this goal for our country is quite achievable, and demonstrate that the work already done in this direction.

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