



RESEARCH ARTICLE

FEATURES OF CIVIL SOCIETY FORMATION IN KAZAKHSTAN: PROBLEMS AND PROSPECTS

***OmirzhanovYesbol and AlpysbekMoldirBirzhankyzy**

International Law Department, al-Farabi Kazakh National University, Kazakhstan

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ABSTRACT

This article focuses on the problems and prospects of civil society formation in the Republic of Kazakhstan. The authors give complete information referring to various sources about the history of the development of civil society in Kazakhstan. There are some positive examples of cooperation between the state and civil society, information on civil forums that were organized with the support of the state. In addition, the authors dwell on the legal framework of civil society in Kazakhstan. The article also discusses the main challenges hindering the development of civil society of modern Kazakhstan. By giving some negative examples of government's interference in the affairs of Kazakh civil society institutions, authors try to provide the realistic assessment of the government interaction and civil society institutions. As an example, the authors have chosen the most high-profile criminal cases against some excited Kazakh civil society activists in recent years. In the final part of the article, the authors give their recommendations referring to the opinion of authoritative experts on development of civil society in Kazakhstan.

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INTRODUCTION

In today's world, the most law abiding countries are building the civil society so that their citizens can defend their rights and freedoms by associations. However, reviewing the experience of cooperation of some states and civil society institutions, one has an idea whether all states understand the true meaning of civil society. According to the generally accepted definition, civil society is a set of moral, religious, national, social, economic, family relationships and institutions that satisfy the interests of individuals and groups. Modern civil society is a legal, liberal-democratic, pluralistic and open society, the main subject of that is a free individual who realize his interests within the common law and general rules and orders for everyone (Kenzhin, 2005). Civil society became a political ideal in the XVIII century. Its basic principle is an autonomy of individuals, which means the right of personal choice and an expression of opinion. Thomas Hobbes proposed the simplest definition of civil society. According to his theory, a civil society is a disadvantage of a state (Boreckii, 2009). The characteristic features of civil society are equal access to all forms of ownership; free interaction of citizens; self-defense through political remedies, moral values, religious norms; self-

governing society, where self-governing is developed (Kenzhin, 2005). Nevertheless, in different countries historical development of civil societies is various, and of course, other factors have an influence in its development either. In this article, we research the historical development of civil society and main issues hindering the development of civil society institutions in the Republic of Kazakhstan.

MATERIALS AND METHODS

The methodological basis of the scientific article is system analysis method. Also, the authors used historical analysis method to give a complete characterization of the development of civil society in Kazakhstan. This article was written based on different legal acts and official documents, scientific papers. For a complete reflection of reality materials were used, published in various information resources.

RESULTS

Civil society in the Republic of Kazakhstan began to build after the acquisition of the state independence in 1991. Today civil society is in the process of formation. The following legal acts exist:

- The Constitution of the Republic of Kazakhstan from 1995;

***Corresponding author: OmirzhanovYesbol**

International Law Department, al-Farabi Kazakh National University, Kazakhstan

- The Law of the Republic of Kazakhstan "On political parties" from 2002;
- The Law of the Republic of Kazakhstan "On Public Associations" from 1996;
- The Law of the Republic of Kazakhstan "On mass media" from 1999;
- The Law of the Republic of Kazakhstan "On Religious Activity and Religious Associations" from 2011 and so on.

On the Constitution of 1995, the Republic of Kazakhstan proclaims itself as a democratic, secular, law abiding and social state; its highest values are human beings, the right to life, the rights and freedoms (Article 1). Therefore, it is important for the state to develop a civil society that will promote cultural dialogue between the state and society. Although civil society in the country remains in its formative stages, the development of civic consciousness of citizens, formation of structures of a democratic society, revealing the contradictions between the individual and the state, and their resolution are preconditions for civil society creation. The basic institutions of civil society are political parties and social movements. Through them, citizens can determine their own political aims and ideals, unit in a certain political organization and engage in dialogue with the government. That is why we want to mention the history development of the political movements in the Republic of Kazakhstan. According to some scholars, the history of the political movements has the following steps:

The first stage (1905-1917). Branches of the constitutional and democratic parties, Muslim parties, the socialist and revolutionaries' party and others emerged under the influence of the first Russian revolution in Kazakhstan. *The second stage (1917-1986),* from the October Revolution to the end of the 80th of the XX century, is characterized by a monopoly on the power of one party (Communist party of Soviet Union) that determined the main perspective on global society, for the domestic and foreign policy of the USSR. *The third stage (1986-1991)* was marked by the increasing trend towards pluralism, multi-party system, the growth of social and political activity. A special role in the institutionalization of political movements in Kazakhstan played the December events of 1986 and the Declaration of State Sovereignty for the Kazakh SSR. In 1991 the Communist Party was ousted from the government (Kenzhin, 2005). In June 27, 1991 was adopted the Law of the Kazakh Soviet Socialist Republic "On Public Associations in the Kazakh Soviet Socialist Republic." As a result, in country appeared the following parties "People's Congress of Kazakhstan", "Alash", the Social Democratic Party of Kazakhstan (SDPK), the Socialist Party of Kazakhstan, the Republican Party of Kazakhstan, Republican Slavic movement "Lad" and the Civil Movement of Kazakhstan "Azat", a branch of public educational society "Memorial", the Almaty Helsinki Group, the movement "Unity", historical and educational society "Adilet", the movement of pensioners "Generation" and others. After years of totalitarian rule in the early years of independence in Kazakhstan were formed the opposition political parties. One civil movement "Azat" could not only unite the majority of the population, but also became the first opposition force that could indicate an error of authorities openly (Omirzhanov,

2009). *The fourth stage (1992 -till present)* is characterized by dynamic development of the legal framework for the functioning of political parties (Kozhakhmetova, 2009). In December 1994, the President of the Republic of Kazakhstan signed a decree on the establishment of the Republican tripartite commission on social partnership in the field of socio-economic and labor relations. The adoption of the laws of the Republic of Kazakhstan "On Public Associations" and "On political parties" in 1996 contributed to the creation of the legal framework for the formation and functioning of political parties and movements and, therefore, the further development of the party system of the country. There has been qualitative changes in the market of media associated with the process of privatization of mass media, of printing companies, as well as the transition from a system of public financing and subsidies for the media to the state order for the state information policy.

In July 15, 2002 was adopted a new Law of the Republic of Kazakhstan "On political parties" (with amendments and additions from 11.16.2015). The law "On amendments and additions to the Law of the Republic of Kazakhstan" On political parties" adopted 6 February 2009 introduced the practice of budget financing of political parties in accordance with the results of parliamentary elections. The law "On amendments and additions to some legislative acts of the Republic of Kazakhstan on mass media", adopted on 6 February 2009 were excluded rules for the responsibilities of journalists to obtain permission to use audio or video during the interview; the requirements rediscout periodicals and news agencies in the case of changing address and the editor of the editorial board (Kozhakhmetova, 2009). Amendments and additions to the Constitution of the Republic of Kazakhstan which were added by the Parliament in 7 October 1998, provide an implementation to the country's electoral system of elections by party lists. It accelerated the process of party building. So, from December 1998 to August 1999 were formed the Civic Party of Kazakhstan (GIC), the Republican People's Party of Kazakhstan (Ryazan Refinery), the Democratic Party "Azamat", the Agrarian Party of Kazakhstan (APK), the Republican political party "Otan", the Democratic Party of Women of Kazakhstan, "Rukhaniyat" party, the National party of Kazakhstan "Alash". Started to exist party factions in the Parliament.

In 1999, virtually in all regions were opened "info - centers of NGOs", which main task was the interaction with the regional non-governmental organizations, providing them with advice, information and technical support. Confederation of NGOs of Kazakhstan to consolidate the efforts of NGOs to establish mechanisms for interaction with public authorities was created in 2010. A new law of the Republic of Kazakhstan "On political parties" which led to further qualitative structural changes in the party system of the country was adopted and implemented in July 2002. In 2001 was adopted the Law of the Republic of Kazakhstan "On Noncommercial Organizations", in 2002 – "Concept of State Support to NGOs". In 2003 the Government approved "a program of state support for non-governmental organizations for 2003-2005", under which were developed regional (city) programs. And also adopted "the Concept of civil society development in the Republic of Kazakhstan for 2006-2011" (approved by Presidential Decree

of 25 July 2006 № 154). In 2003 was held the first Civil Forum. It outlined the political recognition of the non-governmental sector and initiated the formation of the mechanism of interaction of the system of civil society institutions with public authorities. In 2005 was held the second Civil Forum, which helped to attract business associations to participate in public life. In 2007 was held the third Civil Forum, which feature was the introduction of responsibility of heads of central government agencies to civil society representatives in key areas of their activities. IV Civil Forum was held on the eve of Kazakhstan's chairmanship in the OSCE (2009). The main objective was to demonstrate the achievements of Kazakh NGOs and international awareness of the level of development of civil society. V Civil Forum (2011) was dedicated to summarize the development of civil society during the 20 years of Kazakhstan's independence and the determination of the main priorities for the future. Also was summed up the results of the Concept of civil society development in Kazakhstan for 2006-2011. In November 14-15, 2013 in Astana was held the 6th Civil Forum of NGOs. Civil Forum was held under the common brand of Kazakh NGOs as a high-level expert community, active participation of the "third sector" in the processes of social modernization and international cooperation. 600 representatives of NGOs from all over Kazakhstan participated at that forum (Sixth Civil Forum, 2016).

DISCUSSION

Government of the Republic is trying to demonstrate their loyalty to the civil society and support some of the institutions of civil society. But despite this the country's many institutions of civil society are faced with the problems created by the state. Civil society in Kazakhstan is in the process of formation and in the country exist some problems that suspend the full development of civil society. According to Director of Freedom House in Kazakhstan Victoria Tyuleneva Kazakhstan human rights situation has deteriorated today. She noticed more and more government's intervention in human rights and the desire to control them. The most striking example is the recent adoption of the new Criminal Code, some provisions which restrict freedom of speech and expression, freedom of assembly, freedom of association and religion. Ms. Tyuleneva marked a few points that trigger criticism from civil society. Firstly, the Code introduced the concept of "leader of the public association" as an aggravating circumstance in a number of crimes to which will apply more hard punishment than all the citizens, which is discrimination against leaders of social organizations. In addition, the concept of "leader of the public association" in the new Code is extremely broad, and it is now falls under any, shall we say, the informal leader of the organization. Secondly, the Code toughened punishment for organizing and participating in meetings or rallies held without permission. It envisaged a fine of five hundred and fifty thousand tenge or arrest for up to two months. Thirdly, the Criminal Code not only saves the criminalization of defamation, but also increases the penalty for it. The new Code recognizes offense of slander, spread not only through the media, but also through social networks. "By the way, I must say that in some European countries slander is a criminal offense, but it is important to understand the legal

practice, that is, whether to apply such an article of the Criminal Code by the authorities as a bludgeon against journalists for disliked materials. In Europe there is no such practice, and we - will have" (Vasilina, 2016). Despite the fact that the Kazakh Constitution proclaims freedom of religion, as well as the fact that Kazakhstan has committed itself to the international community, in practice religious organizations in the country are subjected to various forms of pressure. In January 2014, a Washington research organization of the American Pew Research Center published its fifth report on religious restrictions in the world. According to the report, the five countries had a very high index of government restrictions in 2012: Azerbaijan, Tajikistan, Morocco, Iraq and Kazakhstan. It should be noted that these five countries are not observed in the ranking of the worst in the ranking of 2011. Compared to the 2011 year level of restrictions in Kazakhstan rose from 1.0 to 1.9 points, and it happened in countries such as Iraq, Tuvalu, Tajikistan, Austria, Turkey, and seven others. After the adoption of the new law on religion which discriminates the religious freedom in Kazakhstan situation significantly gone worst. After its adoption the number of registered religious associations in 2012 sharply reduced and the activity of unregistered associations declared illegal. Human rights activists notice governmental pressure on religious groups, as well as numerous cases of fines, police raids, arrests and other sanctions against different religious groups and their representatives (Klevcova, 2016).

According to the organization Forum 18, in 2013 was made 148 judicial decisions on fines against 121 representatives of religious organizations. These citizens have been accused of illegal missionary activities and conduction of religious ceremonies without official permission. Human rights activist Yevgeny Zhovtis, drew attention to the increased pressure. After the adoption of the law on religion in 2011, freedom of religion in the country has been severely restricted, especially it is hard to work for small organizations, he said. For example, at the end of May 2014 the representative of the Baptist Church in the Semey city Victor Kandiba was arrested for ten days. According to his relatives, he was attracted to administrative liability for failure to pay the fine imposed in 2013 (Article 524 of the Administrative Code "committing worship in officially prohibited place"). Church leader prosecuted under Article 374 of the Administrative Code, ordered him to pay a fine of one hundred monthly calculation indices (Mukankyzy, 2016). In May 20, 2013 US Secretary of State John Kerry presented the annual report of the US State Department on the situation with observance of the right to freedom of religion in the world in 2012. It expressed criticism of the Kazakh authorities. "The Kazakh government is putting pressure on religious groups by raids and fines. In 2011, entered into force stringent requirements for the registration of religious communities in the country" he reported. It was noted that since the registration did not pass the 1463 religious associations, including the Church of Scientology and the community of Ahmadiyya, a number of Protestant communities, associations Sufis and some other denominations (Alimova, 2016). One of the examples is a case of Ibrayev Sayat Muratovich, professor of the Kazakh University of Technology. He was the head of the Almaty branch of the public association "Senim. Bilim. Omir". Also he was a leader

and member of Sufi movement of Kazakhstan. In October 18, 2010 inter-district specialized court of Almaty he was accused for "forming a criminal group" and "extremism, illegal deprivation of liberty, the treatment of alcoholism and drug addiction, harmful to human health methods" and other crimes. Ibraev was sentenced to 12 years in the colony, with confiscation of property. Quilt of SayatIbrayev has not been proven. The main activity S.Ibraev during his leadership of the city branch of the NGO "Senim.Bilim.Omir" was the development of scientific and educational work of associations, most of which have been agreed with the state authorities. SayatIbraev carry out his activities as head of the branch of social work, for his activities he did not receive any salary or fees" (Ibrayev Sayat, 2016).

The next problem of the modern civil society - the registration of political parties. The official registration of political parties takes place on the basis of the Law "On Political Parties" from 15 July 2002. A well-known example to restrict re-registrations of the Communist Party of Kazakhstan, which was registered in 27 August 1998, (further CPK) has caused a huge uproar in the country in September 2015. In accordance with the electronic newspaper "Pravda" was abolished Communist Party of Kazakhstan - the last legal opposition forces in the country. Article 2 September 2015 advertise: The course on the destruction of the CCP was taken four years ago, when the party's activity was suspended for six months for taking part in opposition "Popular Front". Since this measure was used repeatedly, but the reliance on self-liquidation of the Communist Party was not justified. Despite the most severe pressure Communists survived (The newspaper Pravda, 2016). Prosecution of activists of social movements - is one of the limitations of the civil rights of citizens. Example of it is arrest BolatbekBlyalov. The activist was repeatedly arrested for participation and organization of social movements and the publication in the online resources.

BolatbekBlyalov—well-known Kazakh civic activist. He is the head of the NGO "Institute of Democracy and Human Rights." He organized single movements against "Kazkosmos". The protest was against the launching of Russian "Proton" from the spacecraft "Baikonur". Movement "Antigeptil" was created after the collapse the carrier rocket "Proton-M" with three satellites "Glonass-M" in 2 July, 2013, near the Baikonur. As a result of the accident of the burned heptyl it formed a toxic cloud that covered settlements. The cause of the accident was called improper installation of speed sensors. In October 2013 Kazakhstan put Russia account for the fall of "Proton-M" in the amount of over 13 billion tenge (Bolatbek Blyalov, 2015). Also, civil society activist BolatbekBlyalov was arrested in 11 June, 2015 in Astana. Civil society activist Almas Maksutov, who was present during the arrest, he suggested that Blyalov detained for protest in Astana against the expected demolition of some houses in the village Schebsklad. According to Maksutovin June 10, a group of activists held protest against the demolition of houses in the village Schebsklad (Bolatbek Blyalov, 2015). Then BolatbekBlyalov was arrested by the court for two months, the court ordered the arrest of 11 November 2015. Accusations against civil activist and member of the Astana team "Antigeptil" BolatbekBlyalov were reclassified to part 1 of article 174 of the Criminal Code -

"inciting hatred" - a part 2 of this article (The activist Bolatbek Blyalov, 2016). In January 21, 2016 by the decision of Saryarka district court number 2 of Astana BolatbekBlyalov was sentenced to three years of imprisonment on charges of inciting hatred. After the verdict Blyalov was released from the courtroom (Bilyalov was released in the courtroom). As the press service of the Department of Internal Affairs reported, in October 12, 2015 in Almaty the police of Almaty arrested SerikzhanMambetalin and ErmekNarymbaev for insulting the national honor and dignity, as well as the incitement of ethnic hatred (Toywibekova, 2015). Mambetalin and Narymbaev used by the 174th article of the Criminal Code ("Incitement of social, national, ethnic, racial, class or religious hatred"). The reason was the publication on their social network Facebook text from the book "Wind in the street", which, they claim, has been copied from the Internet. Civil society activists SerikzhanMambetalin and ErmekNarymbaev by decision of the court of Almaty from January 22, 2015 sentenced to two and three years in prison (Mambetalin, 2016).

In August 28, 2015 businessman MargulanSeisembayev on his Facebook page announced the beginning of his project, "I am responsible" aimed at the development of domestic business. The project "I am responsible" was adopted by the public with enthusiasm. Many mass media have published about the project, interviewed by the author. In an interview, he explained the purpose of the project as follows: "in the West, during the purchase any company doing due diligence, which stands for integrity testing. I will certify that the right equipment was purchased by the owner, the process of organization by the technologist, that the state agencies periodically check products for safety that are not fake certificates that owners monitor and value the quality of its products, and other aspects. I do not compete with government agencies, we do not contradict, but complement each other. The strength of our conclusions are not technical or chemical examination, strength is that the company is certified by authoritative people through concrete, in good faith that the company complies with all standards and regulations for safety, quality product, and that he uses quality raw materials. Most importantly - for the recommendation will be responsible individual who has something to lose (MargulanSeisembayev, 2016). But the popularity of the project, supported by public did not save the project. In October 3, 2015 at a press conference MargulanSeisembayev made the following speech: Friends, I have bad news. Firstly, my sources tell me that some members of the Government does not like my activities and my criticism. Secondly, I was informed that the Prosecutor General's Office demanded all materials about all the "old" criminal cases against me. Thirdly, my lawyer told me that I was looking for by investigator of the Prosecutor General. I called him, he said that it is about "old cases" and called me in for interrogation. Fourth, I was informed that several bloggers received an "order" to me. There are already "stuffing" on the web sites and in the comments. I do not support for dramatization of the events. I fully admit that Astana may have a lack of understanding the goals and objectives of the movement "I am responsible" (MargulanSeisembayev, 2016). As a result of pressure from the government agencies against Seisembayev had to give up their ideas and popular project, "I am responsible" was closed (Omirzhanov, 2016).

Conclusion

Taking into account the impossibility of covering all aspects of public and political life of the community, we were limited to only a few striking examples of putting pressure on the institutions of civil society in Kazakhstan. On the basis of the above, we can make some recommendations for the development of civil society in Kazakhstan. First of all in Kazakhstan it is essential to carry out constitutional reforms through which a parliamentary-presidential model of governance can be created. Since under the present conditions the President of the Republic has a very broad mandate and the three branches of government are under his influence. Creating a parliamentary-presidential model would allow for opposition forces to create their own political parties and participate in elections on an equal basis with other political parties. Also, it would give an opportunity for ordinary Kazakhs to participate in changing the situation in the country in a positive way. Professor Wulf Lapins also gave some recommendations for the development of civil society in Kazakhstan. He first pointed to the simplification of the registration of political parties and their structural subdivisions (branches and representative offices) in the judiciary, and the expansion of state support for the activities of religious associations, including those related to construction and opening of their religious buildings, monasteries, religious educational institutions. He also points out the necessity of reducing to a minimum the restrictions of the rights of the citizens of the Republic of Kazakhstan to freedom of expression, reception and dissemination of information; introduction of administrative and (or) criminal liability for government officials, non-governmental legal entities and individuals in the case of unreasonable restrictions on their part of freedom of expression, reception and dissemination of information (Wulf Lapins, 2012).

We also consider it necessary to reduce interference in the activity of public associations and movements from State bodies and pressure on the leaders of these organizations. Since these activities can kill the roots that are very useful not only for the community but the foundations of the entire state (e.g. the project "I am responsible"). For the development of civil society the state should allow citizens to freely gather at various rallies, pickets, marches without requiring permission from local executive bodies. That is why the law "On the orders of organization and assembly of peaceful of rallies, marches, pickets and demonstrations in the Republic of Kazakhstan" from 17 March, 1995 N2126 should be amended. So, according to democratic principles, citizens do not have to receive permission for assembly of peaceful rallies, marches, pickets and the demonstration and they have to notify about it in advance to the relevant state authorities. It is also necessary to cease the persecution of civil society activists for their political views and initiatives, because only free-thinking citizens can positively influence the formation of public opinion and the development of civil society institutions in the country.

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