PROBLEMS OF CONSTITUTIONAL AND LEGAL DEVELOPMENT OF THE REPUBLIC OF KAZAKHSTAN IN THE CONDITIONS OF SOVEREIGNTY

Abstract. Consecutive development and effective implementation of fundamental state programs in the field of state and legal development of the Republic of Kazakhstan show huge value of the law in force as the effective social regulator. The main problems of social, economic and political activity of the society were solved in the legal form. The Kazakhstan’s Law is designed to provide freedom of people and protection of their interests, to modernize society, to create the high level of welfare. In the modern conditions the big role belongs to the state ideology, which reflects the interests, outlook and ideals of the state and society, plays the major defining role in the development of the country. Certainly, the state ideology is extremely necessary for the state at each stage of its construction, since it comprises a certain potential of the integration of the society and self-identification of the state in the world community. The lack of the political ideology capable to explain the national purposes and ideals, doesn’t allow integrating all sectors of the society, rather surely. The creative role of the modern law in the conditions of modernization of the activity of the state and society defines need of formation and development of the number of the directions for the theory of state and law.

Keywords: ideological system, state ideology, political life, political decisions, destabilizing factors, perestroika processes, spiritual sphere, mass disorientation, identification loss, identification values.

The independent existence of Kazakhstan began on October 25, 1990, with the acceptance of Article 6 of the Declaration of State Sovereignty, which established that “the state authority in the Kazakh SSR has leadership, independence, and completeness within the Union Republic”. On December 16, 1991, in addition to the sovereignty declaration, a new law establishing the state independence of the Republic of Kazakhstan was approved.

After achieving independence, Kazakhstan faced the problems, regarding the formation, strengthening, and perfection of its statehood. The disintegration of the Soviet Union, in contrast to other regions of the planet, “has resulted not necessarily in the formation of essentially new states, but in the revival of lost statehood from last times for lands with deep historical roots” [1].

A sovereign republic must decide many urgent and vital problems, such as: transition from one economic system to another; development of the process of democratization; preservation and strengthening of social and interethnic stability; determination of foreign policy; preservation of territorial integrity; problems of conformity in legislation to accepted models of development; development of integrated processes in the context of international cooperative frameworks, such as the Commonwealth of Independent States (CIS).

The peaceful achievement of independent statehood was a distinctive feature of Kazakhstan’s particular variant of sovereignty. This peacefulness allowed state-building to begin upon the old management system. Through gradual reforms the old system underwent slow and painless transformation to the modern state.

At the first stage in the construction of statehood, at the end of 1991, significant and important reforms in the economic relations were held. Laws concerning private property and enterprise were
enacted, opened the way to further reforms and privatization initiatives. New social institutions, reflection of new requirements of the changing society, have begun to flourish.

The year of 1992 began the next stage in Kazakhstan’s forming statehood. This included: the creation of the armed forces of the new republic; the creation and formal acceptance of new state symbols; further transformations in the economy, such as liberalization of prices and increasing commercialization of the separate spheres of manufacturing. It was also a year of external policy triumphs for Kazakhstan. Kazakhstan became a member of the world community of independent nations and was admitted to the United Nations Organization (UNO) on March 2, 1992. Kazakhstan was also admitted to the United Nations Educational, Scientific and Cultural Organization (UNESCO) on May 22, 1992, and on July 10, 1992 signed the final act of the OSCE. With the establishment of National Agency for Foreign Investment, the work began in earnest to attract world-wide interest in Kazakhstan’s financial development.

The work on the Constitution of Kazakhstan emphasized statehood while encompassing the complex conditions and political disagreements left in the wake of the Soviet Union’s demise, as well as social and psychological problems of adaptation in the face of new conditions. The conditions for Kazakhstan’s society during this period (characterized by sharp decline of economic conditions aggravated by inflation, rampant non-payments of debts, increasing unemployment, reduced production, and deteriorating quality of life) reflected the irony of personal improvement gained by citizenship in the sovereign state. Coupled with the economic downturn was an upsurge of movements, based on national and ethnic identities, whose vocal opinions surrounded the constitutional debate. Chief among these opinions were concerns of the ethnic Russians in Kazakhstan and in the neighboring Russian Federation, regarding language and citizenship in the new nation. Mass media campaigns on behalf of Kazakhstan’s Russians served to cast doubt on the Russian Federation’s respect for its new CIS partners [2].

The Constitution of Kazakhstan has legally established the strong presidential republic with distribution of powers among three branches of authority: legislative, executive and judicial. In our country steady and successive institution of strong state authority has been created, that allows for the stability of all internal political processes.

The Constitution of 1995 has almost fixed, that the Republic of Kazakhstan approves itself as the democratic, secular, legal and social state, higher values of which are the person, his life, rights and freedoms. The new Supreme Law of the independent state predetermines qualitative parameters and steady development of the state. In accordance with the constitution, the state of Kazakhstan is characterized as unitary and integral. The main characteristic of the unitary state are the independent bodies. The unitary state assumes uniform citizenship, legislation, and a system of state authority. The efficacy of the government of Kazakhstan is expressed in three aspects:

1) No one government body or political organization can ignore or stop the activity of constitutionally established institutions or uncontrollably carry out imperious functions, leading to the abolition of the constitutional system or usurpation of authority by violence;

2) The functional division of authorities assures the appropriate organization of legislative, executive and judicial mechanisms. The legislative authority is limited by referendum, by direct choices of the president via his direct veto, and by Constitutional Council. Its internal restriction is the two-chamber construction of Parliament. Executive authority is limited by the responsibility before Parliament and the valid character of the normative acts it issues. Judicial authority is subordinated to the Constitution and law, and its internal division is embodied in the Constitutional Court’s allocation from the general judicial system, the powers of the prosecutor’s office, the courts, etc.

3) The constitution provides legal and economic conditions of state development on the basis of the self-management of various communities: regional, local, ethnic, cultural, social, industrial, religious, etc. In the same vein the division of functions between the economic and political system is carried out.

Kazakhstan is rich in natural resources, with proven oil reserves in the Tengiz fields. These fields alone are about twice those of Alaska’s North Slope. Most world oil companies have acquired, or are acquiring, concessions in Kazakhstan while negotiations are underway with various foreign companies to build refineries and pipelines to bring the petroleum to market. Oil alone is not the sole resource. The republic can boast of having the entire periodic table of elements in exportable quantities. For example, development has begun of the Bakyryshik gold fields, financed by shares sold on the London stock exchange. Although these developments are being pursued by state owned companies, there is
considerable movement of capital into the private sector. Most of it appears to be illegal but sufficient to support the growth of subsidiary service industries, such as the Mercedes Benz dealership and service center in Almaty [3].

Just as in Russia and the other republics of the former USSR, the processes of modernization and the transformations of Kazakhstan’s economy in twenty seven years of independence have passed along the difficult and inconsistent path. The general factors, which always distinguish the economies of all the CIS states, include, first of all, the inheritance of a uniform economic complex, as well as a major disproportion between extractive and manufacturing industries, and between heavy and light industries.

Despite the years of centralized economy and the difficulties, attending the period of transition from totalitarian to democratic government, Kazakhstan could claim potentially powerful industrial base. The Soviet Union’s regional policy of economic development worked to the detriment of all its constituent republics in economic self-sufficiency, guaranteeing dependence on the center. In Kazakhstan, this regional policy deployed limited arsenal of tools. The construction of enterprises in the regions at an expense often beyond the state budget’s means was basic and fundamental. Another tool was the state’s subsidizing of local and republic budgets from the state budget in order to finance social development. In Kazakhstan, the size of the subsidy actually reached 30% to 40% of the budget. The peculiarity of this mechanism of regional development was based on the basic investments for social development, came from the central budget, there was, consequently, no regional social planning entity, and, moreover, no spatial organization of economic development at the republican level.

The market reforms and strategic plans for socio-economic development in Kazakhstan are projected in three stages over fifteen to twenty years period. During the first period a significant part of state properties were privatized; the consumer markets were normalized; and the macro-economy stabilized. The following seven to eight years is dedicated to directing the new economy and developing an economic infrastructure, supporting an advanced market for goods, capital, and labor. In the third stage, the period of five to seven years, the aim is to develop an open economy and to enter the ranks of the world’s industrialized nations.

Domestic legislation and international legal acts, ratified by our state, are among the indisputable attributes of nationhood. Now we can remind that the primary parts of the 1995 Constitution of Kazakhstan are the conventional norms of international law, ratified by the Republic of Kazakhstan. They include international treaties, conventions and agreements, which have a priority above most national legislation. Thus, the 1995 Constitution, being based on the continuity of legal principles, proclaimed Kazakhstan as “democratic, unitarian, secular, legal, and social state”. After the legitimization of its sovereignty by the people and recognition by the world community, Kazakhstan will turn its focus inward and work for harmonious social function. This means that Kazakhstan is not a class-based or ethno-centric state, and it provides the social programs and softens interethnic and social conflicts [4].

SupremeLaw, realizing the merger of public and state institutions, creates favorable opportunities for an active and teleological formation of the civil society. Recognition of such ideological and political diversity also allows for the creation of an independent mass media.

Considering the results and prospects of Kazakhstan’s achievement of statehood, we can note the following:

(1) As history has witnessed, each society needs a strengthening of statehood in order to achieve stability and prosperity. Statehood by itself appears to be the driving force in the development of any people. The present and future of any nation depend on its solidity and perfection;

(2) Kazakhstan, as a new sovereign state, must take into the account the experiences of other nations and of its own past as it grows in 21-st century. We should note that in “The Concept of Formation of State Identity in the Development of Kazakhstan’s Statehood” brings the cultural and social growth in two major areas. The first relates to the economic, social, and cultural integration with the rest of the world and the community of nations, as well as social integration within the uniform national state.

Integration with the world implies recognition by the community of Kazakhstan as fully realized independent state. Integration within the country, likewise, requires the citizenry’s collective belief in their nation’s independent status. The confluence of these internal and external dynamics is vital to Kazakhstan’s own true achievement of independent statehood.
Kazakhstan is the historically motivated initial ethnic center of the Kazakh people. Hence, one may say that state identity must include the preservation and development of the Kazakhs as the main ethnic unit with their culture, way of life, language and traditions. The determination of Kazakhstan as the national state must first recognize this quality by itself. However, one must not forget that the national revival of the Kazakh people, who for centuries populated the territory of modern Kazakhstan, should not be of nationalistic character.

The Constitution of Kazakhstan holds that the Republic, as a national state, expresses the interests of its whole population, independent of ethnic origin. The ideology of universalism, therefore, instead of the principle of internationalism, is of particular significance. The basic idea of universalism is that all ethnic groups are given equal rights and possibilities for development, with no discrimination. Moreover, the proposed ideology of universalism could be the national idea of the Kazakh people as the spiritual leader of the national groups, populating Kazakhstan. The main element for consolidation of the peoples of Kazakhstan, consisting of the Kazakh nation and representatives of the other nationalities, is the Constitution.

In the conclusion we would like to remind again, that the Constitution declares equal rights to all citizens of the Republic, irrespective of their nationalities, religion, status, etc. All state bodies, officials, and citizens should carry out their directives according to this most important constitutional principle, in order to achieve the interethnic consent and unity of Kazakhstan’s people. Kazakhstan can’t simply follow the example of Western democracies that would contradict its own process of liberalization and economic modernization and weaken the role of the nationstate, as the source of national identity. Incorporation of traditional Kazakh social institutions is vital in creating the state, which follows the lead of Western nations yet achieves the model of social and economic development unique among the nations of today’s world.

REFERENCES


З.К. Анопова, Д.О. Құсайынов

Тәуелсіздік Жаңадаңбайдағы Қазақстан Республикасының Конституциялық-Кұқықтық Дамуының қәсіплері

Аннотация. Қазақстан Республикасының мемлекеттік және құқықтық даму саласындағы ірісі мемлекеттік баярданаларды дәлілді түрде дамуға және тілді іске асыру қолдануында құқықтың үлкендігін құрылысында көрсетеді. Қазақстандық құқық адамының сіркіндігінің қамтамасыз ету және олардың мүлдемдігін қорғау, қоғамды жанғыру, оның әл-дәуқатының жоғары денсійінің қамтамасыз етуге әкелтілдір. Қазақстанда мемлекет пен қоғамдың мүлдемділігі, идеологиясын қоғам идеалдарының қорсететін мемлекеттік идеологияға үлкен рөл төсіледі, әл дамуында мәндірек рөл атқарыды.

Тұпін көздел: идологиалық және, мемлекеттік ідология, сәсіні емір, сәсіні шешімді, тұрғызыланған дырышуы факторлар, қайта құру процессі, рухани сала, біқаралық бейтараның, сойкестеніру ді жоғау, сойкестеніру құнылыстыры.
З.К.Аюнова1, Д.У. Кусанов2

1КазНАУ, кафедра права, г. Алматы, Республика Казахстан;
2КазНПУим.Абая, общеуниверситетская кафедра политологии и социально-философских дисциплин, г. Алматы, Республика Казахстан

ПРОБЛЕМЫ КОНСТИТУЦИОНАЛЬНО-ПРАВОВОГО РАЗВИТИЯ РЕСПУБЛИКИ КАЗАХСТАН В УСЛОВИЯХ СУВЕРЕННОСТИ

Аннотация. Последовательная разработка и действенная реализация фундаментальных государственных программ в области государственно-правового развития Республики Казахстан показывают огромное значение действующего права в качестве эффективного социального регулятора. Поскольку именно в правовой форме решаются основные проблемы социально-экономической и политической жизнедеятельности общества, Казахстанское право призвано обеспечивать свободу людей и защиту их интересов, модернизировать общество, создать высокий уровень его благосостояния. В современных условиях большая роль принадлежит государственной идеологии, которая отражает интересы, мировоззрение и идеалы государства и общества, играет важнейшую определяющую роль в развитии страны. Безусловно, государственная идеология крайне необходима государству на каждом этапе его строительства, т.к. она заключает в себе определенный потенциал интеграции общества и самоидентификации государства в мировом сообществе. Именно отсутствие политической идеологии, способной эффективно объяснить общенациональные ценности и идеи, не позволяет достаточно уверенно интегрировать все слои общества. Созидательная роль современного права в условиях модернизации всех сторон жизнедеятельности государства и общества определяет необходимость формирования и развития целого ряда направлений в теории государства и права.

Ключевые слова: идеологическая система, государственная идеология, политическая жизнь, политические решения, децентрализующие факторы, перестроечные процессы, духовная сфера, массовая дезориентация, утрата идентификации, идентификационные ценности.

Information about authors:
З.К. Аюнов - Doctor of juridical sciences, professor, Chair of law, Kazakh national agrarian university, Kazakhstan, Almaty; https://orcid.org/0000-0002-5925-1619.
Д.У. Кусанов - Doctor of philosophy sciences, professor, interuniversity chair of politology and socio-philosophy disciplines, Kazakh national pedagogical university named after Abai, Kazakhstan, Almaty, https://orcid.org/0000-0003-4274-5986.