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## Political reforms in Kazakhstan







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## **Kazakhstan Journal** *of Foreign Studies*

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# NEW KAZAKHSTAN: FROM IDEA TO CONCEPTUALIZATION



## **Aidar Amrebayev**

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## **ABSTRACT**

This article is dedicated to studying potential of political modernization in Kazakhstan, opportunities, and risks of its realization. The issue of the need to conceptualize the goal of building a New Kazakhstan is being updated. The article critically analyzes the experience of political and economic design in Kazakhstan in the post-Soviet thirty-year period. The author makes a conclusion about the failure of attempts to reform the country on the old value and organizational-administrative basis with closed (or limited) system of interaction between government and society. However, at the same time, the processes of further sovereignization of the country and deepening the process of national self-identification in Kazakhstan reveal the need and possibility of qualitative renewal of the country, formation of new development ideologies that can mobilize society for change. The current directions of modernization of Kazakhstan's political system are considered, practical steps of the country's political leadership to amend the Constitution and a number of laws are evaluated from the point of view of political realism, in order to reveal the potential of reforms and stimulate social energy of the people for constructive changes. According to the author, it is necessary to have a comprehensive vision of the modernization process in Kazakhstan, which includes both economic and political, as well as cultural and ideological transformation of society. It is also necessary to change the tools of political reforms, to develop effective feedback mechanisms between the government and society aimed at strengthening the functionality of state power, its optimization and dynamization according to public expectations. The author concludes that the importance of consolidating the social capital of the nation for supporting reforms and political will of the country's leadership for institutional and functional changes in the political regime.

## KEYWORDS

New Kazakhstan, political modernization, nation-building, political reforms, «hearing state», Second Republic, state paternalism, oligopolies, constitutional reform, political competition, legal culture



## INTRODUCTION

Implementation of systematic, progressive steps in development of state is associated with complex, systemic changes in all spheres of public life equally, based on objective understanding and adequate assessment of opportunities and risks of country's development in the conditions of «maturing» of the actual needs and internal potential of society itself, responding to rapidly changing foreign political and economic conditions. In this regard, since the first days of gaining sovereignty, modern Kazakhstan has been carrying out and is currently initiating purposeful actions aimed at gaining its real subjectivity and soundness as an independent state with modern political system, open society, and responsible government, developed economic model and harmonious socio-cultural environment for its own sustainable and progressive development in transforming conditions of global and regional world order.

Today, Kazakhstan is completing the second stage of its development. The political history of modern Kazakhstan can be divided into two periods – the first stage – from 1991 (the date when the Republic of Kazakhstan had acquired

sovereign independent legal status) to March 2019, when stage of the formal transfer of power from the first generation of political leadership to the next one, the so-called «transit of power», began. At the end of 2022, we can say that the period of political transit is coming to an end, symbolizing end of the second stage of sovereign history. The «landmark event» of this stage, a kind of «political Rubicon» is the President's Message to the people of Kazakhstan dated September 1, 2022 [1], in which the Head of State, having proposed initiative for early presidential elections and a single 7-year term of his cadence without the right of another balloting, drew a line under the «era of political transit», having set the goal of launching a project to build a New Kazakhstan with renewed political system. Actions of Kassym-Jomart Tokayev fit into the logic of the whole process of progressive «maturation» and conceptualization of the idea of New Kazakhstan.

The present analytical review is dedicated to this process. The article uses a wide arsenal of general scientific research methods, such as system analysis, ascent from the abstract to the concrete, the coincidence of logical and historical, and a number of special methods of political science research, such as comparative analysis, content analysis. The paper uses up-to-date statistical data and individual results of sociological research. In general, the hypothesis is considered that the formation of the idea of New Kazakhstan was conditioned by the entire course of the formation of sovereign Kazakhstan from the moment of its legal registration and through targeted reforms of the political, legal and socio-economic system of the state. At the same time, updating «Second Republic» concept (political synonym for New Kazakhstan – author's note) meets the task of a systematic vision of reforms, definition of target indicators and tasks of political design at new qualitative level of development of Kazakh society.

## THE FORMATION OF SOVEREIGN KAZAKHSTAN

The emergence of New Kazakhstan idea is justified by the logic of the entire process of nation-building of modern Kazakhstan, which has sufficiently deep historical and cultural roots. In this regard, it does not seem to be the fruit of technocratic design for the sake of current political conditions of today or the triumph of «historicism», which Karl Popper wrote about in his famous work «Poverty of Historicism», but the result of painstaking, critical philosophical self-cognition, national historiosophy of the Kazakh people. The point is that political, economic, and cultural and civilizational processes of modern Kazakhstan are conditioned by entire course of cultural and historical development of the Kazakh nation on its ancestral territory in the environment of dynamic and fundamental geopolitical changes in Eurasia. It can be said, contrary to a number of stereotypes and incorrect judgments of individual authors, that emergence and strengthening of statehood in Kazakhstan is not accidental and dependent on the «capricious will of history», according to which «Kazakhs have never had statehood» or «formation of Kazakhstan

Uninterrupted historical and cultural continuity of Kazakhstan over the centuries is an important cornerstone of its modern independence.

state is entirely connected with the «benevolent desire to bestow Kazakhs with some gifts» of its metropoly, represented by Russian Empire and the Soviet Union. In fact, continuous nature of the statehood of the Kazakhs and their ethno-cultural substrates in the center of Eurasia for many hundreds of centuries is historically proven and justified fact, and therefore today's

Republic of Kazakhstan is a natural and internally consistent phenomenon. Moreover, the country took an active part in the nation-building of many nations and states of the Eurasian continent, as witnessed by many historical and cultural materials and objective research, accumulated up to date.

The subject of this article, however, is not the historical and cultural justification of the sovereignty of modern Kazakhstan. Therefore, we take this fact for granted and believe that when we talk about New Kazakhstan, we are certainly not talking about building a completely new state from scratch, but about the process of modern transformation of our country, updating its political and economic system, cultural and civilizational identity, values, and guiding marks of our people at present stage, set by our ancestors in this land many centuries ago.

Uninterrupted historical and cultural continuity of Kazakhstan over the centuries is an important cornerstone of its modern independence. All the substantive characteristics of sovereign statehood have been inherent in one or another degree to our nation throughout its entire historical existence. New Kazakhstan symbolizes the onset of qualitatively new stage in its development, renewed content of all aspects of the country's life in modern conditions. Therefore, speaking about political reforms affecting the very foundations of the state system, we should proceed from the continuity of political traditions and legal culture of the Kazakh and other nations inhabiting our territory, experience of existence of state institutions in a variety of historical conditions that Kazakhstan has experienced at different stages. The need for political renewal in the country comes, first of all, from the logic of the entire successive historical process of the development of our statehood. If we use the Marxist dialectical methodology of analyzing social processes, this means rather complex process of dialectical «negation of negation», which allows the state to move from one quality to another, acquiring new formats and horizons of political design that respond to current challenges of modernity and innovative world precedents of successful political models of states.

If we turn to the experience of the modern political history of Kazakhstan in the conditions of modern sovereignty, it should be noted that for more than thirty years of its development during this period, Kazakhstan has acquired all the necessary features of a modernized independent state. After the collapse

of Union of the Soviet Socialist Republics, Kazakhstan consistently and in accordance with the norms of international law carried out all the necessary formal and substantive legal procedures for registration of its modern independent status, recognized by all member states of the world community. In particular, Kazakhstan is perhaps the only one in the post-Soviet space that has fully implemented delimitation and demarcation of its national borders, secured international guarantees of territorial integrity and independence of the country. Among the unconditional achievements of the Republic of Kazakhstan as a responsible subject of international relations, was the voluntary renunciation of nuclear weapons and implementation of consistent peaceful and friendly, neighborly, balanced, multi-vector foreign policy of the state. In turn, this allowed creating necessary conditions for development of open-type economic model with relatively market-based self-regulation mechanisms with sufficiently active role of the state, favorable international investment climate and orientation to high living standards for majority of the population. It should be particularly noted that the country's leadership, during the period of cardinal socio-economic changes in the way of life and the formation of an almost new political regime of government, managed to maintain a stable social system with a paternalistic role of the state. Despite the negative predictions of a number of foreign analysts about inevitability of social imbalances and interethnic and inter-religious conflicts, peace and social harmony were preserved in Kazakhstan as a whole. The State has successfully coped with individual manifestations of xenophobia and radicalism on a religious basis, social contradictions and imbalances that have an objective basis in the conditions of a comprehensive socio-economic transformation have been overcome. This was achieved thanks to strengthening of a strong vertical of presidential power, which, in fact, stood above all other branches of government. The «super-presidential system of power» created at this stage met the task of controlled, evolutionary transition from the Soviet to the post-Soviet model of statehood. Comparative methods of studying the transit period in post-Soviet countries allow concluding that the Kazakh model of «transit to democracy» from the autocratic Soviet system to the model of the so-called «managed democracy» [2] was relatively successful against the background of many cataclysms experienced by neighboring countries of Kazakhstan. It is fair to say that ambitious development goals set by the country's first leaders, such as «Kazakhstan's entry into the thirty most developed countries of the world», «accelerated industrial and innovative development», «diversification of the raw material model of the economy», reliance on «quasi-state national companies», despite their «breakthrough» nature, nevertheless, have not been fully implemented. The proclaimed model of «economy first, then politics» turned out to be not a very successful formula for transformation, since any reforms assume a complex and systemic nature based on both progressive economic measures and unconditional improvement of the political and legal system based on changes in mindset, cultural and value preferences

and transformation of national identity occurring in the «era of changes.» The renewal of missing links in necessary changes is obvious today, goal of political modernization, adopted by the new leadership of the country, is conditioned. In this regard, it is necessary to recognize that the model of «manual», evolutionary transfer of power from the first president of the country to the second, implemented in Kazakhstan, first set the task of forming and strengthening transparent institutional mechanisms for implementing transformations based on a dialogue between society and the authorities while maintaining capacity of the instruments of direct centralized public administration.

### **THE BIRTH OF NEW KAZAKHSTAN IDEA AND POLITICAL TRANSIT**

The New Kazakhstan idea was born and gradually «unfolded in the minds» of the elites, starting from the spring of 2019, when formally the first president of the country left his post, retaining the major priority levers of public administration. Such powers were the direct control by the former head of state of the country's Security Council, which received the status of a constitutional body, direct influence of the first president on the dominant party and political structure «Nur Otan», the right to personally dispose of the National Welfare Fund «Samruk-Kazyna», chairmanship in such authoritative public body as the Assembly of People of Kazakhstan. Thus, until very recently, the political responsibility for the transformation processes taking place in the country was fully borne by the first head of sovereign Kazakhstan, who formed and maintained the existing status quo of power in the country.

The inauguration of the President of Kazakhstan Kassym-Jomart Tokayev in summer of 2019 as a result of early presidential elections, although symbolized process of succession of power, but in fact was only the beginning of a political transit that continued from summer of 2019 up to present, as a result of which purposeful measures for real transformation of the political system, legal formalization of new structure of powers and bringing the economy to truly market-based self-regulation mechanisms are being updated and implemented. As already mentioned, the practice of the last decades of the development of sovereign Kazakhstan has shown the expediency of comprehensive and simultaneous modernization of both the political and legal system and further de-monopolization and liberalization of the economy with a radical change in public consciousness. The experience of thirty years of modern Kazakhstan's development has clearly demonstrated that despite the fact that the tasks of modernization of individual spheres were set by the country's leadership and individual successes were achieved in various fields, nevertheless, the real «breakthrough into the developed world» did not happen. We have observed how some rather advanced and innovative projects were «slowed down» due to the inert and non-competitive policy of over-concentration of power in the hands of the same person and developed around the interests of financial and commercial elites loyal to the government, who formed stable oligopolies that

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ignored national interests and dispersed the country's development resources for their own selfish purposes. For example, the situation with the so-called «national projects» at the expense of the National Fund is still unresolved. Thus, according to the reports of the Accounts Committee, «in 2021, 1.1 thousand new projects were launched, 90% of which were implemented at the expense of the National Fund. At the same time, out of 20 audited projects implemented at the expense of targeted transfers from the National Fund of Kazakhstan, only seven are production projects. 64% of the funds allocated from the National Fund, were directed by the country to current activities: payment of pensions, allowances, subsistence of convicts, research. This means that money is not spent on development projects: competitive export- and import-substituting production and economic diversification» [3]. This example of the irrational participation of the state in the economy puts the issue of updating the economic strategy of the state point-blank. The economic policy of the state does not satisfy the Head of State at all, as President Tokayev has repeatedly said, noting the lack of a clear and truly innovative macroeconomic vision of the role of the state in the process of modernizing the country's economy. The vision of his state mission was briefly outlined by the Second President of Kazakhstan in his speech at a meeting with the Turkish business community on May 11, 2022: «My goal is to give more freedom to my people, strengthen democracy and the rule of law... We have embarked on a qualitative modernization of the economy through strengthening fair competition, protection of private property, and de-monopolization of the economy. All these measures will significantly strengthen political stability, the system of protecting the interests and rights of business, and create broad economic opportunities for foreign investors. In a word, new horizons are opening up before us today...» [4].

Kassym-Jomart Tokayev began realizing his mission as head of state from the moment he took office as President of the country in 2019. In retrospect, we can see his consistent steps in political modernization of the country, the so-called «packages of Tokayev's political reforms». The first package of political initiatives of the President of Kazakhstan was proposed, starting with his first State-of-the-nation Address in 2019 and the convocation of the National Public Trust Council (NPTC), which included authoritative civil activists and

public opinion leaders under the leadership of the President himself. The very convening of such a dialogue platform for representatives of civil society and the authorities is not an exceptional political innovation, since earlier attempts were made to create such «formats of democratization from above». Let us recall at least the convocation of the National Commission on Democracy and Civil Society under the President of the Republic of Kazakhstan by Decree of the President of the Republic of Kazakhstan dated November 2, 2004 No. 1467. Nevertheless, the NPTC has managed to establish itself as an open, rotating dialogue platform, a kind of political «social elevator» for getting into the power of authoritative «new wave» politicians who are passionate about modernization ideas. Moreover, the idea of implementing the principles of the «hearing state» in practice became the value basis of the activity of this structure. It is necessary to pay attention to a number of proposals for the political modernization of Kazakhstan, «run-in» on the platform of the NPTC. In particular, in 2019, changes were made to the procedure for organizing peaceful assemblies and processions, delineating the rights and obligations of their organizers, participants and observers; it was proposed to reduce registration barrier for creation of political parties from 40 to 20 thousand members; a 30% quota for women and youth in electoral party lists was initiated; institute of parliamentary opposition was introduced. The next package of political reforms announced by the President of the country in September 2020 at the next State-of-the-nation Address to the people of Kazakhstan covered the following initiatives: development and adoption of Local Self-government Concept; holding direct elections of rural akims from 2021; development of the Law «On Public Control» aimed at increasing openness and accountability to society of state bodies and quasi-public sector; creation of a single legitimate institute of online petitions for citizens to initiate reforms and proposals, and its legislative formalization; improvement of national legislation on combating torture, bringing it into line with the provisions of the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment. The third «package» of proposals for political modernization was announced by the President of the country after the parliamentary elections at the opening of the first session of the Majilis of the Parliament of the Republic of Kazakhstan of the VII convocation on January 15, 2021 and included the following «political innovations»: lowering the threshold for passage of political parties to the Majilis of the Parliament from 7 to 5%; introduction of the «none-of-the-above» column in ballots at elections of all levels; introduction of the Youth Development Index; adoption of the Law on the Ombudsman. The fourth «package» of initiatives was announced a year later at the September Presidential State-of-the-nation Address and included the following items: legislative consolidation of the norm on mandatory accounting of 30% quotas for women and youth in the electoral lists of parties at distribution of deputy mandates and further expansion of the quota-controlled categories of citizens due to inclusion of persons with special needs; development of effective

mechanism to support civil initiatives in rural areas localities and others.

The process of progressive evolutionary «top-down» political modernization was interrupted by January-2022 events. It was a kind of «brain shaking» in the public consciousness, in general, and in the «political class» of Kazakhstan, in particular. In fact, society has faced the need to move from «cosmetic» reforms to fundamental, systemic changes affecting the foundations of the country's constitutional system, political model of the state. The determination of President Tokayev to take full political responsibility for the country in January 2022 [5], manifested in the adoption of rather harsh measures to restore order in the country, which are perceived ambiguously in society and are one of the sensitive topics for current political elite; taking control over activities of the Security Council of the Republic of Kazakhstan; rebranding the party in power and removing President from its rows; beginning of investigative actions against the leaders of a number of law enforcement agencies suspected of attempting a coup; proclaiming policy of combating oligopolies; the creation of the Kazakhstan Khalkyna Foundation and others, became the trigger for systemic transformations of the political regime of Kazakhstan. The beginning of Russia's so-called "special military operation" in Ukraine at the end of February 2022 significantly accelerated political processes in several countries, including Kazakhstan.

### ON THE WAY TO NEW KAZAKHSTAN

The events that took place in Kazakhstan in January triggered fundamental changes in the country on the way to a new quality of development. On March 16, the President, speaking with an Address, firmly stated that the country needs cardinal reforms. His proposed initiatives «reflect a wide range of views existing in our society. They act as a logical continuation of the transformations that have already begun and solve two urgent tasks. Firstly, they promote consistent democratization, and secondly, they ensure stability and manageability of the state» [6].

From our point of view, this State-of-the-Nation Address has become a key moment in the beginning of systemic political modernization in the country. «The initiatives outlined in the Address are aimed at a radical transformation of our political system. They proceeded from the long-standing request of citizens to expand participation in government and deep democratization of political processes. For their effective implementation, amendments and additions to the Constitution were required. In other words, constitutional reform was necessary,»[7] Kassym-Jomart Tokayev said, explaining the essence of the reforms carried out in the country. The President's initiatives cover the following priority areas: (1) The President's powers; (2) Reformatting representative branch of government; (3) Improvement of electoral system; (4) Expanding opportunities for development of party system; (5) Modernization of electoral process; (6) Strengthening human rights institutions; (7) Increasing

competitiveness of mass-media and strengthening the role of civil society institutions; (8) Improvement of administrative-territorial structure of the country; (9) Decentralization of local self-government; (10) Priority anti-crisis measures. Thus, the initiatives proposed by the Head of State affect the fundamental foundations of the constitutional system of Kazakhstan and were put forward for a National referendum on June 5 on amendments to the Constitution of the Republic of Kazakhstan, which actually affected a third part of the provisions of the Basic Law. The main goal was the country's transition to a new state model, a new format of interaction between the state and society.

The peculiarity of Constitutional reforms proposed by Tokayev was that these amendments were formed against the background of widespread public discontent with the results of the 30-year-old «Nazarbayev's political project», the formation of model, in which the powers in the country were super-concentrated in one man's hand. As foreign experts noted on the eve of the January protests in the Chatham House report, the centralization of power that took place in Kazakhstan means that civil society and the political opposition are, by and large, a fiction. Their existence is permissible to the extent that the authorities manage to manipulate them, drive them into the permitted frames and use them to please their interests and as a distraction... Although Kazakhstan has carried out limited governance reforms, they have recently been technocratic in nature and have not affected the highest echelons of government. Reshuffling often occurs at the highest levels of government, but the system, in fact, remains unchanged. There are few women in leadership positions. The group of talented recruits in high government positions is small, because under the existing system of protectionism, positions and posts are distributed among groups of business interests, often in such a way as to balance competing influences. The main decisions and strategy are determined in a close circle and still taking into account Nazarbayev's position. There have not been any significant shifts towards political liberalization yet... In reality, Kazakhstan has a closed informal political system that truly distributes powers among the elite and decides how to govern Kazakhstan. This blurred decision-making process takes place at the level of informal protectionist relations. As president, Nazarbayev stood (and still stands) at the top of a carefully maintained vertical power structure that allowed him to manage an elaborate system of checks and balances between different interest groups. Having established a system of rent distribution for family members and elite figures close to him, Nazarbayev built informal networks, creating a buffer of adherents who are tied not to Kazakh institutions, but to him personally. One of the consequences of such a system is that it hinders the full transformation of the country into a globally competitive market economy. The political economy of Kazakhstan is centered around the Nazarbayev family and its associates. As in business, the Nazarbayev Corporation relies on the vertical of power. Rent is accrued to a person in accordance with his or her position in the hierarchy, and those who are in close proximity to Nazarbayev receive the greatest benefit. The most



valuable economic assets usually belong either to his family or to particularly close persons in the presidential circle. Since the first days of independence, Nazarbayev has relied on such assistants or «treasurers» to manage the system of protectionism. Each person was used for different purposes and in such a way that no one could form a complete picture of his affairs» [6].

One of the fundamental moments of President Tokayev's constitutional reform was the exclusion from the Constitution of the norm concerning the status of the First President, the transformation in fact of the «super-presidential power» into a more balanced and legally limited power that meets public expectations. Significant points of political modernization, according to the changes in the Constitution are the following provisions: transformation of the Constitutional Council into the Constitutional Court, which granted to all citizens of the country the right to appeal in order to seek protection of their rights; the basic law now includes a rule that the land and its resources, flora and fauna and other natural resources belong to the people, owned on their behalf by the state, the land may also be privately owned on terms, conditions and within the limits established by law; the change to «more harmonious» – mixed electoral system was proposed, mixed majoritarian-proportional model for the election of deputies of the Majilis (70% on a Pro rata and 30% on a majority basis) and regional maslikhats was introduced, allowing more clear reflection of electorate interests, both at the national and regional levels; the quota of the Assembly of people of Kazakhstan was removed from the Majilis, but transferred to the Senate and reduced from 9 to 5 deputies, respectively, the total number of seats in the Majilis will decrease; presidential appointment of akims of regions and cities of Republican significance will be carried out on a competitive basis taking into account the results of consideration of their

candidacies in the maslikhats; significantly reduced registration threshold for parties to be reduced by 4 times – down to 5 thousand people from current 20 thousand, and the minimum number of regional offices will be reduced by three times – from 600 to 200. The latter measure, according to experts, will increase the number of registered parties and, consequently, will strengthen competition in the party-political field. The elimination of the actual one-party monopoly will allow the authorities to express a wide range of public attitudes, represent alternative projects of the country's development, and in general, will improve quality of decisions made by the state. Constitutional ban for the President and his relatives to hold political and leadership positions in the quasi-public sector is in line with expectations of the population, tired of manifestations of tribalism and nepotism in power. Although this provision restricts the rights of certain individuals, it is objectively a reaction of society to negative manifestations of the autocratic, paternalistic political culture that has taken root in Kazakhstan in recent decades. Equidistance from any political forces and the non-party status of the Head of State is also intended to form

**One of the fundamental moments of President Tokayev's constitutional reform was the exclusion from the Constitution of the norm concerning the status of the First President, the transformation in fact of the «super-presidential power» into a more balanced and legally limited power that meets public expectations.**

transparent and fair «rules of the game» for everyone who wants to participate in the political process. In general, these constitutional amendments, approved by voters on June 5 this year, will make it possible to take decisive steps in building a New Kazakhstan, the mission of which, according to the President, lies in respecting constitutional rights of every citizen, in fact, a fundamentally new political culture is being formed, based on mutual respect and trust between the state and society. This strategic goal provides, in addition to constitutional changes, a change in the entire «regulatory framework» of the state. In particular, it is necessary to make appropriate changes to more than 20 legislative acts of the state. In the process of institutionalization of the idea of New Kazakhstan and full-fledged law enforcement practice, these regulatory changes are of key importance, since they provide for a radical transformation of the system of power and the «rules of the game». In particular, the most significant innovations of political modernization should include, first of all, transition from «super-presidential power» to the system with new balance of powers of the president, government and parliament, expressed by the Head of State in the formula: «strong president – influential parliament – accountable government.» This configuration, along with independent court and mass-

media, seems to be traditional in a number of liberal Western states and is not quite typical for the post-Soviet space, in which the presidential power often stands above other branches of government and is essentially paternalistic. In this regard, we believe that on the way to the formation of a New Kazakhstan, it is necessary, along with constitutional amendments, to take fundamental steps in two important areas of modernization: consistent reforms of the judicial and law enforcement system (1); fundamental changes in the public environment in the field of ensuring freedom of speech, formation of an «open society», diverse, alternative information space of the country (2).

From our point of view, New Kazakhstan is, first, a rule-of-law state, the basis of which is an independent judicial system, transparent prosecutor's supervision over the execution of laws and a service law enforcement system that ensures public safety. The former structure of direct subordination of judiciary authority to the president has become a closed instrument of the president's pressure on all aspects of society, arbitrary division into those «who are allowed to do everything and those to whom everything is according to the law,» as the President bitterly said at a meeting with the business community of Kazakhstan immediately after the January events. This approach fundamentally contradicts with the idea of social justice. The change in status of the Constitutional Council to the Constitutional Court proposed in accordance with the amendments to the basic law of the country is the right step towards an independent judicial system, requiring further consistent changes, for example, to the Constitutional Law «On the Judicial System and the Status of Judges of the Republic of Kazakhstan» and changes to the law enforcement practice of such provisions as non-participation of judges in the activities of political parties and real independence from the unspoken «control and recommendations» of the executive authorities. It would be important to be guided by international standards of judicial independence. It is interesting that in the practice of transitional societies at the stage of creation of an independent judicial system, developed practices of foreign countries were widely used in the processes of its reforms and even foreign lawyers were involved in the work as judges. We should take note of the desire of the international judicial community to participate in the judicial reform process in Kazakhstan. In particular, the Secretary General of the International Association of Lawyers from Switzerland, Mr. Sam Zarifi, noting the positive initiatives of the leadership of Kazakhstan in this area, noted: «The Constitutional Court will be created in Kazakhstan as a separate jurisdiction. This could potentially be an important step towards ensuring greater independence of the judiciary authority and will require development and adoption of special legislation in this regard. We will be happy to comment on such legislation at the stage of its development to ensure that the legislation is complete and includes, as far as possible, international law and standards of judicial independence»[8].

One of the «generic problems» of the domestic legal system is the closeness of law enforcement practice, «privacy» and arbitrariness of control over compliance with legislation by the prosecutor's office. This «gray zone», as it is known, is a

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fertile ground for corruption and illegal actions. In this regard, rather strictly regulated and principled approaches to the activities of supervisory authorities are needed. Excessive bureaucratization and accountability to higher authorities at the «grassroots levels», along with the closeness to public attention and operation of mass media under domination of arbitrariness and impunity for crimes from selfish motives at the level of senior managers, create effect of a «state within a state», official «shadow structure» working for itself at public expense.

Also, the January events showed serious problems in the activities of law enforcement agencies responsible for safety of citizens and compliance with the rule of law. Numerous facts of criminal inaction on the one hand, and on the other, abuse of authority by the police and investigation authorities caused a wide and negative public response to the investigation of the January events. In this regard, it is obvious that there is a need for decisive and balanced, thoughtful reforms in the legal sphere that meet the primary concerns and ensure legal protection of citizens. In the New Kazakhstan, the value orientation of the judicial and law enforcement system should be changed from punitive to preventive and service model of work that can form a different type of people's attitude to the servants of the law. Not the fear of punishment, but the attitude of respect for the guardian of justice, strict and rigorous adherence to the letter of the law by everyone, regardless of social status. In general, this corresponds to a change of attitudes from «infantile-paternalistic hopes» to leniency of the punitive system or «believing in good tsar», to reliance on impartiality and objectivity of the judicial system and proper supervision of legality by the prosecutor's office, attention and humane attitude of police officers to the interests of citizens. The change of the paradigm of legal regulation from the satisfaction of departmental and other priorities of the authorized authorities of the state to the responsibility in ensuring the interests of citizens should become the main direction in the legal provision of the New Kazakhstan. When they talk about New Kazakhstan as a fair social system, first of all, we are talking about fair legal proceedings. It can be said that for a State governed by the rule of law, the creation of a fair judicial system is a key element of compliance with the new Social Contract adopted by all parties, both the state and its citizens.

For the successful political modernization of the country, it seems most important to change the priorities of the functioning of the state as an institution aimed at comprehensive realization of the rights of every citizen, and not

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ensuring vital activity of the state apparatus, bureaucracy at any cost. Unfortunately, for many years of the former development of modern Kazakhstan, a paternalistic form of the state and a parasitic, passive model of people’s political behavior corresponding to it have been formed in society. It seems that today it is fundamentally important to awaken the social energy of citizens and put into practice the legitimate demand of citizens for efficiency from state bodies to perform the most important functions of the state, such as ensuring national security; rational, corresponding to the interests of the whole society, spending of public goods and resources; strict and equal observance of the rule of law, first of all, by representatives of state bodies; comprehensive state support of individual freedoms of citizens and forms of collective socialization, actual needs of nation’s cultural identity, for example, its linguistic, ethnic, religious components. As a result, a paradox was developed in society: on the one hand, the irresponsible attitude of the state towards its citizens, on the other, the unreasonable expectation of citizens to

solve all their problems from the state. We can say that this situation has become a brake on the development of the country, deactualizing its social capital. From our point of view, the most important condition for the implementation of the New Kazakhstan project will be the awakening and functional viability of social capital in various institutional formats: this includes updating the content, forms of functioning and responsibility to society of state bodies, implemented today within the framework of the concept of a «hearing state»; and intensification of activities and increasing the authority of civil society institutions through the «revival» of party-political field of Kazakhstan, associated with opening of real political competition for everyone. Significant changes that have been and will be adopted in the direction of ensuring freedom of speech through updating the Law «On Mass Media»; full-fledged provision of human rights through citizens’ appeals to the Constitutional Court; the possibility for citizens to freely hold meetings and rallies under the relevant updated legislation; the exercise by citizens of the rights to elect and be elected as a proportional system through participation in the activities of parties, and according to the majority lists. All these innovations proposed by the President and supported by the citizens of the country will allow us to enter the regulatory field of New Kazakhstan.

The issue of transformation of the super-presidential system into a balanced configuration of «checks and balances» of all branches of government, getting rid of the «birthmarks» of the former autocratic system of individual and clan rule is relevant for Kazakhstan today. The course aimed at excluding special privileges for some to the detriment of public majority, as well as fight against oligopolies, meets the aspirations of the people for the formation of a truly fair Kazakhstan with transparent and common «rules of the game» for all. Egalitarianism, as an idea of creating a society with equal social and civil rights for all members

of this society, and as an ideal – «equal opportunities society» corresponds to the ideology of New Kazakhstan. Important tools for implementation of this egalitarian model are widespread introduction of meritocratic (i.e., based on the selection of worthy people) principles of selecting people for public service and creation of open «social elevators» for young people. In this regard, for example, the allocation of a special quota for young people and women at elections to the legislative body of the country is illustrative. It is also supposed to use both the principle of «institutional memory» (i.e., use of specialists experienced and proven in the civil service) and the personnel reserve of the President, the main backbone of which is young people, including those who have received foreign education under various state programs. This model of recruiting people for public service has demonstrated its effectiveness in several developed countries of the world, for example, in Singapore.

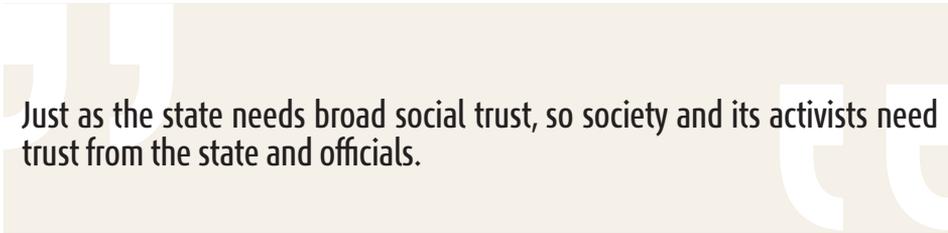
The fight against corruption and nepotism, the client-paternalistic and tribal system is at the forefront and, perhaps, is the most difficult and sensitive area of reforms in Kazakhstan. Uncompromising and «zero tolerance» for corruption offenses will become a condition for emergence of public confidence in government's reforms. To date, unfortunately, the index of social trust in the state is not high. The degree of public confidence in formal institutions operating in society can be considered as a generalized characteristic of effectiveness and quality of the institutional environment. According to sociological surveys of the Institute of Philosophy, Political Science and Religious Studies of the Science Committee of Ministry of Science and Higher Education of the Republic of Kazakhstan, the President, first of all, and then the Government and Parliament enjoy the greatest confidence in the structure of state authorities. In the structure of the hierarchy of power, respondents' preferences are given to the executive branch of government rather than the representative one.

	trusted	distrusted	partly trusted / distrusted
President	37,0 %	23,1 %	34,6 %
Government	28,4 %	31,9 %	36,7 %
Akimat	26,9 %	33,0 %	37,1 %
Parliament	25,7 %	33,5 %	37,1 %
Maslikhat	24,7 %	34,2 %	36,7 %

*The results of the opinion poll of the the Institute of Philosophy, Political Science and Religious Studies of the Science Committee of Ministry of Science and Higher Education of the Republic of Kazakhstan, the Study of Program-Targeted financing 2021.*

Higher trust in the President indicates, rather, trust in him personally and that the ongoing political reforms in the country are associated with him personally, whereas institutional trust is insignificant. This fact witnesses that

belief in irreversibility of reforms is unstable in minds of Kazakhstanis. The January protests in Kazakhstan clearly showed the high protest potential of the country's population. The concept of New Kazakhstan has not yet taken root in the consciousness of the population, and has not yet become a factor of national consolidation and constructive social mobilization. According to people, decisive steps are needed to change the previous system of management and decision-making at various levels of government, there is dissatisfaction with the effectiveness of the government, especially on the block of economic reforms, and the law enforcement system of the state also causes undisguised disappointment and criticism. Hopes for local self-government in the current format have not yet been fulfilled. The widespread introduction of really functioning institutions of public self-government in the field is relevant.



**Just as the state needs broad social trust, so society and its activists need trust from the state and officials.**

Attempts to «top-down reforms» are technocratic and decorative in nature and require greater legitimacy in the eyes of society. The popular opinion that has prevailed so far, stating that «society is not ripe for democracy» is untenable and must be overcome in the conditions of New Kazakhstan. Just as the state needs broad social trust, so society and its activists need trust from the state and officials. De-bureaucratization and deformalization of public administration procedures in various spheres where society can play a significant and even prevailing role is an actual managerial discourse.

A new impetus to broad political discussions about the new Social Contract on the eve of the New Kazakhstan was given by the President's Address to the people of Kazakhstan, announced by the Head of State on September 1, 2022, especially concerning his initiatives regarding early presidential and parliamentary elections this year, as well as elections in maslikhats, in the first half of next year. An ambiguous public reaction was caused by the President's proposal for a single term of 7 years without the right to nominate for a second term for the future president. According to lawyer E. Mukhamedzhanov, «these news caused associations with our recent past, namely with constant adjustments to the terms of the former president's tenure, which, in most cases, was associated with early elections. Therefore, the very phrase «early elections» has already become toxic for our society. All this raises concerns about whether the practice of early dissolution of the Majilis and early presidential elections will become our permanent political tradition? Another point that causes misunderstanding, and, consequently, nervousness, is a new proposal

to amend the Constitution, although the previous constitutional reform was carried out only a few months ago – on June 5, 2022. Of course, reforms and adjustments to the norms of the Constitution are necessary, but they must be consistent. Today they are turbulent, but they should be evolutionary or selective. Evolutionary means that the reforms come from realities of our life and are understandable to society, and are not dictated by expediency of the moment. It is also appropriate to note here that over the past 30 years, the former leadership of the country has introduced so many restrictive qualifications for candidates into the current legislation on presidential elections of the Republic of Kazakhstan, without which any elections in the eyes of society are unlikely to look honest and legitimate. And the third point, which, in our opinion, has worried society, is that the head of state makes his proposals without prior discussion not only with any expert community, but also with the parliament. Through the eyes of outside observers, these actions of the head of state, on the one hand, look very undemocratic» [8]. Of course, it is possible that the reaction of the population and even some experts may seem excessively «sensitive», however, in the dry balance we have a rather decisive step on the part of the current political elite towards greater political responsibility for the fate of the country. In this regard, we believe that the real beginning of the political transformation into a New Kazakhstan with the election of a new president with constitutionally limited powers, including a one-time cadence of 7 years, is reasonable and justified, both from the point of view of the emerging political and socio-economic conditions, and the task of cardinal renewal of the modernization political and a legal framework, transparent «rules of the game» according to which representative authorities will be elected next year. The relevance of changing the political and legal field of the country for the construction of a New Kazakhstan can hardly be doubted by anyone. Today, the forces opposing the regime will agree that the previous political structure was built to ensure the functioning of super-presidential government, and that it needs to be radically changed. In fact, the necessary substantive amendments to the Constitution have been made and will be made additionally in accordance with the President's proposals, in order to create a legitimate «legal framework» for subsequent amendments by parliamentarians to a number of constitutional laws, on the basis of which these «rules of the game» will be adopted, corresponding to the task of building a New Kazakhstan, according to the logic of Ak Orda. This conflict also activates the opposition forces, which are an indispensable attribute of any democratic political regime. We believe that the renewal of the political elite with new approaches and development projects will favorably affect the dynamics of the political process in the country, making it more democratic not in form, but in content.

In this regard, we believe that the conceptualization and design of the New Kazakhstan is entering an active phase of its implementation. And in this regard, it seems to us, it is worth focusing on how the project of “New Kazakhstan” is

seen in terms of content, what a new economic program can be and what really effective political institutions are, what are the channels and possibilities of future public communication, the status and prospects of opening transparent “social elevators” etc.

## CONCLUSION

Summing up, we can say that the chances for success of political modernization are quite high with proper political management of reforms, bringing them to completion and comprehensiveness. However, there are a number of «latent processes» that increase vulnerability and instability of modern Kazakhstan's political structure. One of the most difficult to reform is the established client-paternalistic system of mutual guarantee and «useful social ties» at different levels of government. The transition from «informal ties» in the «political class» and its merger with the oligarchic strata, firmly entrenched in the power hierarchy, to another transparent and standardized scheme of social management based on strict observance of rules and procedures, do not allow achieving success even if there is political will at the very top of the power pyramid. The facts of sabotage and improper execution of management decisions and strategically verified concepts at the lower levels of management are illustrative in the process of President Tokayev's reforms. In this regard, political innovations encounter the «tacit» resistance of the old political elites and oligopolies that still control various spheres of the economy and public administration. It seems that in the process of political modernization of Kazakhstan, one should proceed not only from the liberal attitude of respect for human rights and democracy, which is an unconditional and proven benefit in advanced countries, but also from the interests of preserving a strong and effective state system capable of responding quickly and thoroughly to emerging challenges. In this aspect, experience of Asian countries with rooted ethical traditions of responsible political culture and a strong, competent political elite aware of the responsibility for the prosperity of the state is very valuable. Introduction of the ideology of fulfilling public duty into people's consciousness, observing decent behavior of civil servants, preserving honor and dignity under any circumstances, along with transparent meritocratic rules for selection of civil servants, separation of political power from managing economic resources based on selfish motives, can become directions for further reform of Kazakhstan. It is important that public behavior should be based on the principles of a «post-disciplinary society» based not on punishment (according to M. Foucault), but on the conscious responsibility of individuals for the fate of society, upholding public (national) interests, careful attitude to individuality, while ensuring openness, accessibility and complementarity of state institutions to their citizens.

Thus, it seems that today Kazakhstan is at a critical stage of its development, when much will depend on the presence of political will to change in power, on the one hand, and the consolidation of society, its willingness to accept and mobilize social capital for changes in a constructive manner, on the other hand,

as well as on general climate of trust between the authorities and society to each other. Proposed institutional changes in the political system of Kazakhstan are, painful though, but necessary conditions for positive changes.

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# BUILDING DIALOGUE BETWEEN SOCIETY AND THE STATE AS A BASIS FOR FURTHER REFORMS IN KAZAKHSTAN



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## ABSTRACT

In the paper, the author analyzes the relationship between effective channels of interaction between the state and reforms. The channels of interaction are the institution of requests and appeals of citizens, as well as consultative and advisory bodies as dialogue platforms. By analysing citizens' appeals, urgent problems in society are identified, which contribute to the adjustment of public policy directions, and reforms in various areas are initiated as a result of public discussions.

## KEY WORDS

citizen appeals, reforms, National Council of Public Trust, dialogue between society and the state, interaction

## INTRODUCTION

Any reforms are more the result of a certain request from the population and society. One factor in the success of reforms is the existence of various channels of interaction between the population and the state through which citizens can convey their demands, requests and appeals, and political institutions, in turn, must respond promptly to them.

Over the past three years, President Kassym-Jomart Tokayev has announced a number of reforms in all spheres, especially in the political sphere. The first step towards further political reforms was the «Hearing State» concept of President Tokayev in 2019. The Head of State drew the attention of regional leaders to the expediency of strengthening feedback from the population for rapid response to the urgent problems of citizens. To reduce barriers, the Head of State instructed Akims to create personal accounts and be active in social media. The Head of State himself is an active user of Twitter and Instagram, where citizens can contact him directly, becoming one of the first to broadcast information about the current situation in the country.

A number of initiatives and instructions to establish effective feedback from the population have been implemented through the launch of the President's Virtual Reception on the Akorda website. In addition, a department was formed to control the handling of citizens' appeals in the Office of the President of the Republic of Kazakhstan.

An institutional solution in this direction was the establishment of the National Council of Public Trust under the President of the Republic of Kazakhstan. The core of Tokayev's policy is a willingness to engage in dialogue with the population and to involve civil society in decision-making.

## THE INSTITUTION OF CITIZEN APPEALS AS AN AGENDA-SETTING TOOL

The basis of the «Hearing State» concept is 2 directions:

1. Citizens' appeal – the state responds to citizens' requests and complaints received through various channels and direct citizen participation.
2. Discussion of society's requests through consulting bodies – the state enters into a direct dialogue with active citizens of the country to find and develop consensus solutions on urgent system-forming issues.

In the development of the «Citizens' Appeal» direction, in recent years the state has initiated and launched many channels with various formats and parameters for interaction between state authorities and the population: personal receptions, e-government, personal blogs, public councils, call centers and hotlines, unified contact centers, Instagram and Telegram channels, etc. (Table 1).

*Levels and channels of interaction with the population*

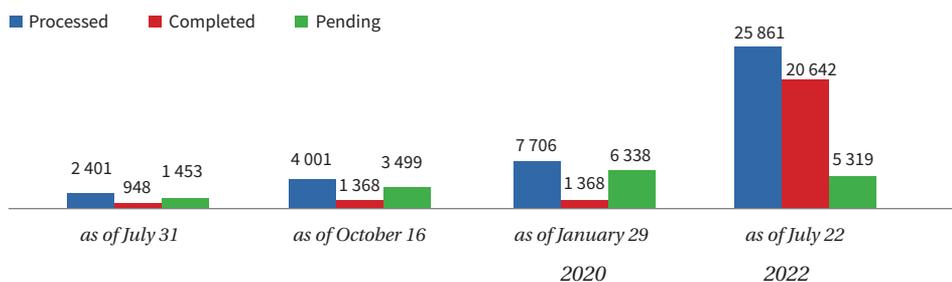
Table 1

	<i>President</i>	<i>Central Government Authorities (CGA)</i>	<i>Local Executive Authorities (LEA)</i>
Call centers		+	+
Hotline			+
Written appeals	+	+	+
Personal reception		+	+
Sites		+	+
Email		+	+
Virtual reception	+		
Open dialogue (E-gov)		+	+
Electronic appeals (E-gov)		+	+
Public councils		+	+
Unified Information System (iKomek)			+
Personal blogs		+	
Facebook		+	+
Telegram (no feedback option)	+	+	+
Twitter	+		
Instagram	+		+

If we consider each of the directions in more detail, we can already highlight the results achieved. So, in the public feedback direction, the Virtual Reception of the President has seen an increase in the number of appeals to the platform. As we can see from Figure 1, the Virtual Reception of the President is in demand among the population and is a fairly popular channel for citizens to appeal. For three years of operation, the number of appeals has increased almost tenfold [1].

*Number of appeals to the virtual reception of the President*

Figure 1



The growing number of appeals demonstrates the need in society for additional channels of interaction with government authorities and the relevance of Tokayev's decision to intensify and expand channels of interaction between the population and the authorities.

According to the data of virtual reception for the first quarter of 2021, a total of 8116 appeals were received by the Office of the President of the Republic of Kazakhstan: 62% of them were received in electronic form, through e-gov portals and 38% – in paper form (Table 2) [2].

*Breakdown of appeals by region*

Table 2

Region	Number of appeals		Specific weight	Increase or decrease
	first quarter of 2020	first quarter of 2021	%	% to 2020
Atyrau Region	150	215	2,6	43.3
Mangystau Region	262	357	4,4	36.3
North Kazakhstan Region	114	148	1,8	29.8
Akmola Region	299	384	4,7	28.4
West Kazakhstan Region	208	241	3	15.9
Shymkent	449	499	6,1	11.1
Zhambyl Region	346	349	4,3	0.9
East Kazakhstan Region	383	390	4,8	1,8
Almaty Region	640	617	7,6	- 3.6
Pavlodar Region	280	263	3,2	- 6.1
Nur-Sultan	1601	1487	18,3	-7.1
Almaty	1760	1599	19,7	-9.1
Turkestan Region	434	392	4,8	- 9.7
Kyzylorda Region	240	214	2,6	-10.8
Aktobe Region	246	203	2,5	-17.5
Karaganda Region	554	454	5,6	-18.1
Kostanay Region	283	221	2,7	- 21.9
<b>Total</b>	<b>8403</b>	<b>8116</b>	<b>100</b>	<b>-3,4</b>

Of the 8116 appeals, 86.4% are typical questions or appeals with personal and individual problems of citizens and legal entities (housing, land, business, loans, pensions, etc.), 10.5% are complaints about the actions/inaction of officials, and 3.2% are strategic proposals and initiatives of citizens.

Citizens' appeals as a feedback format are very popular at the central and local government level. At this level there is a noticeable increase in the number of appeals, but while the total number of appeals is slightly decreasing, appeals to the first head (table 3) and breaches of deadlines for complaints and appeals (table 4) are noticeably increasing.

*Number of appeals (according to 2020 data)*

Table 3

<i>Total number of appeals</i>	<i>first head's blog</i>	<i>local executive authorities</i>
2015	–	7,1
2016	1,32 million	1,9 thousand
2017	1,7 million	–
2018	1,62 million	29,2 thousand
2019	1,59 million	49,7 thousand
2020	1,32 million	54,6 thousand

*Quality of handling complaints and appeals from individuals and legal entities*

Table 4

	2017	2018	2019	2020	2021	2017	2018	2019	2020	2021
	<i>Central Government Authorities</i>					<i>Local Executive Authorities</i>				
Total number of breaches of deadlines for handling complaints and appeals	1 463	931	2 084	2 157	1 597	904	1 388	1 544	1 672	2 204

The current state of the level and quality of interaction is shown by the results of the study 'Government Authorities Performance Assessment' conducted by the Center for Research, Analysis and Assessment of Performance of the Accounts Committee for Control over Execution of the Republican Budget.

According to the 2021 results, the Ministry of Information and Community Development, the Ministry of Industry, Infrastructure Development and the Ministry of National Economy [3], the Ministry of Information and Social Development, the Ministry of Industry and Infrastructure Development, and the Ministry of National Economy were assessed as «low performance» in terms of the Interaction with Citizens indicator.

Local Executive Authorities of Turkestan, Mangystau, Pavlodar, Akmola, Zhambyl, West Kazakhstan Region, and Shymkent received a low score in terms of the above indicator (Table 5).

*Results of the State Authorities Performance Assessment in terms of the Interaction with Individuals and Legal Entities Indicator for 2021*

Table 5

<i>Central State Authorities</i>	<i>Score</i>	<i>Local Executive authorities</i>	<i>Score</i>
Agency for Civil Service Affairs	91,99	Akmola Region	67,35
Ministry of Health	60,44	Aktobe Region	82,18
Ministry of Foreign Affairs	76,10	Almaty Region	76,24
Ministry of Information and Social Development	92,68	Almaty	78,04
Ministry of Industry and Infrastructure Development	79,04	Astana	77,32
Ministry of Culture and Sports	80,70	Shymkent	59,56
Ministry of National Economy	82,70	Atyrau Region	71,38
Ministry of Digital Development, Innovations and Aerospace Industry	69,02	East Kazakhstan Region	80,96
Ministry of Education and Science	64,44	Zhambyl Region	85,27
Ministry of Agriculture	67,98	West Kazakhstan Region	76,96
Ministry of Labor and Social Protection of Population	86,13	Karaganda Region	68,94
Ministry of Trade and Integration	88,00	Kostanay Region	90,56
Ministry of Finance	80,99	Kyzylorda Region	81,29
Ministry of Energy	67,57	Mangystau Region	64,21
Ministry of Ecology, Geology and Natural Resources	69,67	Pavlodar Region	62,42
Ministry of Justice	71,67	North Kazakhstan Region	73,28
National Bank	94,31	Turkestan Region	77,63
Agency for Regulation and Development of Financial Market	94,78		
Agency for Protection and Development of Competition	63,05		
General Prosecutor's Office	92,29		
Department for Ensuring the Activities of Courts under the Supreme Court	82,56		
Ministry of Internal Affairs	69,63		
Ministry of Defence	65,71		
Ministry of Emergency Situations	75,44		

The capacity and resources of local executive authorities need to be strengthened in order to improve the level and quality of interaction between state authorities and the population. As Table 6 [4] shows, the population is more likely to appeal to the central government authorities, and the number of breaches of deadlines for handling complaints and appeals and the proportion of disciplinary measures taken against those responsible for breaches is more prevalent in the work of local executive authorities.

The importance of strengthening local executive authorities is that it is this level of government authorities that interacts most directly and frequently with the population.

#### *Results of the Assessment*

*in terms of the Interaction with Individuals and Legal Entities Indicator for 2021*

*Table 6*

<i>Openness of the Government Authority</i>	<i>2021</i>		<i>2020</i>	
	Central Government Authorities	Local Executive Authorities	Central Government Authorities	Local Executive Authorities
Number of publications of open data sets	1 675	1 353	2 377	4 312
Number of draft regulations published	3 396	13 708	3 754	14 533
Average fill rate of the official Internet resource	97,2%	83,7%	96,4%	92,1%
Number of user requests to the first heads of government authorities (of them timely responded)	36 591 (29 627)	7 667 (5 713)	44 924 (36 614)	9 654 (6 150)
<i>Quality of handling of complaints and appeals from individuals and legal entities</i>	<i>2021</i>		<i>2020</i>	
	Central Government Authorities	Local Executive Authorities	Central Government Authorities	Local Executive Authorities
Total number of complaints and appeals handled	677 thousands	604 thousands	627 thousands	692 thousands
Total number of breaches of deadlines for handling complaints and appeals	1 597	2 204	2157	1672
Number of appeals satisfied by court decision	9	26	12	35
Number of repeated substantiated complaints and appeals	-	-	172	423

Percentage of disciplinary action taken against those responsible for breaches	51,6%	84%	66%	65,3%
Total number of breaches of deadlines for re-forwarding the appeals	1 634	2 003	1800	2000

On the other hand, there is also a need to raise the political culture of the population and to be sufficiently active in explaining how to apply to government authorities. The Prosecutor General's Office, which records and collects all citizens' appeals and requests regarding all government authorities, noted that «the analysis of problems in this area has shown that citizens know poorly how and where to write appeals, do not know who and how handles complaints». For example, in the first half of 2022 alone, according to the General Prosecutor's Office, there were 1212484 appeals, messages, requests, responses, suggestions, of which 247627 were forwarded to other bodies for consideration according to their competence [5].

### **CONSULTING BODIES AS FEEDBACK FOR FURTHER REFORMS**

The second direction of the «Hearing State» concept - the 'establishment of consulting bodies' – was developed as part of the Head of State's initiative to create the National Council of Public Trust under the President of Kazakhstan, which was a logical continuation of the Head of State's progressive policy of building constructive dialogue between the public and the authorities.

The creation of the National Council was not a one-time decision of Tokayev, but was a time-tested one based on the current political situation and taking into account citizens' demands for greater dialogue.

Prior to the creation of the National Council of Public Trust, there were various consulting and advisory bodies in the country's history with the clear task of ensuring and facilitating a dialogue between society and the state. Their key task was to formulate strategic goals and objectives for the country's development on the basis of cooperation between representatives of political movements and parties, public figures, government authorities and society as a whole.

Since the 2000s, ideas about further democratization of the political system have dominated in the society. At the same time, the demands have begun to take shape in a systematic way. Under these conditions, Kazakhstan faced the challenge of maintaining stability, which, in turn, required the creation of a mechanism for reconciling the interests of the largest socio-political and social strata.

To ensure the sustainable development of the country, discuss proposals and opinions on the further development of Kazakhstan, and outline the main

contours of democratization, mechanisms are being created to reconcile the interests of the largest socio-political and social groups. It is for this purpose that various kinds of dialogue platforms have been created in the country: first, the Standing Conference on the Development of Proposals for Further Democratization and Development of Civil Society, then, the National Commission for Democratization and Development of Civil Society. The Decree of the President of the Republic of Kazakhstan dated March 20, 2006 established the State Commission for Development and Specification of Democratic Reform Program (Figure 2).

The above-mentioned dialogue platforms were initiated by Nursultan Nazarbayev, who acted as an «arbitrator» and suggested ways to constructively address the issue of concern. Prior to the creation of the National Council of Public Trust, Kazakhstan had quite a lot of experience in discussing necessary changes in the country with the population and the following dialogue platforms have fulfilled their function in the history of Kazakhstan:

*History of the development of dialogue platforms*

Figure 2



Among the aforementioned institutions, the work of the Land Reform Commission under the Government of the Republic of Kazakhstan and the

National Council of Public Trust can be highlighted as important platforms in building dialogue between society and the state, which has resulted in reforms in various areas.

In spring 2016, changes to the Land Code announced by the Ministry of National Economy of the Republic of Kazakhstan regarding the transfer of agricultural land to private ownership and the extension of land leases for foreign citizens and foreign legal entities caused a large public outcry which led to large-scale protests in a number of cities of Kazakhstan in April-May 2016.

According to a number of Kazakhstani experts, with the introduction of these innovations, there was indeed a certain risk of foreigners acquiring private ownership of agricultural land.

On 5 May 2016, in view of the current situation around land legislation, President Nursultan Nazarbayev held a meeting to declare a moratorium on the norms of the Land Code of the Republic of Kazakhstan, which has caused popular frustration, and ordered to create a Land Reform Commission.

Following a temporary moratorium on amendments to the Land Code, the Land Reform Commission was established. The Commission included government representatives, civic activists, businessmen, economists, lawyers and academics. The Commission held 9 meetings, 4 of which were on-site [6].

The Land Reform Commission has prepared proposals in 6 main areas. In particular, on issues of agricultural land leasing, state control, establishment of maximum sizes of land plots, restrictions on the use of pastures and hayfields, allotment of land directly adjacent to the protected zone of the state border of the Republic of Kazakhstan, as well as land for private housing construction.

Summing up the Commission's work, we can conclude that the decision to extend the moratorium until December 31, 2021 on disputed articles of the Land Code has become the most optimal resolution of the land discussion. This period made it possible to thoroughly analyze all the issues of concern related to the state of land, their rational use and protection, as well as the development of the institution of lease and private property. The issues of land relations and amendments to land laws were actively discussed and covered in the media throughout the discussion.

Following the completion of the work of the Land Reform Commission, a working group under the Ministry of Agriculture of the Republic of Kazakhstan was established to improve land legislation. The working group prepared the Bill on new amendments to the land legislation, based on the Commission's recommendations, which would improve the institution of lease and improve control over the rational use of agricultural land.

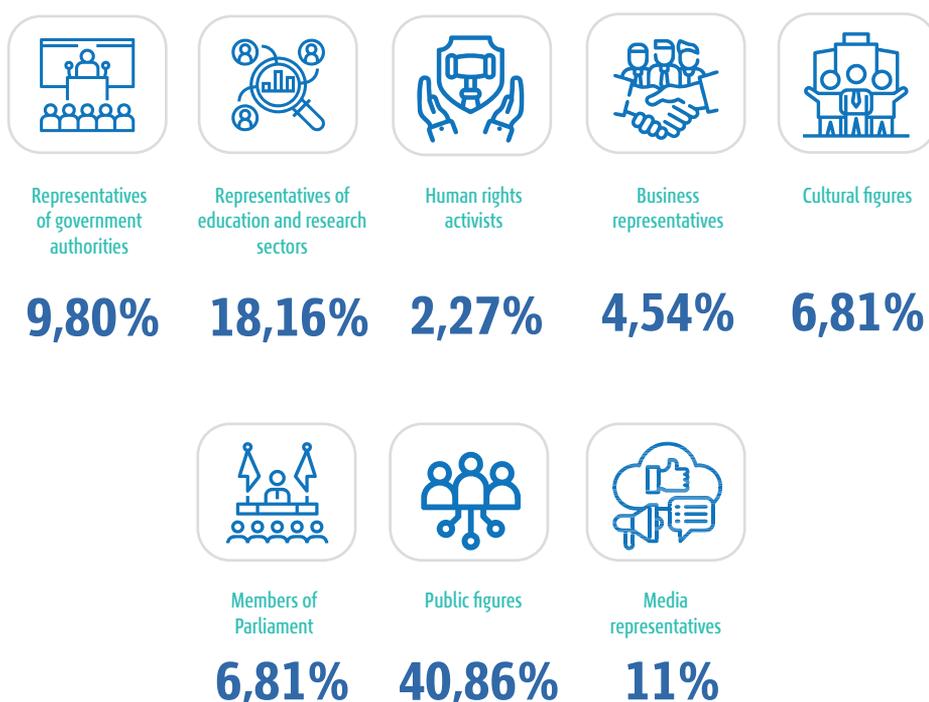
Overall, the work of the Land Form Commission was the first successful case to bring together representatives of government authorities and the civil alliance. The effective interaction and constructive dialogue between the state and society, which were founded in the Commission's work, created a new paradigm in the development and implementation of public policy in the country.

The work of the National Council of Public Trust is also a successful experience of bringing together representatives of the public, political parties, civil society and the state.

For example, even the composition of the National Council of Public Trust (Figure 3) included broad social groups, with only 9.8% from government authorities, which, in turn, actually indicates the dominance of public opinion and public voice [7].

*Composition of the National Council of Public Trust*

Figure 3



A total of six meetings of the National Council of Public Trust were held. The working groups on economic, political, socio-cultural issues have worked hard to initiate and formulate far-reaching socio-economic and political reforms on the basis of proposals, discussions, debates and public demands. As of September 2021, the National Council has adopted 17 laws and some 80 regulations. More than 15 bills are under development and consideration.

All of the reforms and initiatives proposed by the National Council of Public Trust have a strategic and long-term effect that will serve as a basis for the further modernization of the country.

The system of advisory and consulting bodies is constantly-on-the-go. As tasks are completed, existing bodies are abolished and new bodies are established. For example, Ultyk Kuryltay will function now instead of the National Council of Public Trust, the main purpose of which is to develop ideas and steps for the further development of public consolidation.

## CONCLUSION

In general, citizens' appeals are an active form of public participation in the management of state affairs by notifying government authorities of emerging issues. Citizens' appeals to government authorities are thus an important mechanism that allows the population to inform about shortcomings in the work of the authorities and make proposals for improving their work, in general, to adjust state policy in various areas. In turn, timely and effective handling of citizens' appeals allows government authorities to get feedback from the public, as well as to obtain the necessary information for decision-making on state, political and socio-economic issues.

The analysis of the activities of consulting and advisory bodies demonstrates that they simultaneously perform the function of initiating and promoting reforms at the national level, as well as the function of involving citizens in the decision-making process. Government authorities, through the work of consulting and advisory bodies, can inform citizens about the policy being pursued; consult with citizens to get feedback on programs under development; involve citizens in decision-making by gathering public opinions; cooperate with citizens by integrating their recommendations into the structures of policies being developed; and empower citizens by delegating decision-making power to them.

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# PROSPECTS FOR PARTY FIELD REFORM IN KAZAKHSTAN



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## ABSTRACT

The political reforms implemented in modern Kazakhstan are aimed at deepening democratic processes, with political parties as the main drivers. The paper analyzes the current state of Kazakhstan's party system, its main characteristics and development trends, which determine its impact on the prospects for promoting democratic reforms. This analysis allows us to build a systematic picture of the processes affecting the positioning of parties as one of the main political institutions and key links in the political life of society.

A proper understanding of the current situation in the party field, identifying the factors influencing its formation and the place and role of incumbent political parties in this process, is necessary to build a more accurate understanding of the main challenges and barriers in party building processes. The paper assesses the prospects for the development of Kazakhstan's model of party system reform and offers specific recommendations for making positive changes in its implementation more dynamic. The findings can be used in the field of practical politics, including for political parties.

## KEY WORDS

political party, party system, political reforms, Kazakhstan, political modernization

## INTRODUCTION

Political parties, as the interface between society and the state, have always been seen as an indispensable attribute of democracy. Parties protect the legitimate rights and interests of citizens and, by participating in the political process, ensure the sustainability of feedback between the authorities and civil society. By acting as a bridge, political parties not only translate public expectations and demands into policies and political ideas but can also hold government to account on behalf of the public. One of the classics of political science, the French researcher Maurice Duverger wrote the following in his work «Political Parties»: «a regime without parties is a regime without democracy; it inevitably gives power to elites who owe their privileged position to their origins, money or positions». [1].

The study of Kazakhstan's political parties and the formation of Kazakhstan's party system has traditionally been a focus of research interest among domestic and foreign scientists. Various aspects of party building of independent Kazakhstan have been covered in the works of well-known Kazakh scientists: E.Zh. Babakumarov [2], Yu.O. Buluktayev [3], S.A. Diachenko [4], L.I. Karmazina [5], A.E. Chebotarev [6] and others.

Among the works of foreign authors devoted to the development of Kazakhstan's multi-party system is *Parliament and Political Parties in Kazakhstan* (2008), which examines the stages of the formation of Kazakhstan's party system and provides an overview of the political parties operating at that time [7]. In the field of party issues, the activities of the main ruling party have traditionally attracted the interest of foreign researchers, with publications by Adele Del Sordi [8] and Rico Isaacs [9]. A significant group of scientific studies consists of works that provide a comparative analysis of party and political processes in the post-Soviet countries - these are the works of M.M. Kakitelashvili [10], M. Karybayeva [11], D.B. Malysheva [12] and others.

I. Iskov's works on the problems of institutionalization of Kazakhstan's parties and the transformation of the party system, which reveal the peculiarities of political party development in the context of the electoral process in Kazakhstan [13-14], should also be highlighted.

The political transition and subsequent reforms in Kazakhstan's political system have necessitated an analysis of the ongoing political processes, including the activities of Kazakhstan's political parties, through the prism of democratic transformation. The main hypothesis of the study is that the crisis of public confidence in political institutions, including political parties, will not only affect the course and pace of political reforms in Kazakhstan, but will also lead to changes in the political participation strategies of existing parties and the emergence of new political actors.

## STUDY METHODS

The purpose of the study is that by analyzing changes in the current political situation under democratic transition, it is already possible to sum up some

”  
**THE SYSTEM ANALYSIS  
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 IN KAZAKHSTAN IN  
 THE CONTEXT OF THE  
 STRATEGIES OF ITS KEY  
 ACTORS.**

interim results, to assess the current state of the party system and to identify opportunities and prospects for reforming the party field in Kazakhstan under the new conditions.

A number of study methods are foreseen for a comprehensive assessment of the main directions of development of the party field in Kazakhstan. The basis of the research methodology is a systematic method that allows for a comprehensive disclosure of the problem under study. The system analysis will reveal the interrelation of internal and external factors determining the development of the party system in Kazakhstan in the context of the strategies of its key actors.

The study of the current state of political parties was based on qualitative and quantitative analysis of documents, examination of statistical data, and monitoring of their official websites and social media accounts.

The analysis of development trends and key directions of reforming the party system is based on a discourse analysis that reveals not only the current activities of Kazakhstan's parties, but also, to a certain extent, the public perception of their results.

#### FINDINGS OF THE STUDY

Before the 2021 parliamentary elections, six political parties were registered in Kazakhstan: Nur Otan (changed its name to Amanat in March 2022), ADAL (Birlik until November 2020), Ak Zhol, the PPK (the People's Party of Kazakhstan, the Communist People's Party until November 2020), Auyl and the NSDP (the National Social Democratic Party).

Nur Otan was officially registered in 1999, Ak Zhol in 2002, Auyl in 2003, PPK in 2004, the NSDP in 2007 and ADAL (formerly Birlik) in 2013.

The dynamics of the development of the leading parties in Kazakhstan shows a certain stability of their support by the electorate during the last elections.

**The Nur Otan** party emerged while reforming the public headquarters organized in support of presidential candidate Nursultan Nazarbayev. In 2006, the Asar party, led by Dariga Nazarbayeva, joined the Nur Otan party, and in that year, two other parties joined: the Civic Party (led by Azat Peruashev, now the leader of the Ak Zhol party) and the Agrarian Party (led by Romin Madinov). Since its inception, the party has positioned itself as a promoter of the strategic course of the First President of the Republic of Kazakhstan, Nursultan Nazarbayev, and has been in full control of state policy. For the next five years (2007-2011), of all the political parties in Kazakhstan, only Nur Otan was represented in the Mazhilis. In subsequent elections, the party also retained a total majority of seats in Parliament: 80.9% - 83 mandates (2012), 82.2% - 84 mandates (2016). The political transition process that has begun in Kazakhstan

has affected the strength of the party, which won 71.09% of the vote in the 2021 elections, but has nevertheless retained key positions in all directions.

**The Ak Zhol Democratic Party of Kazakhstan** emerged in 2002, based on the Democratic Choice of Kazakhstan movement, and is currently positioning itself as a «constructive opposition», a business party and a follower of the Alash movement. The co-leaders of the party were Bulat Abilov, Alikhan Baimenov (who ran for president in 2005 and won 1.6% of the vote), Uraz Zhandosov (2002), Lyudmila Zhulanova and Altynbek Sarsenbaiuly (2003-2005).

In 2005, there was a split in the party for different understandings of how to ensure the consolidation of democratic forces. Two factions were formed that distrusted each other, and it was argued that the events had been instigated by the authorities in order to weaken the opposition movement. Alikhan Baimenov was a leader of the party from 2005 to 2011, and Azat Peruashev is a leader since 2011. The stability of the party's results in parliamentary elections since 2011 – 7.4% (2012) – 8 mandates, 7.2% (2016) – 7 mandates, 10.95% (2021) – 12 mandates shows that the party really has some support, including financial support.

**The People's Party of Kazakhstan** was registered on June 21, 2004 as a result of the split of the unregistered Communist Party of Kazakhstan, from which 12 leaders left to form a new party. Previously, the party was called the Communist People's Party of Kazakhstan. In November 2020, it was renamed the People's Party of Kazakhstan (PPK) in order to broaden electoral support. Since its formation, the party has nominated its candidate in every presidential elections – 2005, 2011, 2015 and 2019 - which have consistently won less than 2% of the vote. As for the parliamentary elections, the results were 1.29% in 2007, 7.19% in 2012 (7 mandates), 7.14% in 2016 (7 mandates) and 9.10% in 2021 (10 mandates).

**The National Social Democratic Party** was formed in 2006 and registered in 2007. The NSDP participated in the parliamentary elections in 2007, where it won 4.54% of the vote, 1.68% in 2012, and 1.18% in 2016, but could never pass the 7% threshold required to win deputy seats.

The first leader of the party was state and public figure Zharmakhan Tuyakbai, and between April and September 2019 the party was led by Yermurat Bapi, who is the actor of several high-profile scandals - in particular, it was reported that the party was financed by fugitive Kazakhstani opposition figures Akezhan Kazhegeldin and Bergey Ryskaliyev. This prompted a vote of no confidence in Bapi, and Askhat Rakhimzhanov took over as party leader on September 06, 2019. The NSDP positions itself as an opposition party, expressing opposition to the authoritarian regime and upholding traditional social democratic values.

**The Auyl People's Democratic Patriotic Party** positions itself as a party of statesmen and patriots. The party was registered on March 1, 2002, and later, in April 2003, it was re-registered. In 2015, the Auyl Party and the Patriots of Kazakhstan Party merged. This party has participated in all parliamentary elections, but has never been elected to Parliament: in 2007 – 1.51%, in 2012 –

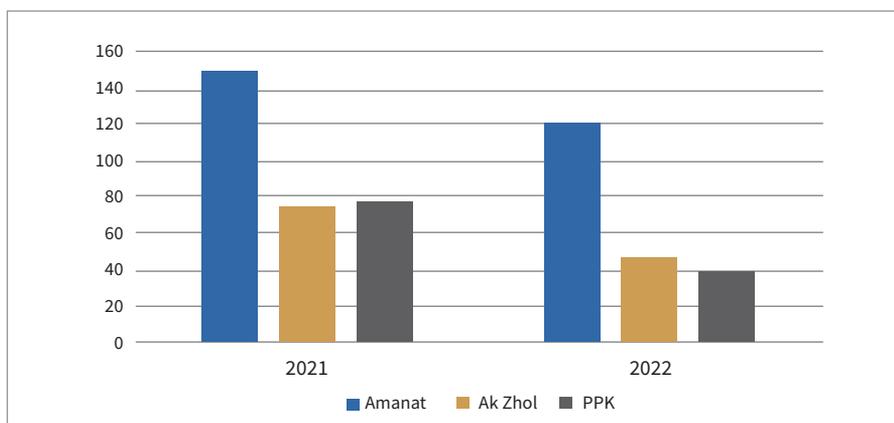
1.19%, in 2016 – 2.01%, in 2021 – 5.29%. Perhaps the most notable achievement of the party was the fact that 38 representatives of Auyl became deputies to the maslikhats in 2016.

The Adal Political Party emerged in 2013 as a result of the merger of the Adilet (registered in 2004) and Rukhaniyat (registered in 2003) parties. Originally called Birlik, the party held a congress in early November 2020 and announced the renaming to ADAL, which, according to the leader of the party, was associated with the public demand for justice.

In the 2016 elections, the party failed to pass to the Mazhilis, gaining only 0.29% of the votes. After the elections, the party did not conduct active public activities, and almost nothing was heard of it. The party's revival was associated with preparations for the 2021 parliamentary elections, when the party's ranks were swelled by business leaders. In April 2022, the party announced a merger with the AMANAT ruling party in order to take «the most active part in building of New Kazakhstan and make changes in the country irreversible», consolidating all constructive actors around President Tokayev [15].

The 2021 parliamentary elections were the first test of the political parties' readiness to work in the new environment. According to the results of the elections, in which 5 out of 6 officially registered political parties of Kazakhstan participated, Nur Otan party won 71.09 percent of the votes, Ak Zhol party – 10.95 percent, the People's Party of Kazakhstan (PPK) – 9.10 percent, Auyl – 5.29 percent, and ADAL– 3.57 percent.

Three parties – Nur Otan, Ak Zhol and the People's Party of Kazakhstan (PPK) passed the 7% threshold for established at that time for entering the Mazhilis by forming their factions. Parliamentary parties have become actively involved, as shown by the number of deputy inquiries from party factions shown in Diagram 1: for 2021 there were 150 deputy inquiries from the Nur Otan party (now Amanat), 78 from the PPK and 76 from the Ak Zhol Democratic Party, and for the first six months of 2022 there were 120, 38 and 45 deputy inquiries respectively.



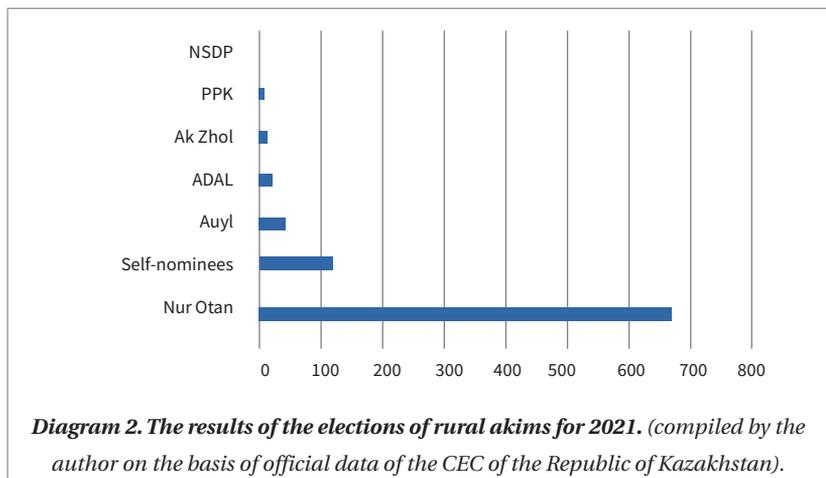
*Diagram 1. The number of deputy inquiries from party factions for 2021-22. (compiled by the author on the basis of data from the official websites of the parties [16 -18]).*

At the same time, for the first time, according to the adopted Law on the Parliamentary Opposition, parliamentary opposition deputies were elected to the position of chairman of the standing committee of the House, as well as secretaries of two committees.

The election results showed that the percentage threshold for entering the Mazhilis is too high and does not reflect the real situation in the party field. In order to increase the representation of different actors in the legislature, in May 2021, the President of the Republic of Kazakhstan signed amendments to the Constitutional Law “On Elections in Kazakhstan”, which provides for reducing the threshold for political parties in elections to the Mazhilis from 7 to 5% [19].

Another significant step towards democratization was the decision to introduce the election of akims of cities of district significance, villages and rural districts. A total of 864 akims were elected directly in 2021 (730 rural akims were elected in the first direct elections on July 25, 2021, 134 were elected in the period from August to December 2021).

According to the voting results, 122 self-nominated candidates (14.1%) and 742 candidates nominated by political parties were elected as akims: Nur Otan – 670; the Auyt National Democratic Party – 33; ADAL – 15; the Ak Zhol Democratic Party – 12; the PPK – 11; and the NSDP – 1 (Diagram 2).



The election results showed that Nur Otan retained a clear advantage, gaining control of key positions in power structures. However, it cannot be said that the party enjoys the unconditional support of the population, primarily because the motives of electoral participation have not been fully established and a significant number of voters traditionally support the ruling party, whether or not they are familiar with its electoral platform.

The elections also demonstrated the lack of strong party identities among the generality of voters. Most voters do not know which party expresses their interests, the choice between candidates and parties is ad hoc, which means that it is important for political parties to target not only the central level, but

also in the regions, where there are chances to compete with pro-government political forces. Certain opportunities for competing parties are shown by the results of the election of self-nominated candidates, which demonstrated that the campaigns of individual candidates were more successful than the election campaigns of political parties in terms of both content and organization.

The election results sent a signal to parties that a reset was needed, to increase public confidence, to make party work more effective, to realize that parties needed new figures untainted by corruption scandals and clear agendas that could attract voters to them.

Public demand for the democratization of political processes and the opportunity to participate in government was reflected in the program of political reforms outlined in the Address of the Head of State Kassym-Jomart Tokayev to the People of Kazakhstan «New Kazakhstan: the Path of Renewal and Modernization» dated March 16, 2022 [20].

The ambitious program of political reforms reaffirmed the course towards democratization of the political system, and measures to reformat the party field in Kazakhstan became one of the most important aspects of this process. The political crisis associated with the decline in the level of public confidence in the main institutions of power due to their ineffectiveness and detachment from public needs and requirements, affects all political parties without exception, which are fully responsible for this situation. This is particularly relevant for the ruling party, which, realizing the importance of change, rebranded itself by changing its name to AMANAT and was one of the first to begin modernizing party work. On April 26, 2022, an extraordinary XXIII Congress of AMANAT was held, which announced the accession of the ADAL party, the President decided to leave the party, and Erlan Koshanov, the Speaker of the Mazhilis of the Parliament, was elected as the new Leader of AMANAT.

The President's secession showed that new rules of the game were being created for the incumbent parties and that public support for them would not be based on the notorious administrative resource but would be a legitimate result of their activities.

Further steps towards political reforms in the party sphere included a package of legislative initiatives aimed at increasing political competition between the various parties. The liberalization of legislative norms regarding the requirements for the creation of political parties (reduction of the registration threshold by four times - from 20 to 5 thousand people, reduction of the minimum number of regional representative offices by three times – from 600 to 200 people, reduction from 1000 to 700 people of the initiative group of citizens to create a party and other measures) is intended to encourage the emergence of new political alliances capable of proposing an adequate political agenda that takes account of public demands and, consequently, of securing a social base and mass support for their activities.

Moreover, certain prerequisites for this have already been developed. The transition of political power in Kazakhstan has facilitated the emergence of new

alliances in the political arena, expressing aspirations to transform themselves into political parties. Their distinctive feature is their highly critical attitude towards the official political course and their desire for significant changes in the political system with different scenarios of power decentralization.

Over the past three years, attempts have been made to bring several different kinds of civic initiatives to the political arena; environmentalist Mels Yeleusizov (Tabigat), leader of the HAQ movement Togzhan Kozhaliyeva, civic activists Asiya Tulesova and Aliya Zholboldina (Progress), activist Sanavar Zakirova (Our Right), journalist and civic activist Zhanbolat Mamai (Democratic Party) and others have announced the possibility of creating their own parties.

Certain political ambitions were indicated by the movements Oyan, Qazaqstan and Halyk Biligi. Other alliances such as El Tiregi and Halyk Senimi also announced their intention to create political parties. Separately, it is necessary to mention the Koshe Partiyasy movement, created in February 2020, which was declared extremist by a court decision. The activity of this movement was banned on the grounds that the Koshe Partiyasy was recognized as transformed and also previously banned the Democratic Choice of Kazakhstan movement (DCK).

Almost all of these movements are representatives of the new opposition wave and are known mainly because of their participation in unauthorized protests. It is important to note, however, that none of them received any noticeable mass support. The opposition forces are scattered, unable to consolidate on strategic issues, and do not work systematically to bring announced initiatives to their logical conclusion. The lack of influential and charismatic leaders and the lack of necessary organizational and financial resources significantly reduce the chances of registering new political parties.

Given the above, the prospects for registering new parties will depend on several factors:

firstly, the ability of political alliances to propose an adequate political agenda that takes into account public demands, and, respectively, to secure a social base and mass support for their activities;

secondly, to act systematically and consistently in the legal environment, to minimize the marginality of public actions, to find conventional forms of political participation, and to nominate leaders that are prominent and credible to the public;

## CONCLUSION

The analysis of the current state and development trends of Kazakhstan's party system shows that the current party field does not reflect the changed political reality, and only full-scale political reforms will allow reformatting the party space and can be part of a reset of the country's political system. Parties should be prepared to elections in a competitive environment and should already be working towards this.

The tragic events of January 2022 showed that all political parties in Kazakhstan need to fundamentally reformat their activities.

– ideologically, the parties need to revise their ideological platforms - too general and vague wording alienates voters, clearly define their target audience and focus on systematic work in this direction. In the current context, classic ideological attitudes are losing their significance for the younger generation, so party programs and slogans should reflect simple, understandable and socially demanded values.

– structurally, it is optimal to rebuild the structure in line with the party's objectives, to strengthen the regional influence and the opportunity to participate in direct elections of akims, to nominate candidates capable of proposing and implementing a real program of action, or to support independent candidates in those undertakings that are in line with the party's guidelines. Everywhere, mass parties are giving way to electorally professional parties that are more mobile, responsive to the changing external environment and able to work professionally with the electorate. Considering that the New Kazakhstan is a country of those who are about 30 years old, to focus on attracting young party supporters.

– functionally, to clearly define the priorities and functional distribution of the main areas of activity within the party, to develop development strategies focused on «own» groups of the electorate, to apply new forms and technologies for promoting parties, including in the network space.

The President's decision to equidistance from all political actors represented in the party field gives new and existing parties a real chance to strengthen their positions significantly. The political, economic and social reforms initiated by the President of Kazakhstan have already had a visible effect, confirming the political leadership's desire for openness, readiness for dialogue, and the development of civil society institutions, which, in turn, must show the ability to work effectively in the new environment.

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# LOCAL SELF-GOVERNMENT IN KAZAKHSTAN:

## FEATURES AND PROSPECTS OF REFORM



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### **ABSTRACT**

The paper concentrates on the topical issues of modernization of the local self-government system in the Republic of Kazakhstan within the framework of the official political course pursued by the President of the Republic of Kazakhstan Kassym-Jomart Tokayev. Between 1995 and 2018, much work has been done to establish and develop this system, with a range of political, legal, administrative and economic measures. At the same time, it has turned out to be almost exclusively focused on state functions, and has little expression of its public side related to the direct participation of citizens and civil society institutions in addressing local issues. All this makes it necessary to further reform local self-government.

### **KEY WORDS**

local issues, elections of akims, decentralization, kenes, local self-government, local community, assembly

## INTRODUCTION

In modern society, local self-government (LSG) is one of the most effective mechanisms for ensuring that residents of urban and rural localities take an interest in the management of local affairs and directly address vital issues. Today, however, self-government operates at many different levels, from student associations in higher education institutions to full-fledged local (municipal) authorities.

There is a wide variety of models and types of local self-government organization around the world. The differences in the design of LSG systems in various countries depend on many factors, including the political regime, the corresponding system of state power in general and the organization of local government, the state structure, the administrative-territorial division of the state, the level of development of civil society, national traditions, etc.

The uniqueness of LSG also lies in the lack of a clear idea of whose institution it is – the society or the state. Accordingly, there are different approaches to its definition.

From the point of view of the public component, local self-government is a system of organization and activity of citizens to independently (on their own responsibility) solve local issues, manage municipal property, based on the interests of the population, its historical, national-ethnic and other characteristics based on the constitution and laws of this state [1].

The state aspect of LSG is reflected in the European Charter of Local Self-Government, adopted in 1985 by the Congress of Local and Regional Authorities of the Council of Europe. According to this document, local self-government means the right and real ability of local self-government bodies to regulate and manage a significant part of public affairs, acting within the law, under their own responsibility and in the interests of the local population [2].

On this basis, it can be argued that local self-government is a boundary phenomenon between society and the state, connecting them together within certain local community areas. At the same time, it has the following key features that distinguish it from public government:

1. The possibility for the entire population of the area concerned to participate in various organizational forms in the processes of elaboration, adoption and implementation of decisions on all major issues of life of the local community.

2. The existence and functioning of local representative bodies and/or officials with the right to represent the interests of the population of the areas concerned and to make various decisions on its behalf.

3. The electivity of the above-mentioned bodies directly by the local population and, as a result, their accountability and responsibility to the population in their activities.

4. Independence of LSG bodies in the management of local affairs, including the existence of their own executive office, budget and sources of its replenishment, material base in the form of municipal property.

5. Clear delineation of the state and LSG competencies by the relevant laws. The latter, therefore, effectively ensure a balance between national and local interests in the area concerned.

In Kazakhstan, the importance of the formation and further development of local self-government was initially recognized by the country's leadership. However, due to a number of objective and subjective factors, this process, including the identification of the optimal LSG model and its components, took a long time. At the same time, the measures taken within its framework were mainly aimed at improving the institutional, administrative, financial and economic aspects of the system under consideration. A more important and practically unresolved issue was the involvement of a large number of residents of urban and rural areas of the country in the process of self-governance.

At the same time, local self-government issues periodically attract the attention of domestic scientists. The scientific papers of such authors as K.B. Berentaev, M.T. Gabdualiev, L.T. Zhanuzakova, T.T. Ismagambetov, A.V. Kotov, M.M. Makhmutova, A.A. Taranov, A.A. Toktybekov, T.B. Umbetalieva and others concentrate on the study of various aspects of the formation and modernization of LSG in different periods of Kazakhstan's development as a sovereign state.

This paper examines the main directions, progress, interim results and further prospects for the local self-government reform underway in Kazakhstan since 2019.

FROM THE OUTSET OF KAZAKHSTAN'S INDEPENDENCE, THE COUNTRY'S LEADERSHIP HAS BEEN INTERESTED IN ESTABLISHING A SUSTAINABLE POLITICAL SYSTEM AND ITS EFFECTIVE INSTITUTIONS, INCLUDING LOCAL SELF-GOVERNMENT.

## STUDY METHODS

This paper uses methods of structural-functional and comparative analysis to reveal the system of local self-government through the prism of the functioning of its main components (bodies, forms, etc.) and its features in different periods of the evolution of Kazakhstan's political system.

## FINDINGS OF THE STUDY

From the outset of Kazakhstan's independence, the country's leadership has been interested in establishing a sustainable political system and its effective institutions, including local self-government. The adoption of the second and current Constitution of the Republic of Kazakhstan on August 30, 1995 by national referendum gave rise to a qualitatively new stage in the development of LSG. First of all, the system has been given constitutional and legal status. According to Article 89 of the country's Constitution as first amended:

1. The Republic of Kazakhstan recognizes local self-government, which ensures the independent solution of local issues by the population.
2. Local self-government is exercised by the population directly through elections, as well as through elected and other local self-government bodies

in rural and urban local communities covering territories densely inhabited by population groups.

3. The procedure for the organization and activities of local self-government bodies is determined by the citizens themselves within the limits prescribed by law.

4. The independence of local self-government bodies is guaranteed within the limits of their powers established by law [3].

However, the implementation of these provisions of the Constitution of the Republic of Kazakhstan has been delayed. In 1997 and 2000, the Government twice introduced relevant bills to the Mazhilis of the Parliament. But both have been criticized from all sides for serious political and legal shortcomings. The government has therefore been forced to withdraw them for revision. [4]. On January 23, 2001, the Law «On Local Government in the Republic of Kazakhstan», which regulated the status and powers of maslikhats, akims and akimats as bodies of local government, was adopted.

The amendments made to the Constitution of the Republic of Kazakhstan on May 21, 2007 changed certain aspects of the constitutional and legal status of local self-government. Firstly, maslikhats were recognized as LSG bodies, which at the same time retained the status of local representative bodies of the state. Secondly, the exercise of state functions may be delegated to LSG bodies. And thirdly, the organization and activities of LSG may be regulated by the relevant law.

This, in turn, led to an amendment of the framework law on February 9, 2009, under which it became known as the Law «On Local Government and Self-Government in the Republic of Kazakhstan». The most important thing here was that local self-governance received its clear legal definition as an activity carried out by the population directly, as well as through maslikhats and other bodies, and aimed at independently resolving local issues under its own responsibility [5].

These and subsequent measures led to the formation and operation by 2019 of a non-standard, in the context of foreign practice, model of local self-government in Kazakhstan based on:

- the combination of functions and powers of public government and self-government by regional and local representative and executive authorities,
- the participation of citizens of the Republic as members of local communities in addressing the most important issues of local significance directly or through elected bodies.

The strengths of this model include:

1. The existence of a legal framework guaranteeing the citizens of Kazakhstan the right to exercise local self-government, as well as defining the competence, organization and procedure of activities of the relevant bodies (akims, maslikhats) and forms of implementation (assemblies, meetings) of LSG.

2. The existence of an established executive vertical of state power covering all levels of the administrative-territorial structure of the Republic.

3. The introduction since 2013 of a procedure of electivity of akims of cities

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of district significance, settlements, villages and rural districts by the maslikhats of the respective districts and cities of regional significance.

4. The practice of annual reporting of akims and maslikhats of all levels on their activities to the population of the respective regions and localities.

5. The existence of forms of direct participation of the local population in the implementation of self-government in the form of assemblies and meetings of local communities in rural settlements and cities of district significance.

6. Establishment and operation since 2016 of territorial councils of local self-government in the capital of the Republic, cities of republican and regional significance in the status of consulting and advisory bodies under the relevant akimats.

However, the local local self-government model under consideration also has the following weaknesses:

1. The lack of a clear delineation of functions and powers between local government and LSG, with the obvious dominance of the first in the management of local affairs.

2. The lack of representative bodies in rural settlements and cities of district significance. In turn, this reduces the level of control over the activities of local akims.

3. The lack of impact of electivity of akims of rural settlements and cities of district significance by the respective maslikhats on improving their performance and accountability to the local population.

4. The activities of maslikhats at all levels and their deputies are not carried out on a permanent basis and, as a consequence, many urgent local issues are not on their agenda.

5. The high level of political, legal and logistical dependence of maslikhats on their respective akims.

6. Permissive procedures for local community meetings and assemblies by local and superior akims, limiting the rights and opportunities for residents of rural settlements and cities of district significance to participate in LSG.

7. The formal nature of the activity of the territorial councils of local self-government in the capital of the Republic, cities of republican and regional significance due to their lack of clear competence and authority, the necessary organizational, human, material and technical resources.

8. The lack of a full-fledged financial and economic framework of local self-government, including the local budget, in rural settlements and cities

of district significance. The fourth-level budget was introduced here in stages only in 2018-2020.

With this in mind, since the beginning of his leadership, President Tokayev has made it a priority to develop measures for the further development of local self-government bodies, including mechanisms for citizen participation in decision-making and control over their implementation, as part of his political course [6].

Obviously, in this case, it was no longer a question of further modernization, focused on adopting some individual measures to improve certain aspects of the LSG system, but of a complete reform with a fundamental change in the conceptual, legal, administrative-organizational, and financial-economic foundations of it. The National Council of Public Trust, established by the Head of State on June 12, 2019 and chaired by him personally, played an important role in this, within the framework of which recommendations and proposals for new political, economic and social reforms were discussed and developed.

Reforming the system of local self-government in Kazakhstan is carried out in the following two main directions.

## **I. INTRODUCTION AND DEVELOPMENT OF THE INSTITUTION OF DIRECT ELECTIVITY OF AKIMS OF DIFFERENT LEVELS**

The first step in this direction was the decision announced by the President of the Republic of Kazakhstan in his Address to the People “Kazakhstan in the New Reality: Time for Action” on September 1, 2020 to introduce a procedure of electivity of akims of cities of district significance, villages, towns and rural districts directly by citizens from among local residents [7]. Indirect suffrage, exercised in this case through the respective maslikhats, has therefore been replaced by direct suffrage.

To ensure the implementation of this measure, the Constitutional Law «On Amendments and Supplements to the Constitutional Law of the Republic of Kazakhstan «On Elections in the Republic of Kazakhstan» and the Law «On Amendments and Supplements to Certain Legislative Acts of the Republic of Kazakhstan on Election Issues» were adopted on May 24, 2021. Their highlights are:

1) granting the right to nominate candidates for akims of the category in question:

- to political parties from among their members, which can help them to intensify their activities in the regions and especially in rural areas;

- to citizens by self-nomination, subject to the subsequent support of at least 1% of the total number of voters in the constituency concerned who are eligible to vote. The measure is intended to encourage exactly local residents to run for akims of their localities;

- to akims of the respective districts and cities of regional significance in case of nomination of less than two candidates by the closing date of this

procedure. This measure is intended to ensure that these elections are held in an alternative and competitive manner. However, these akims may nominate one or two candidates in consultation with a local community [8];

2) election of akims of the category in question for 4 years with the right to run for two consecutive terms;

3) granting the relevant maslikhats the right to express no confidence in the akims of the category in question on the basis of the initiation of questions by meetings of local communities on their dismissal. Such a measure is intended to strengthen the control over the activities of these akims by maslikhats and the population of the settlements entrusted to them;

4) early termination of the powers of akims of the category in question in the case of termination of their membership in the political parties from which they ran for office (except for cases of reorganization and liquidation of the respective parties - note). [9]. On the one hand, this measure is intended to strengthen the ties between these officials and the parties that nominated them. On the other hand, it will, to a greater or lesser extent, contribute to the responsibility of the parties for the activities of the akims in question.

It should be noted that in 2013-2020, akims of the category in question were elected by maslikhats of districts and cities of regional significance for four years. However, due to various circumstances, the powers of many of them were terminated prematurely. In addition, there are periodic reorganizations of rural settlements through their abolition or affiliation to larger villages and rural districts. In this regard, the elections of new members of these akims are held in stages from 2021 to 2025.

The first round of elections took place in 2021. As a result, 864 out of 2,500 akims of cities of district significance and rural settlements took up their posts [10]. This election aroused quite a lot of interest both among voters and political parties, which were noticeably active in the campaign. This, in turn, created a good basis for the next rounds of these elections. During January-August 2022, 291 elections were held, and another 179 akims of this category expected to be elected by the end of the year. In 2023 and 2024, elections of akims are planned in 1,037 rural settlements and cities of district significance [11].

Later, at the sixth meeting of the National Council of Public Trust, held on November 16, 2021, the President of the Republic of Kazakhstan proposed to improve the procedure for elections of akims of this category by:

- stipulating a norm allowing citizens with vocational secondary education to be nominated for akims of this category;
- increasing the time for canvassing;
- ensuring a differentiated approach to the funding of the respective election campaigns [12].

In the course of execution of the first of the above-mentioned instructions of the Head of State, by the Order of the Chairman of the Civil Service Agency dated 24.05.2022, amendments were introduced into the Standard Qualification Requirements for Administrative Public Posts of B Corps. As a result, the

postgraduate or higher education requirement for akims of cities of district significance, villages, settlements and rural districts in the E-R-1 category was supplemented with post-secondary or technical and vocational education [13].

Regarding the other two measures, amendments to the Constitutional Law «On Elections in the Republic of Kazakhstan», currently under consideration in the Mazhilis of the Parliament of the Republic of Kazakhstan provide for:

1) increasing the time for holding elections of akims of rural settlements and cities of district significance from 30 to 40 days;

2) determination of the amount of the electoral fee paid by candidates for akims of different categories or by the political parties that nominated them to the budget of the respective administrative-territorial unit. For candidates for akims of rural settlements and cities of district significance, this fee is one times the minimum wage, and for akims of districts and cities of regional significance it is five times the minimum wage. At the same time, a provision is introduced on the return of this fee to a candidate or a political party in cases where, according to the results of the elections, the candidate is elected as an akim or, according to the results of the voting, he won at least 5% of the votes of the voters who took part in the voting, as well as the death of the candidate [14].

Another important measure is the introduction, announced by Tokayev, of direct electivity of district akims in 2024 [15]. These instructions of the President were initially reflected in the Concept of Development of Local Self-Government in the Republic of Kazakhstan until 2025, which he approved. Later, however, it was decided to extend the practice of electivity also to the akims of cities of regional significance.

In pursuance of these instructions of the Head of State, the Government developed and approved by its resolution dated August 24, 2022 a draft constitutional law “On Amendments and Supplements to Certain Constitutional Laws of the Republic of Kazakhstan on the Implementation of the Address of the Head of State dated March 16, 2022”. On September 2 this year, it was introduced to the Mazhilis of the Parliament. Its amendments to the Constitutional Law «On Elections in the Republic of Kazakhstan» provide, inter alia, for:

– calling the elections of the akim of the district and the city of regional significance by the relevant territorial election commission at least 60 days before the expiry of that akim’s term of office;

– holding these elections within 50 days of their calling [16].

However, the Head of State is considering the possibility of holding elections for certain akims of this category as a pilot project in 2023 [17].

## II. CREATION OF NEW BODIES AND FORMS OF LOCAL SELF-GOVERNMENT

As part of this direction, the key measure was the approval by the Decree of the President of the Republic of Kazakhstan dated August 18, 2021 of the Concept of Development of Local Self-Government in the Republic of

Kazakhstan until 2025. In particular, it established the following basic principles for the development of LSG and the activities of its bodies:

- ensuring conditions for citizens' participation in decision-making on local issues and monitoring their implementation;
- taking the public's opinion into account;
- electivity of local self-government bodies;
- legitimacy;
- transparency, openness and accountability of local self-government bodies to the local population;
- organizational, economic and financial independence of local self-government bodies;
- interaction of local self-government bodies and public government on the basis of delineation of functions and powers, cooperation and mutual responsibility for the development of urban and rural settlements of the country;
- observance of national interests in solving local issues;
- state support for local self-government.

Among the important measures envisaged as part of the implementation of this concept, the following should be noted:

1. Delineation of powers and responsibilities of local government and local self-government, including the adoption of the Law «On Local Self-Government in the Republic of Kazakhstan».

2. Transformation of meetings of local communities in rural settlements and cities of district significance into representative bodies – keneses (councils) elected by citizens for a period of 5 years.

3. Expanding the powers of local community assemblies to determine the priorities and deadlines for their implementation, agreeing on the development plans of these communities, changing the administrative-territorial structure and hearing the reports of akims.

4. Strengthening the financial capacity of the LSG budget (transferring water resource fees and license fees for the right to engage in certain activities, improving the system of transfers between the budgets of different levels, expanding expenditure powers, etc.).

5. Development of the «people's participation budget» introduced in 2020 in the capital of the Republic, cities of republican and regional significance, involving the initiation by their residents of projects for the improvement, landscaping and sanitary cleaning of territories.

6. Improving the performance of maslikhats at all levels, including the introduction of online broadcasting of their meetings and giving their deputies the right to draw up petitions (collecting signatures) on issues of local or regional importance.

7. Implementation of a pilot project to transform the akim's office into a local self-government office [18].

In the interests of the development of local self-government in Kazakhstan, the adoption on 30 June 2021 of the Law «On Amendments and Supplements to Certain

Legislative Acts of the Republic of Kazakhstan on the Expansion of Independence and Responsibility of District, City and Rural Levels of Government» should also be noted. Corresponding amendments were introduced to the Budget Code of the Republic of Kazakhstan, the Laws «On Local Government and Self-Government in the Republic of Kazakhstan», «On the Administrative Territorial Structure of the Republic of Kazakhstan», «On Legal Acts», etc.

This law is primarily aimed at expanding the financial and economic framework of LSG by transferring additional types of taxes and payments (single land tax, proceeds from the sale of land plots and state property assigned to state institutions financed from local budgets, payment for the use of land plots, etc.) to the budget of rural settlements and cities of district significance. In addition, it establishes the formation of an akim's office in villages and rural districts with a population of at least 500 people, as well as a similar possibility for these settlements with 250 residents in cases of their location at a distance of up to 25 km from the state border of Kazakhstan and the absence of other settlements within a radius of 50 km of the corresponding district or city of regional significance [19].

At present, specialists from the Ministry of National Economy of the Republic of Kazakhstan, with the involvement of independent experts, are developing the Bill of the Republic of Kazakhstan «On Local Self-Government in the Republic of Kazakhstan». It aims to regulate the relations arising from the consideration of and decision-making on local issues. The Bill also defines local issues, forms of implementation, bodies and officials of local self-government, delegation of state functions to these bodies, regulations in the field of local self-government, etc. [20].

## CONCLUSION

All the measures taken in Kazakhstan in 2020-2022 as part of local self-government reform demonstrate the readiness of the country's leadership to, first, expand the basis for citizen participation in the process of managing the affairs of society and the state and, second, increase the responsibility of akims of various levels to the population of the administrative-territorial units entrusted to them. Moreover, all this involves the decentralization of the system of state power, as well as the use of international best practices. In the latter case, the Head of State's instruction to study the question of Kazakhstan's ratification of the European Charter of Local Self-Government was indicative [21].

However, the further development of local self-government will depend to a large extent on the participation of urban and rural residents in its implementation. For this purpose, the state also needs to conduct serious awareness-raising work with the population on a regular basis to explain the significance of LSG, the specifics of its existing and emerging bodies and the direct forms of citizen participation, the rights and opportunities of citizens in the process of implementing LSG, etc. Interested political parties, non-governmental organizations and other civil society institutions can also play a role in the development of local self-government.

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# TERRITORY AS A FACTOR OF NATION-BUILDING IN NEW KAZAKHSTAN



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## **ABSTRACT**

The paper examines the impact of the territory of Kazakhstan as a nation state on nation-building in Kazakhstan in the historical development of the country and in the context of the political modernization of New Kazakhstan. The main conclusion of the analysis in the paper is that at all stages of Kazakhstan's historical development, the territoriality has played a crucial role in nation-building. In nation-building, the territory acts as, on the one hand, an ancestral Kazakh land and, on the other hand, as an inclusive property of all citizens of the country, a factor in the formation of a civic nation. It is argued that the political modernization initiated by President Tokayev, in particular, the measures to increase the openness of the territory of Kazakhstan in the context of human capital development, should have a positive impact on nation-building in a multi-ethnic society.

## **KEY WORDS**

National construction, New Kazakhstan, Nation, Identity, sovereignty



## INTRODUCTION

The problems of Kazakhstan's national territory have become increasingly topical in recent years, both domestically and internationally. In this paper, the territory of Kazakhstan will be examined from an internal perspective as a factor of nation-building in Kazakhstan. It should be noted that there has been little research on the impact of territory on nation-building in Kazakhstan. As in other post-Soviet states, nation-building in Kazakhstan includes ethnic and civic elements. One of the aims of the paper is to analyze the ethnic and civic aspects in the concept of territoriality in Kazakhstan. Another aim of the paper is to examine the impact of the New Kazakhstan concept, especially reforms to democratize the political system and overcome social inequality, on nation-building in terms of territoriality.

Methodologically, the research in the paper is based on the concept of political modernization, which allows the development of institutions and processes in Kazakhstan to be traced in a historical context, focusing on the socio-political transformation of New Kazakhstan. The theory of nation-building, applied to the analysis of Kazakhstan's territoriality in the Soviet and post-Soviet periods, has played a major role in the study of the topic of the paper. The concept of indigenous people was a concretization of the nation-building theory as applied to the relationship between territory and the formation of the nation, which was transformed into the concept of a state-forming nation during the period of independence.

## TERRITORY AS AN ATTRIBUTE OF KAZAKHSTAN'S NATIONAL STATEHOOD

The New Kazakhstan concept refers to the systemic changes in the socio-political life of Kazakhstan under the leadership of Kassym-Jomart Tokayev, taking place in the country after the tragic events of January 2022. The building of New Kazakhstan raises hopes among Kazakhstanis for a more just and democratic society that will create favourable conditions for their socio-economic and cultural development. This implies a profound transformation of the social, political, economic, cultural institutions and processes of Kazakhstan society.

Nation-building is one of the most important institutions and processes of independent Kazakhstan. They are associated with the formation of the nation and the nation state as the most important prerequisites for the existence and functioning of Kazakhstan society and its representation in the system of international relations. At the same time, it should be borne in mind that nation-building is not a frozen, once and for all given process, but on the contrary, it is in constant change and renewal, responding to changes in the internal and external environment.

As we intend to analyze nation-building in Kazakhstan in this paper, we will outline the main features of the concepts of state and nation in the modern world, as the nation is inextricably linked to the state. In this respect, the modern nation state possesses three essential characteristics and attributes which are the territory, the population and the state machinery. These attributes of the state are closely interrelated and in this interrelation they define the modern nation state. These attributes were formulated in the Convention on the Rights and Duties of States, adopted in Montevideo, the capital of Uruguay, in 1933. This Convention has been widely recognized as the classic legal definition of the state [1, 512].

In this paper, we will analyze the impact of territory as an attribute of the nation state on nation-building in Kazakhstan. Kazakhstan's territory as a nation state was formed during the Soviet period, when Kazakhstan was an autonomous republic and then a union republic within the USSR. As an independent state, Kazakhstan was formed as a result of the collapse of the USSR into fifteen independent states, formerly union republics within the Soviet Union. The newly independent states were formed in place of the former Soviet republics, with their territory, population, state machinery and other institutions.

It can therefore be argued that the Republic of Kazakhstan, as an independent state, is heir to the Kazakh SSR, just as other post-Soviet states are heirs to the national republics within the USSR. It is important to note, however, that apart from the Russian Federation as the successor state to the USSR and the three Baltic states that had a nation state between the two world wars, the remaining post-Soviet states did not have their predecessor forms of national statehood of the modern type.

” If in earlier epochs there were some forms of statehood on the territory of Kazakhstan (for example, the Kazakh Khanate), then they bore the features of ethnicity.

The territory of Kazakhstan as it exists today was finally formed in the 1930s, when, after the demarcation of the borders of the former Turkestan Autonomous Soviet Socialist Republic, Kazakh lands, formerly part of Turkestan, entered the territory of the Kazakh Autonomous Republic as part of the RSFSR. Border demarcation in Turkestan in 1924-1925 took place on an ethnic basis, and as a consequence, five national republics emerged in place of the Turkestan Republic and its associated territorial entities, which subsequently

became five union republics, and today are the five independent states of Central Asia [2, 99-133].

We would like to emphasize here that the Kazakh Autonomous Republic created by the Bolshevik regime in 1920 as part of the RSFSR became the historically first form of national statehood in the land of Kazakhstan. If in earlier epochs there were some forms of statehood on the territory of Kazakhstan (for example, the Kazakh Khanate), then they bore the features of ethnicity. Nevertheless, these early forms of ethnic statehood cannot be attributed to national statehood, which emerged in Europe only in the nineteenth century with the development of capitalism.

Although the Kazakh SSR was a national republic, named after its indigenous Kazakh people, it, like the other union republics, could not be called a national statehood of Kazakhs in the strict sense of the word. The Soviet Union republics lacked the main element of national statehood - sovereignty, understood as its ability to determine its own socio-political system and its own activities within its territory. In the absence and suppression of real autonomy in the republics, all issues of socio-political life in them and throughout the USSR were determined by the union center [3, 30].

Only after gaining independence, Kazakhstan got the opportunity to dispose of its territory, to develop it in the interests of the state and population, i.e. those of their goals and needs, which we define by the term «national interests». The definition of the borders of the state, i.e. the internationally recognized delimited territory of the state over which its jurisdiction extends, is crucial to the formation of national interests. After the collapse of the USSR, the administrative borders of the Soviet republics became the basis of the state borders of the newly independent states. This transformation of administrative borders into state borders is a large and complex undertaking for post-Soviet diplomacy, with varying degrees of success in dealing with the border problem in different states. Some post-Soviet states have border disputes with neighbouring states that sometimes escalate into armed conflicts.

Just recently, in September 2022, a border conflict broke out in the Batken region of Kyrgyzstan on the border with Tajikistan, in which the parties used heavy weapons, artillery and other types of weapons. The ongoing armed confrontation between the two states caused a large number of casualties, including among civilians who were forced to leave their homes and evacuate from the conflict zone [4]. The territorial dispute between the two Central Asian

**Kazakhstan has, by and large, successfully resolved its border issues with neighbouring states. Kazakh President Kassym-Jomart Tokayev wrote convincingly about this in his paper «Independence Above All» in January 2021.**

states, which has its roots in the delimitation of borders in Turkestan in the 1920s, has not been resolved to this day, repeating itself every year in armed clashes between the two countries.

Kazakhstan has, by and large, successfully resolved its border issues with neighbouring states. Kazakh President Kassym-Jomart Tokayev wrote convincingly about this in his paper «Independence Above All» in January 2021. Having led Kazakhstan's foreign policy for a long time, Tokayev has made great efforts to resolve the issue of our state's borders. «It is worth remembering that when we started to address the issue of the state border, some politicians and public figures urged us not to rush into it, saying that such issues could be resolved later. However, we immediately set about negotiating and consolidating the agreements reached. Time has shown the correctness of this approach. As a result, no matter what anyone says now, Kazakhstan has internationally recognized borders, secured by bilateral agreements. No one can argue with this» [5].

Here we would like to draw attention to the historical aspect of nation-building in Kazakhstan related to the concept of an indigenous nation. The concept of indigenous people played an important role in the national policy of the USSR, and it continues to have a decisive influence on nation-building in the newly independent states in the post-Soviet space [6, 124]. The concept of indigenous people was based on tying a certain people to a territory they had inhabited for a fairly long period of time, at least until that territory acquired a certain political status in the USSR. Since the classification of the population of the USSR was based on ethnic rather than, for example, religious principles, the entire population of the country was divided into nations in the ethnic sense of this concept.

Rogers Brubaker reveals Soviet nationality policy as consisting of two main components - territorial nationhood and personal nationality, i.e. the

nationality of the individual. The Soviet institutions of territorial nationhood and personal nationality created a pervasive system of social classification throughout Soviet society. It was an organizing «principle of vision and division» of the social world, a standardized scheme of social reporting, an interpretative coordinate grid for public discussion, a set of boundary markers, a legitimate form for public and personal identity and, when political space expanded under Gorbachev, a ready template for sovereignty claims by the national republics [3, 24].

The concept of indigenous people was central to the establishment and functioning of national entities in the form of union and autonomous republics, regions, etc. These national entities were a form of national statehood under the Soviet socio-political system. They could not create a political foundation for the creation of a nation and a nation state on their territory because they did not possess the essential condition of national autonomy. Of these forms of Soviet national statehood, the closest to the status of a nation state for the indigenous peoples were the union republics, which achieved the status of independent nation states in 1991 as a result of the collapse of the USSR. The prerequisites of an administrative and cultural nature were created in the Soviet national system, and after 1985, during perestroika, prerequisites of a political nature were created which were closely related to the concept of indigenous people.

When Kazakhstan became an independent state in 1991, having inherited its territory and other bases of statehood from the USSR, it abandoned the ideologized name «Soviet Socialist Republic» and became known internationally as the «Republic of Kazakhstan». In any case, the ethnonym «Kazakh» appears in the country's name, indicating the leading, main, indigenous nation in the state's multi-ethnic population. In international academic literature, such nations are referred to as «core nation», which can be translated into Russian as «ядерная нация» («core» is translated into Russian as «ядро»). We will also use this term in our paper, although it is not widely used in the Russian-language literature.

In the post-Soviet independent states, the concept of indigenous people has been further developed in the form of the concepts of titular and state-forming nation. For the elites of the newly independent states, the titular nation is the core of nation-building (core nation) around which the nation state should be formed, because the titular core nation acts as the main driving force of nation-building in the post-Soviet countries. The post-Soviet states therefore prefer to speak not of a «titular nation», but of a «state-forming nation» as the social group whose activities are most associated with state and nation-building. In this process, in addition to the Kazakhs, the role of other nationalities of Kazakhstan is undoubtedly great.

In Kazakhstan, the Kazakhs are the state-forming nation. President Tokayev pointed to this in his Address to the People of Kazakhstan on September 02, 2019: «We need, given the role of the Kazakh people as a state-forming nation,

”  
**IN KAZAKHSTAN, THE KAZAKHS ARE THE STATE-FORMING NATION. PRESIDENT TOKAYEV POINTED TO THIS IN HIS ADDRESS TO THE PEOPLE OF KAZAKHSTAN ON SEPTEMBER 02, 2019: «WE NEED, GIVEN THE ROLE OF THE KAZAKH PEOPLE AS A STATE-FORMING NATION, TO CONTINUE STRENGTHENING INTER-ETHNIC HARMONY AND INTER-RELIGIOUS UNDERSTANDING. OUR POSITION IS: «THE UNITY OF THE NATION IS IN ITS DIVERSITY»!**“

to continue strengthening inter-ethnic harmony and inter-religious understanding. Our position is: «The unity of the nation is in its diversity!» [7].

The special role of the state-forming, or core, nation in Kazakhstan and other post-Soviet states is manifested in its historical connection with the territory of the state, its demographic majority in the population, the political and administrative leadership of its elites, the state status of its language and the spread of its culture. Back in the Soviet period, as we have noted, for nation and state building in the Union republics, the historical connection of their territory with the indigenous nation was of great importance.

In the post-Soviet period, the historical connection of the indigenous core nation with the territory of the state has become even more important with the assertion of independence and sovereignty of the country. This is confirmed, for example, by the words of Kassym-Jomart Tokayev in his paper «Independence Above All»: «The eternal triad of our sovereignty is our immense land, stretching from Altai to Atyrau, from Alatau to Saryarka, our language learn at mother's knees, and our unity, which helps us to overcome all difficulties. We keep these values

as the apple of our eye. Our sacred land, inherited from our ancestors, is our greatest treasure. It was not «presented» to us by anyone. The national history did not begin in 1991 or 1936. Our ancestors lived here during the times of the Kazakh Khanate, the Golden Horde, the Turkic Khaganate, the Huns and the Saks. In other words, the roots of our national history go far back in time» [5].

### **TERRITORY AND CIVIL NATION IN KAZAKHSTAN**

In Kazakhstan, historical connection and heritage are not the only source of a person's identity with the territory and the state as a whole. A person can be connected with the territory and the state by his contribution to the building of cities and villages on the land of his country, by his work which strengthens the economic potential of the state, by his readiness to defend the land against foreign invasions and to die for the independence of the state with which he and his family identify themselves. These factors generate and strengthen a person's identity with the state in which he lives, contributing to his perception of himself or herself as a citizen of that state. This form of identity is called national identity, with the nation being understood not as an ethnos but as a civic community of citizens of different ethnicity.

Individuals live and settle where they deem it economically and otherwise beneficial to them. The demands of individual, group and state expediency, economically and otherwise, dominate over the demands of preserving ethnic

territory in the modern world. The legal framework of modern states ensures the primacy of national (understood in the civil sense) interests (economic and other) over regional and ethnic interests. In democratic States, national interests are realized through their balance with regional and ethnic interests. This is the meaning of the civic nation: in it, the interests of individuals and their ethnic groups are realized through the common good of the nation as a whole.

From this we can conclude that in modern states the territory is not an exclusive attribute of an ethnic group like language, culture, traditions, etc. The territory is an attribute of the state as a whole, and hence of the entire nation as a supra-ethnic community as a whole. Thus, Article 2 of the Constitution of the Republic of Kazakhstan states that the sovereignty of the Republic extends over its entire territory [8]. This means that the state, as the exponent of the will of the sovereign, which is the people of Kazakhstan, or the nation as the political community of all ethnic groups living in it, extends its power over the entire territory of the country.

One or another ethnos of a multi-ethnic society may regard all or part of the territory of the state as its ethnic attribute, but such a claim can only be expressed in historical or symbolic aspects, not in political and legal aspects. The Constitution of the Republic of Kazakhstan begins with the words «We, the people of Kazakhstan, united by a common historical destiny, creating statehood on the ancestral Kazakh land» [8]. Here the words «ancestral Kazakh land» indicate, as mentioned above, to the historical aspect of the territory of Kazakhstan as the natural environment of the Kazakhs since their ethnogenesis. The word «Kazakhstan» itself can be translated as «land, or country, of the Kazakhs». But here, we repeat, we are talking about the territory of Kazakhstan only in the historical aspect. As for the political and legal aspect, as mentioned above, sovereignty over the territory on behalf of all the people of Kazakhstan is exercised by the state, ensuring its integrity, inviolability and inalienability.

In today's globalized world, for successful political and socio-economic development, the state must be territorially open rather than closed. This enables the state to actively attract investment in its economy, develop human capital and strengthen the nation as a cultural and political community. Territorial openness means, in particular, attracting highly qualified specialists from abroad to the country. President Tokayev spoke about this in his Address to the People of Kazakhstan in September 2022: «In general, for the development of human potential, it is important to attract talented specialists from abroad to the country, especially those who have achieved success in creativity and entrepreneurship. For valuable professionals in science, healthcare, industry and IT, the state will introduce exemptions and grant visas with the right to obtain residence permits. The strength of the nation lies in its people, in their health and profound knowledge» [9].

Today, nation-building in various regions of the world has taken the form of a synthesis of ethnic and civil nation. Scientists also define this synthesis as

national integration. The interrelation between civil and ethnic forms of the nation through their synthesis takes place in many newly independent states. It is no coincidence that Anthony Smith and other national identity theorists argue that every nation contains civic and ethnic elements in varying degrees and forms. In the history of the same nation, at some moments, for example, civil and territorial elements may prevail, while at other moments, ethnic and linguistic aspects may dominate [10, 13].

In today's world, there are various forms of connection of ethnic and civil nations in the process of national integration. The distinction between nations from the position of being classified as ethnic or civil nations is therefore

**The ethnic understanding of the nation, as the Soviet and post-Soviet practice shows, is persistent due to the fact that it is constantly fuelled by primordialist emotions, which are widespread in society.**

determined by the proportion of ethnic and civil elements in the process of national integration. If ethnic elements dominate in the synthesis of ethnic and civic nations, the national community resulting from national integration is of the ethnic type. And if civil and territorial elements (in the sense of the territoriality of a single supra-ethnic community) dominate in this synthesis, the nation is of the civil type.

Ethnic and civic elements of nation-building in Kazakhstan are also expressed in the question of attitude to its territory. Ethnic elements are manifested, in particular, in the concept of indigenous people discussed above and date back to the Soviet period. Inherent in the concept of the indigenous people, their historical connection with the land, the territory of the republic, can produce in their psychology feelings that are called primordialist. This means such a perception of the territory, when its connection with the indigenous people is understood as a "given", unchanged in time and space [11, 41]. Based on such primordialism, prerequisites for an ethnic understanding of the nation arise, which has been confirmed in the Soviet and post-Soviet period. The ethnic understanding of the nation, as the Soviet and post-Soviet practice shows, is persistent due to the fact that it is constantly fuelled by primordialist emotions, which are widespread in society.

Primordialist sentiments, as the experience of post-Soviet and generally modernizing societies shows, create obstacles to the civic elements of nation-building. Primordialism is characterized, as mentioned above, by viewing ethno-cultural elements such as language, culture, land and religion as givens of the ethnic nation to be taken as a basis of nation-building. In this case, ethno-cultural elements become exclusive, which leads to the exclusion of other

ethnic groups whose language, culture and religion differ from these elements of the given ethnic group from the nation-building process. Such elements may include the territory of the state, which can be interpreted in a primordialist spirit. This can create overt and covert conflicts in multi-ethnic society.

## **NEW KAZAKHSTAN: JUSTICE AND DEMOCRATIZATION**

One of the main causes of ethnic conflict is the perception of injustice felt by one of the groups involved in the conflict and the resulting protest. At the same time, the protesting group attempts to resolve its perceived situation of injustice through political means, which may include appealing to external forces, in particular, to neighbouring states, especially if that state is considered by this group, the ethnos, as its ancestral homeland. Therefore, as international practice shows, an internal ethnic conflict often becomes an international, inter-state conflict.

For Kazakhstan, as for a multi-ethnic society, the prevention of ethnic conflicts is of vital importance, one of the main priorities of national policy. For historical, demographic and other reasons, preventing conflict between the country's two largest ethnic groups, the Kazakhs and the Russians, is key to Kazakhstan's nation-building and sovereignty. For Kazakhstan's leadership, the prevention of such a conflict is the primary objective of the country's political development, both in terms of internal political relations between the Kazakhs and the Russians in Kazakhstan society and in terms of foreign policy of interstate relations with Russia. In other words, the relations between the Kazakhs and the Russians are of primary importance both for nation-building and for the sovereignty of Kazakhstan at its present stage of development.

Since the earliest days of independence, Kazakhstan has proclaimed social justice as the most important principle of its national policy. Social justice in nation-building is based on inclusive citizenship for all Kazakhstanis regardless of their ethnicity, their equal access to essential social resources, and other forms of social equality. Thanks to this, inter-ethnic stability is generally preserved in society, especially in relations between the country's main ethnic groups, the Kazakhs and the Russians.

However, the super-presidential regime in Kazakhstan has created favourable conditions for growing socio-economic inequalities, facilitated by nepotism, corruption and other negative factors. This led to the fact that, according to President Tokayev, 162 families close to the former president of the country, Nazarbayev, owned half of the national wealth of Kazakhstan, which is probably one of the highest levels of social inequality in the world [12].

In an attempt to overcome the causes of deep social inequality in Kazakhstan society, Tokayev has directed his efforts against the super-presidential regime and oligarchic capitalism. In March 2022, Tokayev proposed to the public a package of measures aimed at reforming Kazakhstan's political system towards overcoming the super-presidential regime. These proposals have taken the form

of amendments to the Constitution of the Republic of Kazakhstan to be adopted by referendum on June 5, 2022. During his visit to Turkey in May 2022, Tokayev said at the meeting with Turkish and Kazakhstani business representatives: «On June 5, a nationwide referendum will take place in our country. Amendments have been made to 33 Articles of the Constitution. My goal is to give more freedom to my people, to strengthen democracy and the rule of law. As president, I am not interested in any privileges or benefits. I do not accept this» [13].

The democratization of Kazakhstan's political system will create the conditions for overcoming the deep social inequality entrenched under the super-presidential regime and the oligarchic system. This was stated by the head of state in his Address to the People of Kazakhstan on September 1, 2022: «The fair distribution of national wealth and the provision of equal opportunities to every citizen is the key objective of our reforms». [9].

The amendments to the Constitution of the Republic of Kazakhstan adopted on June 5, 2022 are aimed at establishing a new political regime, the main purpose of which will not be to maintain the oligarchic system with its social inequality, but to strengthen social equality and social justice. As world experience shows, a political system that sets social justice as its main goal is more stable and stable than a political regime that cannot cope with social inequality and, moreover, protects it.

Social justice does not mean equality in wages, but equality in access to social benefits and resources. One of these social benefits is education, which creates a foundation for a person for self-fulfillment and achievement of social heights. The quality of education plays an important role here, as the person with the best education has an advantage over the one with the worst education. However, in today's Kazakhstan we observe that education in cities is noticeably better than in villages. The difference in the quality of education in cities and villages is largely due to the school infrastructure. To bridge this gap, President Tokayev initiated the Comfortable School national project. According to this project, 800,000 student places meeting modern requirements will be created in Kazakhstan by 2025. This measure will significantly level out the difference between the quality of educational infrastructure in cities and villages [9].

Addressing issues of overcoming inequality and promoting social justice as part of the political reform agenda of New Kazakhstan is not only of socio-economic importance. In fact, overcoming the super-presidential regime is also important for nation-building. Here it is important to understand that a higher level of social justice in society increases the level of social trust, including inter-ethnic trust. In the academic literature, trust in society between its different groups is referred to as «social capital». The higher the level of trust in a society, the higher its social capital and therefore the higher the level of civil political culture in this society.

Political reform in today's Kazakhstan, while contributing to the development of social capital in society, will also have an impact on the development of horizontal ties between social groups in Kazakhstani society,

including between ethnic groups. With the development of horizontal social ties in society, civic institutions as the organizational foundation of civil society should be developed. The development of civic institutions will create the conditions for strengthening the civic political nation in Kazakhstan as a supra-ethnic community. The development of the civic nation presupposes a sufficiently high level of inter-ethnic trust, arising from regular inter-ethnic contacts, which means overcoming ethnic boundaries rather than being confined within them.

In his Address of September 2022, Kassym-Jomart Tokayev noted the New Kazakhstan idea: «We are carrying out political modernization in accordance with the basic formula of ‘a strong president – an influential parliament – an accountable government’. We will strengthen a nationwide consensus, a partnership between government and society, following the «Hearing State» concept. We should not focus on dividing lines, but rather consolidate for the sake of achieving ambitious goals. This is a very deep sense of the idea of the New Fair Kazakhstan» [9].

Thus, we can say that the democratization of Kazakhstan's political system should contribute to the further formation of a civic nation in society. This means strengthening the identity of all ethnic groups in Kazakhstan with the state, hence strengthening the sovereignty of the country. The state can therefore be confident in its citizens that their identity in Kazakhstan is the key to maintaining the independence and territorial integrity of the state, the

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core of Kazakhstan's sovereignty. Referring to the inextricable link between the state sovereignty and nation-building, President Tokayev stressed: «We face a particularly important task – to preserve the sovereignty and territorial integrity of the country. We need power to further strengthen our statehood. There is no other way. The unity of the people has always been our most important value, which is even more important today. Our people have always put peace and stability above all else. In these difficult times, we must become even stronger in our unity» [9].

## CONCLUSION

The main conclusion of the analysis in the paper is that at all stages of Kazakhstan's historical development, the territory has played a crucial role in nation-building. During the Soviet period, when the first form of national statehood of Kazakhstan emerged as an autonomous and then union republic under the national policy of the communist regime, its territory was defined along with it, coinciding with the historical lands of the Kazakhs as the indigenous people of the republic. During the post-Soviet period, the institutionalization of the territory of Kazakhstan as a nation state is based on the international recognition of the country's borders and the concept of a state-forming nation. In nation-building, the territory acts as, on the one hand, an ancestral Kazakh land and, on the other hand, as an inclusive property of all citizens of the country, a factor in the formation of a civic nation. The high level of social inequality that emerged during the years of the super-presidential regime has had a negative impact on the various institutions and processes of Kazakhstan society, including nation-building. The political modernization initiated by President Tokayev, in particular, the measures to increase the openness of the territory of Kazakhstan in the context of human capital development, should have a positive impact on nation-building in a multi-ethnic society.

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# SOCIAL POLICY IN THE CONTEXT OF PROVISIONS OF THE «NEW KAZAKHSTAN» PARADIGM:

## GENESIS OF NATIONAL SPECIFICS AND INTERNATIONAL EXPERIENCE



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## **ABSTRACT**

This paper presents an analysis of the key stages of social policy transformation in the history of independent Kazakhstan. The authors investigate the peculiarities of the formation of the institution of social work in the country as one of the instruments of social policy implementation. The results of a comparative analysis of transformational changes in social policy models at different stages of reform are presented.

The international comparative studies of the transformative genesis of the social protection system in the course of political reforms in Finland is highlighted in the paper. Some aspects of relevance to the Kazakhstan social work field and to social policy in general are considered.

The analysis is based on the results of Desk Research. The paper also provides a comprehensive content analysis of the prerequisites for reforming the social system and examines key indicators of the impact of the implemented and expected changes on improving the standard and quality of life of Kazakhstan's people.

## **KEY WORDS**

social policy, social security, pension, social insurance, social work

## **INTRODUCTION**

Under the impact of globalization, the global economic and financial crises, and global environmental change, the world is undergoing a destructive social transformation that determines increasing inequality, extreme poverty, alienation and negation of basic human rights.[1].

These trends in the global world have a long history of their permanent escalation to critical points, including a wide range of international and national initiatives to maximize their elimination.

The leading strategies and tactics of public policies for the social well-being of their citizens are concentrated in the social policy agenda. The issues of



transformation and modernization of social policy and society has traditionally been stated as strategically important on the agenda of many states.

Let's consider the genesis of what has been declared and implemented as part of Kazakhstan's social policy measures over the years of its sovereign development. It should be stressed that during the thirty years of independence of the Republic of Kazakhstan, social policy in the country has been gradually transformed and improved in line with the political transformations taking place in the state.

At present, «New Kazakhstan», the new paradigm of political transformation and reform, strategically actualizes the urgent need for a renewal of social policy. Such changes are needed because of the accumulated expectations of the population to radically improve their standard and quality of life, which can and should be facilitated by renewed social mechanisms for the equitable distribution of public and state resources.

## STUDY METHODS

This analytical material was obtained by applying the Desk Research method, in the course of which the databases of the National Statistics Bureau of the Agency for Strategic Planning and Reforms of the Republic of Kazakhstan, the Adilet Legal Information System of Normative Legal Acts of the Republic of Kazakhstan, Institute of Legislation and Legal Information of the Republic of Kazakhstan RSE on REM of the Ministry of Justice of the Republic of Kazakhstan were analyzed. The results of the research stated in this paper are based on the method of statistical analysis, the method of comparative analysis, the method of content analysis. The subject-objective focus of the methodological line chosen by the authors focuses on analyzing the transformations caused by the social policy reforms, dictated by the tasks of systemic political transformations in the country as a whole.

## FINDINGS OF THE STUDY AND DISCUSSION

### *Periodization of transformations in the sphere of Kazakhstan's social policy.*

The analytical background to the retrospective development of the country,

as recorded both in official state documents and in the scientific and expert community, is unanimous in positioning the statement that a new period of intensive reform in Kazakhstan has started since the late 1990s.

We define the chronological framework of this stage of the start of reforms and their practical implementation in the social everyday life of Kazakhstanis from the late 1990s to 2003.

The next stage starts with the Address of the President of the Republic of Kazakhstan to the People of Kazakhstan dated March 19, 2004.

The first stage of social transformation, which took place from the late 1990s to 2003 inclusive, was focused on developing conceptual approaches to social policy that harmonized with the country's proclaimed market economy principles.

In market relations, the state and society are first and foremost faced with the question of determining the economic component of social transformations. [2]

Since this period, Kazakhstan has been one of the first post-Soviet states to put into practice the principles of the social state enshrined in the country's Constitution.

Kazakhstan's 2030 Development Strategy states among the strategic priorities the achievement of a significant level of well-being of the population and the construction of a professional state. In those years, the country continued reforms aimed at detailing social policy approaches, humanizing them and bringing them closer to international legal standards [3].

Since the late 1990s and early 2000s, social development in Kazakhstan has been recognized as one of the key dimensions of economic reform and strategic development of the country.

Studies of the effectiveness of economic programs, the development of mechanisms for progressive state development, the formulation of political strategies, and the formulation of recommendations to strengthen Kazakhstan's national security take into account the social indicators that form the basis of the 'human development' concept recommended by UN development programs and currently widely used in world practice [3].

In the mid-1990s, Kazakhstan embarked on a new stage of economic transformation. In 1995, in order to consolidate the results achieved in the growth of the living standards of the population, the Government approved the Government's Action Program to Deepen Reforms for 1996-1998 [4]. The main objectives of the Program were to reduce the annual rate of inflation, ensure the growth in real average wages, strengthen the targeted support for socially vulnerable groups, and reform the financial sector and enterprises.

The idea of deepening social policy reforms at the first stage of reforms was to improve the efficiency of the social welfare system. This was to be facilitated

**THE MAIN OBJECTIVES OF THE PROGRAM WERE TO REDUCE THE ANNUAL RATE OF INFLATION, ENSURE THE GROWTH IN REAL AVERAGE WAGES, STRENGTHEN THE TARGETED SUPPORT FOR SOCIALLY VULNERABLE GROUPS, AND REFORM THE FINANCIAL SECTOR AND ENTERPRISES.**

by strengthening the targeting of economic social welfare measures and social services, setting medium-term targets for minimum income and social benefits. The objectives were to achieve a clear division of responsibilities and financial obligations between the different levels of government and a consistent transfer of social service functions from enterprises to local executive bodies.

In the conditions of the economic situation of that time, the need for rational structuring in the area of pensions, social benefits and allowances became particularly urgent.

In the medium-term, the budgetary financing of specialized institutions for orphans, mentally retarded children, the elderly and disabled was maintained. It should be noted that the wording of the social service target groups given here is taken from the professional glossary of those years, as enshrined in the current legal and regulatory instruments.

The most important element of income policy for the coming years was the reform of the pension system, aimed primarily at introducing a flat rate of social tax on payroll, targeting pensions to the poor, and developing voluntary pension funds.

The pension provision for future pensioners, whose retirement was expected to take place after 1998, was based on the principles of compulsory and voluntary pension insurance and a system of personalized accounting of insurance contributions, where the amount of pension is mainly determined by the amount of paid contributions and the time period during which they have been paid.

Using the subsistence minimum as a criterion for determining those in need of state social support, the government of Kazakhstan is developing a new mechanism for targeted social assistance in 1997.

The intention was to start work on changing the principle of compulsory social insurance. This involved shifting the center of gravity for social security of the able-bodied population from the enterprises to the employees themselves.

In this context, in 1996 it was intended to develop relevant regulations and to start implementing the reformed compulsory social insurance system in certain regions, cities, districts and enterprises.

The regulation on residential homes for the elderly was revised in terms of determining the fees paid by the relatives who were obliged by law to maintain them.

In order to implement the Government's Action Program to Deepen Reforms for 1996-1998, a Concept of Pension Reform in the Republic of Kazakhstan was adopted [5].

The key landmarks of the reforms of the current pension system in Kazakhstan in 1995 were the withdrawal from the state monopoly of pension provision for citizens, the increase in personal responsibility of the employer and the employee in pension contributions, the achievement of stable operation of the pension system in a market economy and the improvement in the living standards of the population of Kazakhstan as a whole.

The declared purpose of social policy is the establishment of a three-tier social security system and the gradual approximation of the system of state social standards to international standards.

The second stage of transformation in social policy begins with the Address of the President of the Republic of Kazakhstan to the People of Kazakhstan dated March 19, 2004 'Towards a Competitive Kazakhstan, a Competitive Economy and a Competitive Nation', and by the end of 2004 the government approved the Programs for Further Deepening Social Reforms in the Republic of Kazakhstan for 2005-2007 [6].

The second stage of transformation in social policy is characterized by the proclamation of objectives to strengthen financial sustainability and an even distribution of responsibility for social security and citizen protection between the state, the employer and the employee.

The declared purpose of social policy is the establishment of a three-tier social security system and the gradual approximation of the system of state social standards to international standards.

The main results of the second stage of the social policy transformation were the development of social insurance for the main social risks, which included old age, disability, loss of breadwinner and loss of job.

Also, as the results of the second stage, it is necessary to mentioned the improvement of the organization of social assistance, including the poverty reduction factor; increased accessibility and quality of social services; improved social rehabilitation of persons with disabilities; improved information provision and social statistics; and provision of training and professional development for social security system specialists. The initiatives aimed at increasing the responsibility of local executive bodies for the implementation of regional aspects of social policy took a special place.

Thus, at the second stage of the reform, the strategic planning targets of Kazakhstan's social transformations were related to increasing the level of social security of the population through the state budget, mandatory and voluntary contributions from employers and/or employees; expanding social security coverage; reducing poverty; improving working conditions and safety; reducing shadow employment; reducing unemployment; improving the quality of social services; developing social risk insurance and the insurance market; and establishing a unified personalized system of accounting and control of social payments and deductions in the social security system.

***Features of the regulatory and legal framework for social welfare in Kazakhstan in the 2010s.*** With regard to the regulatory and legal framework governing the transformation of the social sphere in Kazakhstan in the 2010s, the adoption of laws aimed at improving social security relations stands out.

Let's list them. «The Population Migration Act (2011), Pensions in the Republic of Kazakhstan Act (2013), Trade Unions Act (2014), Minimum Social Standards and Guarantees Act (2015), Employment Act (2016), Mandatory Social Insurance Act (2019) and Veterans Act (2020). It should be emphasised that during the same period a set of amendments regarding the provision of targeted social assistance was adopted. [7]

It is especially necessary to point out that the sphere of social security of the Republic of Kazakhstan is regulated by many legislative documents, including 17 laws, more than 100 by-laws.

Such a large volume and a certain fragmentation of the regulations enshrined in the social legislation of the Republic of Kazakhstan make its legal and regulatory framework cumbersome resulting in contradictions and gaps. Such specific features of Kazakhstan's social legislation make it difficult to enforce it effectively in practice. These circumstances determine the urgent task of optimizing and revising the legal and regulatory framework governing the social sphere of the Republic of Kazakhstan.

The analysis of the features of the development of the social policy of the Republic of Kazakhstan from 2011 to the present reveals a permanent focus on improving the social security system.

Thus, in the field of labor and employment policy, in order to create a fundamentally new model of labour relations, the key tasks were associated with building a society of universal labor [8]. Such a model assumes productive employment, high productivity and inclusive economic growth.

It should be emphasized that social policy, in its entirety, aims at the integration of social groups. This means building a civic identity, rationalizing the functioning of the state machinery and increasing public participation in the affairs of the nation, in the affairs of the state [2] [9]. The Social Code of the Republic of Kazakhstan, the basic provisions of which are currently being elaborated, can and should play a key role in this direction.

In order to effectively prevent socio-economic disadvantage, the Government of Kazakhstan has for many years raised the minimum wage and pensions in line with increases in the cost of the minimum consumer basket.

The strategic mission of social policy is that the whole range of social support measures implemented by the national government should contribute to the stable social well-being of the population and prevent the emergence of new social problems [9].

In the process of social reform, attention to international best practice was essential. But, as noted in official documents, the reform process is always aimed at addressing shortcomings and problems in the already existing field of social welfare. For this purpose, let's turn to the experience of reforming the social welfare system in Finland.

***A content analysis of the official rhetoric of the Finnish Prime Minister's Office regarding social welfare reforms.*** This prosperous Nordic country has been reforming its social services and welfare system in recent years.

The political reforms and transformations in Finnish social policy enunciated by Juha Sipilä's government have been ambiguously transformed in terms of their continuity by the initiatives of the Office of Finnish Prime Minister Sanna Marin, which took office in December 2019.

The current official rhetoric on the Finnish government's public information portals regarding welfare reforms has centered around the thesis that social justice and livelihood security in the face of social risks are central to Finland's welfare reforms.

The Finnish national policy documents emphasize that social security is a strategic investment in the future that enables people to live more fulfilling lives, expanding their freedom and inclusion so that they can fully and long serve society as a whole.

At the highest level of government, it has been emphasized that social justice and livelihood security in the face of social risks are central to Finnish welfare reform. In particular, it is crucial to improve the reliability, comprehensiveness and clarity of the social welfare system.

Official documents from the Finnish Prime Minister's Office cite the following as reasons why the Finnish social welfare system needs new reforms.

Firstly, changes to the labor field as a whole challenge the definitions used in the field of social welfare system and its functioning.

Secondly, services and benefits were previously developed at different paces and usually separately. But now their functionality needs to be improved to meet the people's needs.

Thirdly, in Finland's current social welfare system, as stated in official sources, a person in need of support is not always met in a timely manner and may not be able to receive the service or benefit he needs. At worst, he will be left with no support at all.

Fourthly, the low level of basic security and the complexity of the Finnish social welfare system have increased the role of income support. Originally conceived as an extreme and short-term livelihood support, it eventually became a long-term supplement to main support.

The Finnish social welfare system, as said in the official document of the Office of Finnish Prime Minister Sanna Marin, is complex and difficult to understand.

Fragmentation and unpredictability are exacerbated by the variability and multiplicity of life situations and when crossing sectoral boundaries. It is particularly emphasized that the sustainability of the welfare state requires high employment.

The Government is therefore launching a welfare reform that will draw on the findings and recommendations of comprehensive research projects.

Social reform in Finland was prepared on the basis of extensive research by the Parliamentary Committee. The preparation is inter-administrative and broad-based, using the experience of various fields.

The Parliamentary Committee deals with basic provision, income support, income support and the linkage and funding between the two, improving the



ongoing coordination of services with benefits. The work should take into account the special groups that are neglected in the current system.

It should be noted that the Committee does not deal with old-age pensions. This is the competence of another authority. The Committee's work is aimed at the structural and functional development of social welfare in the long term. For this, a roadmap and interim goals will be drawn up for two parliamentary terms, to which the current government will have time to respond [10].

The goal of Finnish welfare reform is to make the system clearer and more functional than the current one from a human point of view, allowing work and welfare to be harmonized in changing life situations.

Social welfare in modern Finland should contribute to meeting people's needs for social participation and relevance as well as supporting employment, entrepreneurship, activity, independence, and lifelong learning in all situations.

The goal of the new Finnish reform is to make work more profitable than it is now and to keep a clearly predictable amount of income in one's hands.

Social welfare should guarantee people predictable security in different stages of life and change in life situations without unnecessary interruptions and administrative obstacles. The Parliamentary Committee is examining and preparing the necessary measures to unify the legislation on basic social benefits of the same level. In this context, other subsidies, in particular those related to studies, are also being considered as part of the reform. The definition of income-based benefits will be unified.

The Finnish welfare reform ensures better integration of welfare-related benefits and services (such as employment, education and health care,

rehabilitation, debt counselling and social work) and a more flexible and timely connection with other types of welfare. Getting the right service should be possible regardless of the benefits.

The reform maintains the balance of individual rights and responsibilities in a way that is also consistent with improving public finances and employment. In addition to basic provision, need-based subsidies are also necessary.

Social welfare should be responsible for basic livelihood and care obligations in accordance with the Constitution. The reform is being implemented without reducing basic security and aims to reduce the need for long-term income support. Digitalization makes social welfare more understandable and accessible to people. Particular attention is paid to ensure that language rights and the availability of services in the customer's language are implemented.

Significant attention is paid to general housing support, but in a more individualized way. The impact of the support on other benefits is taken into account. As part of general basic security, housing support for Finnish citizens should provide affordable and sufficiently good quality housing for everyone. Support should be developed in such a way that incentives to work are improved. The Parliamentary Committee is investigating the development needs of the general housing allowance separately from the other allowances. Housing subsidies are closely related to housing policy. Let's give specific figures.

One of the stated goals of the Finnish reforms is to ensure the livelihood of the elderly and reduce poverty. To achieve it, the Government will spend €183 million to increase the smallest pensions by about €50 per month on a net basis. It is estimated that the increase will apply to a monthly pension of about €1,000. The increase will be implemented through the national pension and guaranteed pension systems.

In Finland, a three-pronged study will be launched in the coming months on how to improve the situation of those receiving the smallest occupational pensions in the occupational pension system. The study will examine ways of increasing occupational pensions of less than €1,400 net by €100 without increasing contributions to occupational pension funds. The merger of the municipal and private pension systems is being prepared on the basis of the proposals of the Working Group on the Separation of Pension Systems. Finland's official documents also state that the pensions of artists and athletes will be increased from their current amounts. The planned study will clarify the situation of people whose total pension is below the level of the guaranteed pension. The key objectives of a professional pension policy are sustainable financial independence, adequate pension levels, sustainability of funding and intergenerational equity. The Government is preparing amendments to the occupational pension legislation in a tripartite way.

THE FINNISH SOCIAL WELFARE SYSTEM, AS SAID IN THE OFFICIAL DOCUMENT OF THE OFFICE OF FINNISH PRIME MINISTER SANNA MARIN, IS COMPLEX AND DIFFICULT TO UNDERSTAND.



The next goal of the modern Finnish welfare reform is to improve the situation of families with children and the well-being of single parents and families with many children. The Finnish state is improving the living conditions of low-income families with children. The Government monitors the development of housing conditions for families with children and consistently works to reduce poverty in families with children during its term in office and assesses the impact on children in all decision-making processes.

The child allowance for single parents increases so that families dependent on income support also benefit from the increase in child allowance. Child allowances for the fourth and fifth child are increased. The maintenance allowance will be increased and the guardianship allowance for training will be financially strengthened.

The third goal of Finland's social reforms is related to reducing inequality. In practice, this means that reducing poverty and inequality is the main goal guiding all governmental decisions of the Office of Finnish Prime Minister Sanna Marin.

The Finnish Government is increasing basic security. The education allowance will be linked to the 2020 index by half, and then in full. The Government assesses the potential for new investment in poverty and inequality reduction spending in relation to each budget line. Finnish government documents assign a special mission to the coordination of labor income and social welfare. In particular, it is about facilitating the coordination of paid work, entrepreneurship and other forms of income in the social welfare system, especially with regard to unemployment benefits.

The Finns are reforming the contractual unemployment insurance so that those categories of workers whose employment practices do not include working time controls are not excluded from mediation. It is important that the different monthly working hours rhythm is applied to workers in the same way.

The Finns are reforming the contractual unemployment insurance so that those categories of workers whose employment practices do not include working time controls are not excluded from mediation. It is important that the different monthly working hours rhythm is applied to workers in the same way. The aim of the reform is to compensate for the financial losses caused by unemployment, not to fix earnings.

The next measure is the continued development of combined insurance in the welfare reform. To this end, alternatives for improving the social and pension provision of entrepreneurs are being studied.

Finland will continue to develop working conditions that are a prerequisite for obtaining unemployment benefit. The

aim is to take better account of changes in the labor market and digitalization opportunities.

There will soon be further research into the possibilities of switching to general earnings-related unemployment insurance for all those who have fulfilled the conditions of employment.

The key outcomes on the relevance of Finnish welfare reforms in Finnish official analysis are the following connotations.

The low level of basic security and the complexity of the system has increased the role of income support. The complexity of the benefit system is often due to the combination of different benefits and/or other types of income or transitions between them. Basic security needs to be developed without reducing its level. In addition, the reforms should take care of ensuring the protection of personal data.

A comprehensive livelihood support reform will be implemented in Finland to ensure adequate last resort protection and timely services for people in need of social support.

The reasons for young people's dependence on income support and ways of reducing it will be elucidated. The protective subsystem for life support will be clarified and obstacles to work will be removed. It is envisaged to make the necessary legislative changes to facilitate the use of digital technology and artificial intelligence in applying for, processing and making decisions on social welfare benefits. The concept of benefits and payment periods will be harmonized (e.g. conditions for the application process, concepts of income and family, dates and times of payment, including public holidays). In the case of merit-based benefits, triangular cooperation is required as a whole.

The Finnish Government cares about the correspondence between earnings and basic insurance. As a result, the reforms offer the customer a more user-friendly digital platform and the ability to apply for multiple benefits through a single application, while increasing the transparency of the system. The income register in the social welfare system will be applied, especially in relation to atypical employment relationships. In the Finnish welfare reform, the informativeness of the income register will be expanded, especially in terms of changing jobs.

The above content analysis of the official documents of the Finnish Prime Minister's Office regarding the country's social reforms captures the current target rhetoric and key benchmarks for change aimed at enhancing equality and fairness in social security for Finnish citizens.

## CONCLUSION

Although the current economic situation does not allow us to say that a social state has already been formed in Kazakhstan, the very fact that the Republic has been proclaimed a social state shows that the interests and needs of citizens and the people as a whole are the main priority in the transformation of public life. The authors emphasize that the Finnish rhetoric regarding the transformation of the social security system is quite similar to that of Kazakhstan in terms of social welfare reform. The differences are in economic indicators, subsidies and allowances. But these are individual country-specific economic features.

The modern paradigm of social policy in the light of the Address of the President of the Republic of Kazakhstan Kassym-Jomart Tokayev «We are building a Fair Kazakhstan with open competition and equal opportunities for everyone» [11] suggests the idea of a «universal basic income», that is universal protection of all residents against poverty and social inequality. In the areas of family, education, health and social welfare policies, this idea is expressed by increased attention to the quality and accessibility of social services for citizens. Finland's best practices are also very relevant here, but taking into account Kazakhstan's uniqueness and local peculiarities.

This idea may have effective prospects for development in the digital economy and holds great potential for the development of a «Fair Kazakhstan»

It should be stressed that social programs that provide protection against new social risks are still in the developmental stage in the European and Eurasian space, but the issue is increasingly at the center of public debate [12].

In both Kazakhstan and Finland, social risks have become more heterogeneous and therefore less and less predictable. The economic and political crisis that has been present in the world in recent years has also sparked a series of discussions on finding new ways, creating new models of a fair state. Countries implement this search based on a combination of local and global resources.

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# INTERPRETATION OF NATIONAL LEGISLATION PROVISIONS IN THE CONTEXT OF LEGAL REFORMS OF THE PRESIDENT OF KAZAKHSTAN K.K. TOKAYEV



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## **ABSTRACT**

This article discusses the problems of interpreting normative legal acts in the context of Kazakhstan's national legislation and reforms initiated by the Head of State. This problem, despite reforms conducted in the field of administrative justice, which are aimed at protecting rights and legitimate interests of citizens, still holds focused attention of both legal practitioners and legal scholars. Meanwhile, a correct understanding of legislation norms significantly affects their uniform application, and, accordingly, exercise of citizens' rights and freedoms.

## **KEY WORDS**

interpretation of normative legal acts, administrative justice, administrative court

## INTRODUCTION

Theoretical and practical aspects of the problems of official construction and interpretation of national legislation provisions, especially laws, have been the subject of heated discussions for a long time. And apparently, an unambiguous approach to this problem has still not been found, despite progressive development in this direction. On the one hand, it is quite logical that Kazakhstan's legislation is developing in stages, taking into account background of national legal structures, foreign experience, as well as the experience of established traditional classical legal models of the legal system. On the other hand, in the context of legal reforms announced by the President of Kazakhstan, solution of these aspects becomes even more relevant.

Today, in the course of reforms undertaken and carried out at the initiative of the President of the country, protection of citizens' rights, freedoms and legitimate interests is becoming one of the main priorities. correct understanding of legislation norms significantly affects their uniform application, and, accordingly, exercise of rights and freedoms by the citizens.

In this regard, it seems appropriate to consider some issues of interpreting legislation norms, which, based on the models of the continental law system, are closely interrelated with administrative justice, which has recently begun to function in a new way.

Within the framework of this article, key approaches to interpretation of normative legal acts in the context of the legal reforms of the President of Kazakhstan K.K Tokayev are considered based on systematic and comparative research methods.

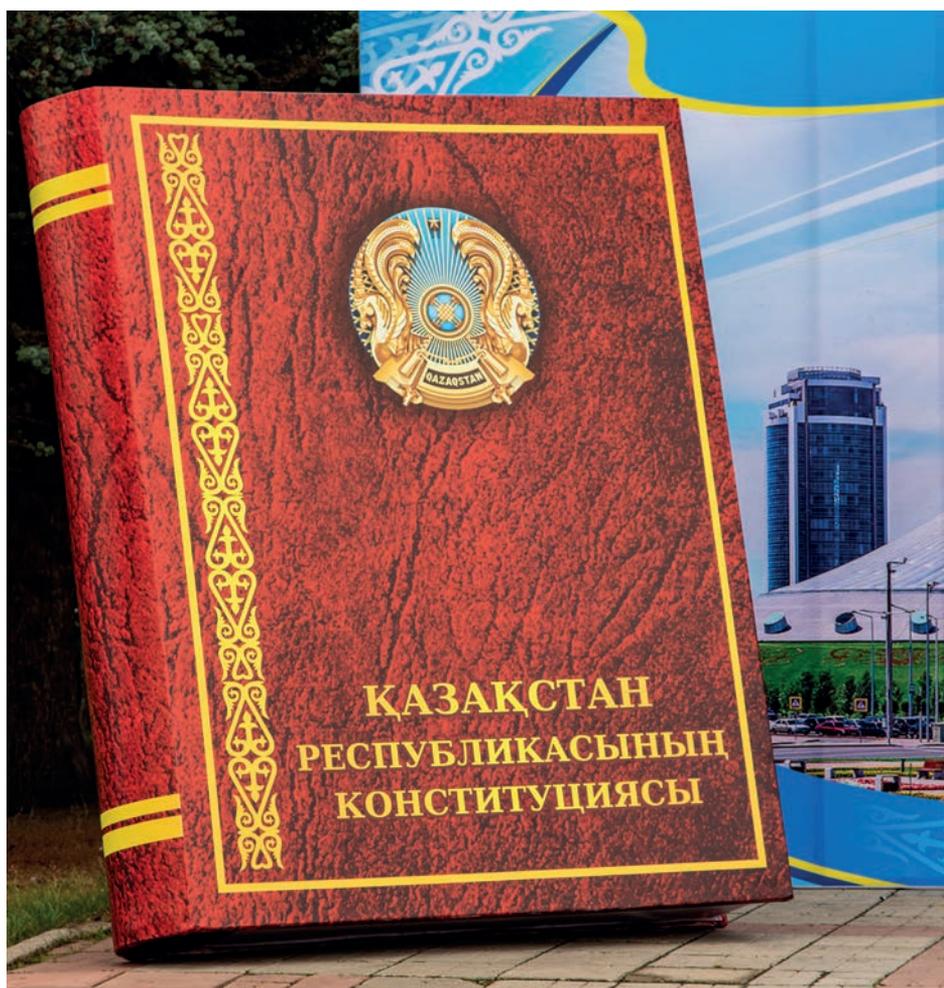
## INTERPRETATION OF LEGAL NORMS IN CONSTITUTIONAL AND LEGAL ENVIRONMENT

There is an initial certainty regarding official interpretation of norms related to category of constitutional and legal ones, and compliance of legislation norms with the Basic Law, since these issues are exclusively within competence of the supreme judicial body of constitutional control (Constitutional Council of the Republic of Kazakhstan, which has been transformed into the Constitutional Court of the Republic of Kazakhstan since June 2022), carried out through constitutional proceedings. Text of article 72 of the Constitution of Kazakhstan, dated 1995, from the very beginning unambiguously and directly provided that the Constitutional Council of the country (since June 2022, the Constitutional Court) gives an official interpretation of the norms of the Constitution [1]. In addition, one of its decisions states that the right of official interpretation of the Constitution norms is granted exclusively to the supreme body of constitutional control [2]. At the same time, it reviews laws adopted by the Parliament for their compliance with the Constitution of the Republic before the President signs them; reviews resolutions adopted by the Parliament and its Chambers for compliance

with the Constitution; reviews international treaties for compliance with the Constitution before ratification.

The undertaken constitutional reform has supplemented the circle of subjects entitled to appeal to the supreme judicial body of constitutional control. So, if earlier the President, Chairmen of the Senate and Majilis, deputies of Parliament (at least one fifth of the total number of deputies) and the Prime Minister had such a right, now the General Prosecutor's Office of the Republic of Kazakhstan is also entitled to appeal to the Constitutional Court with a request for an official interpretation of constitutional norms.

The most significant amendments to the updated Constitution (new paragraphs 3-5 of Article 72 of the Constitution), aimed at ensuring constitutional rights and freedoms of citizens, are the possibility of applying to the Constitutional Court for compliance of existing normative legal acts with the Constitution, additionally providing for such an opportunity to citizens themselves, the Commissioner for Human Rights and the General Prosecutor's Office. It seems advisable to pay attention to the cases in which the listed entities of appeal can act as initiators.



Regarding citizens, they can apply for recognition of a normative legal act or its individual provisions as contrary to constitutional norms, if this act directly affects their rights and freedoms embodied in the Constitution. The Commissioner for Human Rights initiates a similar procedure for compliance of normative legal acts with the Constitution, generally affecting rights and freedoms of human and citizen embodied in the Constitution. The General Prosecutor's Office, based on the text of paragraph 4 of Article 72 of the Basic Law, is endowed with such a right in general, that is, it can initiate an appeal to the Constitutional Court on any normative legal act.

It seems that prior to the reform, preliminary (a priori) constitutional control prevailed and was carried out, namely, earlier the Head of State signed the laws adopted by the Parliament. Thus, it can be stated that the mechanism of subsequent (a posteriori) constitutional control over the constitutionality of the current laws (including signed and effective laws), becomes much more flexible and inclusive after involving citizens, the Commissioner for Human Rights and the General Prosecutor's Office. It is fair to note that the mechanism of preliminary constitutional control in the form of pre-judicial procedure was still provided for by the country's Constitution.

The Constitutional Court (formerly the Council) is a kind of one of the "supreme guardians" of constitutional legality, but not the only judicial body designed to guarantee it. According to article 78 of the Constitution of Kazakhstan, if the court finds that a law or other regulatory legal act subject to application infringes on the rights and freedoms of a person and citizen embodied in the Constitution, it is obliged to suspend the proceedings and apply to the Constitutional Court with a submission to declare this act unconstitutional. This provision is comparable to the pre-judicial procedure and pre-judicial claim for interpretation existing in French legislation.

The pre-judicial procedure consists in avoiding repeated procedural actions, suspending proceedings on pending case and, accordingly, trial on the merits until the issue of the potentially possible unconstitutionality of the normative legal act has been resolved by the supreme constitutional jurisdiction.

But for some reason, the norm providing for subsequent constitutional control was introduced into constitutional- legal field of France only in 2008 (Article 61-1 of the Constitution of the French Republic) [3]. Speaking in general terms, almost similar procedure is defined in France for such cases: if, when considering a case in a court of general jurisdiction, it is claimed that any legislative norm damages the rights and freedoms guaranteed by the Constitution, State Council or Cassation Court may send a corresponding request to the Constitutional Council of the French Republic. And only after its decision, proceedings suspended in the court of general jurisdiction can be resumed and evaluated in substance.

Of course, in practice, such a procedure can slow down and negatively affect duration of proceedings, but at the same time, it is designed to ensure and guarantee main goal and objective – constitutional rights and freedoms of citizens. In addition, it should be emphasized as an important point that this

**Regarding citizens, they can apply for recognition of a normative legal act or its individual provisions as contrary to constitutional norms, if this act directly affects their rights and freedoms embodied in the Constitution.**

pre-judicial procedure acts as additional guarantee of constitutional rights and freedoms of citizens.

### **INTERPRETATION OF OTHER REGULATORY LEGAL ACTS**

If the issue of interpreting norms of Kazakhstan' Constitution and compliance of other normative legal acts with it does not cause ambiguity, since the Basic Law clearly answers this question, the issue of interpreting legal acts, especially legislative acts, or their individual norms and provisions remains open and not fully resolved.

Until 2016, the Law «On Regulatory Legal Acts» was in force, which provided for a system of hierarchy of regulatory legal acts. Thus, paragraphs 3-5 of Article 44 of the Law «On Regulatory Legal Acts» provided as a condition that the norms of legislative acts, that is, laws, should be interpreted in full compliance with the Basic Law of the country, and by-laws - in full compliance with legislative acts. With that, official interpretation of normative legal acts is mandatory in exercising legal norms contained therein, including their application [4].

However, which state body has this issue in its competence and functions? According to article 45 of the said law, the Constitutional Council of the Republic of Kazakhstan gives an official interpretation of the norms of the Constitution, and the official interpretation of by-laws is given by the bodies or officials who adopted (issued) them. Thus, only state bodies, whose functions include policy-making activity, were given the right of official interpretation of normative legal acts, limited only to by-laws.

As a result, there was empowerment of state bodies regulating the sphere of certain public relations through the adoption (publication) of by-laws and, thereby, a priori having discretionary powers, with the function of official interpretation of by-laws that are issued and/or adopted. Such a situation implicitly expanded the functions and competence of state bodies, especially central and local executive bodies, placing them in the rank of judicial or quasi-judicial bodies. This, in turn, contradicted with established systems of the classical model of administrative justice in most foreign countries, including the Court of the European Union, which incorporated the legal models and constructions of administrative justice of the member States, according to which the official interpretation of normative legal acts, except for constitutional norms, is the prerogative of higher administrative courts/tribunals or quasi-judicial bodies.

Among other things, the issue of interpreting laws and legislative acts remained open, since the current legislation on regulatory legal acts did not specify the body whose competence would include the official interpretation of the norms of legislative acts, and to this day this is a gap in the current law in this area.

In this regard, there has been a lively controversy in the country's Parliament over the issue of determining subjects of the official interpretation of laws or its individual norms and provisions. The result of arguing during discussion of draft law «On normative legal acts» in the Majilis of the Parliament was the query of the Chairman of the Lower House to the Constitutional Council about official interpretation of articles 53-57 of the Constitution of Kazakhstan, which raised the question of possibility or impossibility of giving to the Parliament the function of interpreting laws. Proceeding from the fact that, according to the supreme body of constitutional control, the Constitution of the Republic of Kazakhstan does not provide for granting Parliament the right to officially interpret laws, the Constitutional Council decided that the expansion of the powers of Parliament and its Chambers, including granting Parliament the right to officially interpret laws, is possible only by amending the Basic Law [5].

The new Law «On Legal Acts» adopted in 2016, instead of the concept of official interpretation of legal acts uses the concept of official explanation [6]. Apparently, in the legislation, the term official interpretation is now applicable only to the Constitution and constitutional norms. The new law also clarifies the limits of official explanation, in particular, paragraphs 2 and 3 of Article 58: acts of official explanation of normative legal acts do not establish the norms of law and do not fill a gap in legislation; the official explanation of a normative legal act is given solely for the purpose of clarifying, specifying content of the norms of law, cannot change the meaning of the legal norms and go beyond the limits of the explained norm.

If the previous law did not specify which state body is authorized to give an official interpretation of the norms of legislative acts, paragraph 6 of Article 58 of the new law explicitly provides that the procedure and conditions for official explanation of regulatory legal acts do not apply to the explanation of laws, which must be carried out in accordance with the Law «On Prosecutor's Office». As before, other state bodies can provide explanations of normative legal acts within their competence, but only in relation to specific subjects or in relation to a specific situation, such explanations are not legally binding and are advisory in nature, and the Constitutional Council retains the right to officially interpret the norms of the Constitution.

## **JUDICIAL PRACTICE AS A WAY OF INTERPRETATION**

Additionally, it should be noted that the issue of interpreting legal norms is partially contained in another legislative act and concerns the norms of civil legislation. For example, paragraphs 1 and 2 of Article 6 of the Civil Code of the

Republic of Kazakhstan determines that the norms of civil legislation should be interpreted in accordance with the literal meaning of their verbal expression, and if there is a possibility of different understanding of the words used in the text of legislative norms, preference is given to the provision that meets the provisions of the Constitution of the Republic of Kazakhstan and the basic principles of civil legislation. It is worth pointing out paragraph 2 of this article of the Civil Code, which states that when clarifying the exact meaning of the norm of civil legislation, it is necessary to take into account its interpretation in judicial practice [7].

In this regard, it must be said that judicial practice (judicial precedent), in many cases, although not a direct source of law in the countries of the continental legal system, still plays an important role, because sometimes it affects not only practical, but also conceptual, scientific and theoretical approaches and in the future can have significant impact on development of the national legal system through amendments to legislation. During generalization of judicial practice, adopted judicial acts are examined, essence of the law and its individual norms are explained in order to correctly understand its content and uniform application, the criteria of which should be used as a guidance by lower tier courts when considering court cases. Of course, the judges, keeping freedom of decision, are not obliged to strictly follow established and generalized practice, but are inevitably strongly influenced by it, which is why judicial precedent in the continental legal system, with a certain degree of conditionality, is sometimes considered as a source of law [8].

In Kazakhstan, which belongs to the above-mentioned legal system, the study and generalization of judicial practice is carried out by the Supreme Court and regional courts. According to the Constitutional Law «On the Judicial System and the Status of Judges of the Republic of Kazakhstan», the Supreme Court, which is the highest judicial body of general jurisdiction, provides explanations on judicial practices in the form of regulatory decisions that are adopted at the plenary session [9]. In addition, it seems necessary to emphasize that, according to the Law «On Legal Acts», normative decisions of the Supreme Court, being an integral part of legislation, belong to the main types of normative legal acts and are, like normative decisions of the Constitutional Court, outside the hierarchy of normative legal acts. Thus, it can be noted that the legislation of Kazakhstan indirectly assigns the function of official interpretation or clarification of legislative acts to the highest judicial body of general jurisdiction.

It seems quite possible that this trend will intensify during further development of administrative justice in Kazakhstan. This is quite logical, since administrative justice is one of the key elements not only in resolving public law disputes, but is also one of the important elements of the rule of law and public administration. The supreme judicial bodies of administrative justice, as the experience of foreign countries of the continental legal system shows, are subjects of legislative activity, as they exercise advisory powers and functions under the government when preparing draft laws and other regulatory legal

acts, in some cases, at the request of the government, issue opinions on any legal issues.

As part of implementing the concept of «Hearing State», an Administrative Procedural Code was adopted in 2020, which provides for new types of lawsuits (on challenging; on coercion; on committing an action, on recognition) and proceeds from the generally accepted principle of administrative justice - «presumption of guilt of state body» [10]. This principle can be characterized as follows: the burden of proving validity and legality of decisions (administrative acts), actions or omissions falls on state bodies. Thus, an additional mechanism is being created to ensure and protect the rights and legitimate interests of citizens who are potentially a weak side in public law disputes.

## **EXPANDING THE BOUNDARIES OF PARTICIPATION IN POLICY-MAKING ACTIVITIES**

In addition, it is worth emphasizing another important point, although not directly related to interpretation and activities of administrative justice. As noted earlier, public authorities, having discretionary powers in the form of drafting and adopting (issuing) regulatory legal acts that are binding and affect a wide range of persons, are initially in a more advantageous position in contrast to a citizen or a legal entity whose rights and legitimate interests may be potentially affected by these regulatory legal acts.

Positive fact is that in the process of their preparation, a stable procedure is gradually being formed not only for the formal publication of the draft developed regulatory legal act in the media, but also the need for its public discussion with NGOs, interested associations, etc. Of course, the previously valid Law of the Republic of Kazakhstan «On Regulatory Legal Acts», as well as the current Law of the Republic of Kazakhstan «On Legal Acts» contained such a requirement, but it was observed by state bodies – developers rather formally and could not have a significant impact on the content of the draft document.

Public discussion is less formal each time, only for the purpose of simply following the procedure for drafting regulatory legal acts, since there is a lively interest in discussing them, and sometimes sharp discussions unfold around some draft regulatory legal acts. This, in turn, requires taking into account the opinions expressed or finding a compromise when they are adopted (published). It is also noteworthy that they relate not only to draft laws, the opportunity to participate in the discussion of which is provided for by the country's Parliament, but also to draft by-laws (draft orders of ministers, etc.), the development and adoption procedure of which is somewhat different from the law-making work. Of course, all of this will not preventatively completely eliminate the problem of potentially possible cases of the need for an official interpretation or clarification of legal norms, but it allows partially minimizing such cases. The public monitoring of regulatory legal acts affecting the rights, freedoms and duties of citizens, introduced since 2021, should be supplemented to this mechanism [11]. This monitoring may be carried out by public councils

**THIS PRINCIPLE CAN BE CHARACTERIZED AS FOLLOWS: THE BURDEN OF PROVING VALIDITY AND LEGALITY OF DECISIONS (ADMINISTRATIVE ACTS), ACTIONS OR OMISSIONS FALLS ON STATE BODIES.**

under state bodies and, very importantly, by other (i.e. any) interested persons, and the results of monitoring should be published annually on Internet resources of the relevant state bodies.

**CONCLUSION**

Having considered some theoretical and practical aspects of the problems of official interpretation and construction of the norms of the national legislation of Kazakhstan, it

seems possible to highlight a number of important points. First of all, it should be noted that according to the legislation, the official interpretation of the country's Constitution and the norms of the constitutional and legal field falls exclusively within the competence of the Constitutional Council, and this is directly and unambiguously determined by the Basic Law and other legislative acts.

In the course of reforms, initiated by the Head of State K.K. Tokayev, this state body of constitutional control was transformed into the Constitutional Court, including the General Prosecutor's Office among the subjects of the appeal for official interpretation of constitutional norms. Moreover, citizens are directly included in the mechanism of subsequent (a posteriori) constitutional control, since they have the right to appeal to the Constitutional Court on the constitutionality of existing normative legal acts.

Unfortunately, for a long time the Kazakh legislation did not provide for a state body whose competence would include the function of official interpretation of laws. And, apparently, it is still difficult to find an unambiguous answer to this question, since the legislation now uses term «official explanation» instead of «official interpretation» of laws. And at the same time, are both terms identical? Or is the term «official interpretation» applicable only to constitutional norms?

At the same time, the function of interpreting laws is indirectly assigned to the supreme judicial body (the Supreme Court), which summarizes judicial practice and provides explanations in the form of regulatory decisions that are an integral part of national legislation. Since July 2021, as part of the «Hearing State» concept, proposed by the President of the country, the administrative justice of Kazakhstan has been functioning in a fundamentally new way, as one of the mechanisms for ensuring protection of rights and legitimate interests of citizens, focusing on generally accepted world practices. And it is quite acceptable that during the subsequent development of administrative justice, the issues of official interpretation of laws will gradually be transferred to the competence of the supreme body of administrative justice.

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