

Analysis of the Main Trends in the Development of Civil Society Institutions in the Republic of Kazakhstan

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ABSTRACT

The purpose of this study is to analyze the main trends in the development of civil society institutions in the Republic of Kazakhstan in 2008-2015. Emphasis is placed on the dynamic and problems of operation of mass media, public organizations, and local government bodies under the domination of authoritarian factors in the political system. It was found that the structure and functions of the civil society in Kazakhstan have enhanced significantly over the last decade. Civil society institutions in this region often oppose nondemocratic methods of government control, especially in the field of information. The current state and problems of development of the civil society in the region were determined based on a comprehensive analysis of the regulatory framework. It was found that the legal regulation of the establishment and operation of civil society institutions in Kazakhstan should be optimized to provide an independent information environment, to expand the tools of public policy, and to establish an effective local government system. To that end, this study investigated the respective world experience. The results of the study highlight the essential features and give practical recommendations for improving the political and legal mechanisms of civil society institutions in the Republic of Kazakhstan.

KEYWORDS

Civil society; political institutions; mass media;
state policy; local government

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Introduction

The radical reforms in the economic, social, and political fields that began in the 1980s arouse interest in the formation and development of the civil society in post-Soviet countries.

It is worth noting that the establishment of a civil society and the operation of its institutions in post-Soviet countries is full of controversies and regional features and peculiarities. In the mid-1990s, it became obvious that simply borrowing the western model of development was impossible. Hence, social changes in the late twentieth – early twenty-first centuries are often considered by both researchers and authorities in the context of national development, with

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regard to the specificity of general challenges of modernization (Adres, Vashdi & Zalmanovitch, 2016). This problem is especially relevant and understudied in Kazakhstan, due to the lack of historical prerequisites for the creation of a civil society (lack of traditions in the field of social democratization, predominant authoritarian trends in public administration).

The modern history of Kazakhstan shows that the society is unable to rapidly transition to consolidated democracy. It has to pass the stage of liberalization through various transition regimes, down to hybrid regimes, including delegative democracy, elite democracy, and illiberal democracy. The role of the civil society is especially important in this context, since a full-fledged legal state is impossible without it (Ismailov, 2014).

Recent experience shows how ineffective borrowing and transferring many social institutions and practices that have stood the test of time in Western European countries into the Kazakhstan environment is. In this unusual sociocultural context, these institutions and practices often are ineffective; sometimes their effect is counterproductive. This proves the incompatibility of the sociocultural matrix of the Kazakh society and the classic liberal model of a civil society (Beysebayev, 2013).

This study analyzes the legal regulation of basic civil society institutions (public organizations, mass media, and local government) in the political environment of Kazakhstan, with regard to the national peculiarity. The obtained results were used as the basis for the conclusions and recommendations, which may be used to draft the new Concept of Development of Civil Society Institutions in Kazakhstan, as well as respective laws and regulatory acts.

The constitutional foundation for the creation and development of a civil society in Kazakhstan was laid in the Constitution of August 30, 1995. It proclaimed the right to private property, the rights and freedoms of business, and the principles of establishment and operation of public associations and political parties ('Constitution of the Republic of Kazakhstan', 1995).

The optimization of interaction between the government and nongovernmental organizations and business, the democratization of the information environment in Kazakhstan, and the support of mass media is often addressed in the speeches of authorities (Nazarbayev, 2002; Nazarbayev, 2014). At the same time, experts stress the need further to improve laws to support the development of mass media, ensure economic independence, and provide for public and governmental control (Karzhaubayev & Sydykova, 2013). To that end, it is necessary to investigate the legislative experience of Western European countries in the field of regulation of mass media.

The transition to the rational model of social administration created new forms of organization of the society – legal state, civil society, and constitutionalism. By personifying the values of personal freedom, they provided people with mechanisms of protection against governmental violence.

In general, two methodological approaches to studying the civil society were created in the late nineteenth – early twentieth centuries. The first approach considers the state the prerequisite and stimulus for the development of the civil society. The second (liberal) approach considers the civil society a self-sufficient field of social relations that rules out any interference on the part of authorities.

It is worth noting that the problems of civil society operation are understudied in Kazakhstan, since this type of society has emerged here later than in Western countries. Considerable progress in the study of the civil society was made by such analysts as J. Habermas (1996), L. Diamond (1999). The general inclination of these studies was to consider the civil society in terms of an open dialog between authorities and citizens by means of public institutions.

Kazakh researchers that covered this problem include A. Ismailov (2014), E.K. Karzhaubayev & A.E. Sydykova (2013). However, their analysis of the civil society operation is fragmentary (they mostly study individual segments – nongovernmental organizations, mass media, trade unions, and local government agencies), which does not allow systematizing and distinguishing the general trends in its development in Kazakhstan.

Recent studies of the civil society emphasize the need to reconsider traditional approaches to investigating the forms of social organization. The growing influence of information technologies and globalization brings to the forefront the dynamic aspect of human activity, the defining features of which are mobility and associative activity. Thus, the civil society is, first and foremost, an active community that discusses the most important problems and criticizes authorities to make it so its opinion is taken into consideration when preparing and making administrative decisions (Adres, Vashdi & Zalmanovitch, 2016).

The characteristic feature of recent studies of civil society is their regionalization. Latest studies focus on the dynamic and conditions of development of the civil society in Asia, Africa, and post-Soviet countries (Ziegler, 2015). For instance, it is noted that Central Asian countries are still understudied, which causes uncertainty and makes it difficult for the West to understand the tendencies of their development (Holt & Clarke, 2011). The comparison of trends in the development of the civil society in post-Soviet countries stresses the influence of the soviet (communist) heritage in Central European and Central Asian countries.

More studies recently have begun to analyze the trends in the development of the civil society in Kazakhstan. However, this subject is considered in a certain context. Some studies stress the role of civil society subjects with regard to the need of overcoming authoritarian trends in public administration in Kazakhstan (Chaney 2016). Special emphasis is placed on the danger posed by growth of corruption in politics due to the lack of effective mechanisms of public control in the country. Attempts are made to analyze comparatively the development of the civil society in Kazakhstan in the context of similar transformations in Russia (Ljubownikow, Crotty & Rodgers, 2013).

Studies of the role of mass media in the development of the “public sphere” and active discourse are of special importance. However, the assessments and conclusions in terms of the development of post-Soviet countries are contradictory. For instance, some studies substantiate the constructive role of mass media in involving citizens in the communicative policy, which counteracts authoritarian trends in public administration, while other studies use the example of certain regions (Latin American countries) to study hidden risks and negative factors that may be produced by the activity of information agents that is not controlled by the state (Lynch, 2015).

In general, it is worth noting that the level of development and the activity of civil society institutions in modern Kazakhstan is understudied. Most researchers consider various aspects of this problem. Therefore, it is necessary to analyze the civil society of Kazakhstan within the framework of a consistent political and legal approach, with regard to the specificity and national features of the development of this region.

Therefore, the purpose of this study is to analyze comprehensively the main trends in the development of civil society institutions in the Republic of Kazakhstan and to give practical recommendations for improving the political and legal mechanisms of civil society institutions in the Republic of Kazakhstan on that basis.

Methods

The study used general scientific and special legal research methods. The problematic-chronological method was used to analyze the studies of the civil society in the context of public, political, and economic transformations in the Republic of Kazakhstan. The historiological approach enabled tracing the evolution of the theoretical investigation of the civil society concept. The comparative-legal method was used to analyze the world practice of regulating civil society institutions, with a view to determining the option that best suits Kazakhstan. The institutional approach enabled studying public institutions that implemented the principles of democratization and legal state.

The empirical and regulatory framework of the study included the main legal documents of the Republic of Kazakhstan that regulated the activity of civil society subjects. In addition, the study analyzed the results of sociological surveys and analytical reports of researchers and experts that investigated the level of trust in public and political institutions.

Data, Analysis, and Results

Mass media in Kazakhstan have grown rapidly and dynamically during the country's independence. In 1991, Kazakhstan had about 600 newspapers and magazines – all of them state-owned; recently, their number grew significantly: 2765 mass media operated in Kazakhstan as of 2014, including 439 governmental media and 2326 nongovernmental media. Most of them are newspapers (1666) and magazines (848), 238 electronic mass media (51 television companies, 48 radio companies, 133 cable television providers, and six satellite broadcasters), and 13 information agencies (Pavlovskaya & Tulembayeva, 2015).

Amendments to the 2016 Law “On Mass Media in the Republic of Kazakhstan” equaled the rights and responsibilities of traditional mass media and online resources. The number of mass media of various forms of ownership grew to 6646 (Law of the Republic of Kazakhstan dated July 23, 1999).

The rights of journalists are under legal protection and monitored by a number of public organizations. One of the most influential ones is the International Foundation for Protection of Freedom of Speech “Adil Soz”, established upon the initiative of the heads of nongovernmental public associations. The purpose of the foundation is to establish an open civil society over the statement in daily life of the country free, objective and progressive

journalism. The basis of this work is the monitoring of violations of freedom of speech. The timely analysis of illegal situations in concrete mass media enables choosing the most effective forms of protection of such civil institutions and journalists.

However, despite the fact that political, economic, and legal conditions have been created during the time of independence for the operation of mass media, negative trends have begun emerging recently in the assurance of independence in the information environment of Kazakhstan.

Both Kazakh and foreign researchers have noted the polarization of mass media with barely any neutral outlets and a large group of pro-government media (90-95%) (Pavlovskaya & Tulembayeva, 2015). The distorted information virtually deprives the community of the ability to hear opinions other than those of the government as a result.

Up to 70% of mass media in Kazakhstan constantly depend on state orders in the field of information, which causes increase in corruption in this sphere (Lapin, 2011). The government dictates its terms to mass media and largely affects their development, thus displaying authoritarian trends.

In March 2014, the resolution of the European Parliament stressed the aggravating situation in Kazakhstan in terms of human rights protection and realization of the right to freedom of assembly (according to the Human Rights Watch 2015 report). Statements on this matter were also made by the United Nations Special Rapporteurs who visited Kazakhstan.

The world experience in the field of legal regulation of mass media shows that most Western European countries have no special regulatory act on mass media. The supporters of this approach argue that such basic rights as freedom of speech and freedom of press should be enshrined in the Constitution, while related issues of national security should be considered primarily within the framework of the Criminal Code (Mc.Cann, 2013). Any restriction of these freedoms should be part of another type of law, applicable to citizens, corporations or groups, and not to mass media specifically. The passing of a special regulatory act in the field of information that stresses several general principles of freedom protection and unacceptability of censure will become virtually a list of various restrictions on journalism.

The legal regulation of radio and television are of special interest in terms of overcoming authoritarian trends in the regulation of the information environment of Kazakhstan. In almost all democratic states, the public and the government share the opinion that broadcasting should be in private ownership and be based on commercial interests. Such civil society institutions as radio and television should bear certain social responsibility. Therefore, various systems were legally developed and practically implemented to fund broadcasting through the general public, as opposed to advertisement, by establishing broadcasting corporations that were independent from the government. These corporations recruited persons with expertise in various fields of public life who did not hold political posts.

In recent years, Kazakhstan has also made certain attempts to create media that would be neutral to both the government and big private media corporations. For instance, public discussion forums is becoming increasingly more popular; on these forums (for example, ct.kz), people discuss issues related

to social life and offer approaches to the development of primary institutions of the civil society that differ from those of the government.

Controversial trends are also observed in the activity of public (nongovernmental) organizations in Kazakhstan. For instance, the number of registered public organizations, according to the Ministry of Justice of the Republic of Kazakhstan, was about 32,000 as of March 2014. However, the number of active public organizations, according to experts, is below 1500 ('A mapping study of civil society organizations in Kazakhstan', 2015). The activity of public organizations is mostly formal as a result.

Despite the fact that laws required for the operation of nongovernmental organizations have been passed in recent years, the quality of their operation remains poor. The governmental funding of the "third sector" in Kazakhstan is underdeveloped, compared with Western European countries. Therefore, activity of nongovernmental organizations largely is determined by the interests of international corporations, which are the main source of their funding. At the same time, most Western European countries nowadays tend to reject foreign funding of civil society subjects.

In light of recent public protests in Kazakhstan (for instance, the mass protests of oil industry workers in 2011 and public demonstrations against the land reform in 2016), the foreign funding of civil society institutions in the country has become a matter of national security.

The major problem in this field is the lack of mutually beneficial mechanisms of interaction between public organizations and the commercial sector in Kazakhstan. The business of Kazakhstan is not interested and virtually does not participate in the support of civil society institutions ('The civil society in the Republic of Kazakhstan: conceptual framework and reality of development', 2012).

The local government system in Kazakhstan is a problematic issue in the context of establishment of an effective civil society. World experience shows that reasonable dispersion of authorities enables the government to react to various needs of the people in a timely fashion.

The world practice distinguishes several models of local government (Swianiewicz, 2015). In the "Anglo-Saxon" system, authorities may be elected directly by the people. Committees of local governmental agencies have large powers. The central government controls local bodies through courts and ministries.

The French model operates in continental Europe and certain other countries. This model combines direct governmental control and local government. In this model, representative bodies are established only in administrative territories that were legally recognized as territorial collectivities.

The differences in the organization of local government also depend on the form of administrative division in the country. For instance, the Constitution in federations regulates only the general provisions of local government, while putting most of the responsibility for legal regulation on federal subjects.

In unitary states, local government is regulated to a greater extent and is more independent from the central government. The central government usually

organizes its supervision through authorized prefects that are appointed by the administration of the head of state.

Kazakhstan made certain progress in searching for an original model of local government. A system with Councils of People's Deputies operated during the first years of independence. The Councils themselves at first were outlets for local interests, but subsequently were integrated into the power vertical of the totalitarian state. A unique situation developed in the first years of Kazakhstan's independence (1991-1993), when local councils and newly formed local administrations competed with each other in many issues. Numerous subsequent attempts to create an effective legal framework for the regulation of the local government encountered constitutional restrictions that prevented public and governmental institutions from merging. Thus, all the developed projects were basically different variants of the model that implied the coexistence of governmental agencies with overlapping functions – maslikhats and local self-government bodies (Dosmagambetova & Zheksembekova, 2015).

Amendments to the Constitution that were made in May 2007 and the Law “On Amendments and Supplements to Some Laws of the Republic of Kazakhstan on Local Government and Administration” dated February 9, 2009 produced a unique solution without any foreign analogues – local administrative bodies were given the status of local self-government bodies in the form of akims and maslikhats. Considering that maslikhats operate only in regions, cities of national importance, the capital city, and districts and cities of regional importance, local administration in other territories (towns under the jurisdiction of districts, settlements, auls, villages, aul and village districts) basically is equal to local executive authorities.

One of the major problems that hinders the sustainable development of local self-government is that local government bodies lack an actual economic foundation. Some experts stress that funds allocated from the national budget do not satisfy the needs village districts, which forces village akims to look for additional sources of funding, such as sponsor support from local businesses or personal funds.

Discussions

Considering the above trends, it is necessary to emphasize the ambiguous assessments of Kazakh and foreign researchers of the prospects for the development of the main civil society institutions in Kazakhstan. The constructive reforms that aim to improve the legal regulation in this field are negated by authoritarian approaches in public administration and dominating archaic elements of public and political participation in the legal culture.

The world experience shows that the interaction between the government and the civil society in modern conditions should be considered within the framework of the communicative paradigm, which implies constant feedback between the main subjects of the political process – governmental agencies on the one hand and mass media and public organizations on the other hand. This interaction improves the legitimacy of authorities and enables solving social and political problems in a timely fashion.

The role of the state in Kazakhstan should be reduced to providing the optimal legal environment for the civil society institutions and acting as an

arbitrator in the field of their interaction with each other. In terms of competition among mass media in Kazakhstan, the authorities should stop and prevent monopolization of the mass media market. To that end, the following judicial changes may be productive:

1) making amendments to the Law of the Republic of Kazakhstan “On Mass Media” with a view to protecting journalists from the pressure of owners and to enhance the responsibility of authorities for interfering in the activity of independent mass media;

2) expanding the rights and possibilities of mass media and journalists, especially in obtaining and spreading necessary information (with the exception of classified information) and in accreditation and participation in all interesting events (with the exception of invitation-only events) held by governmental agencies and public associations;

3) minimizing the grounds for ceasing the activity of mass media by the government exclusively through the court of law; ceasing the activity of mass media exclusively by the decision of the owners (founders);

4) establishing a Public Presidential Council consisting of various political parties and nongovernmental organizations, which would govern the editorial policy of state-owned mass media;

5) extending governmental support of nongovernmental mass media, including through state orders.

In terms of public organizations, it is necessary to improve the legal mechanism of state order and the practical tools for its implementation. In particular, it is necessary to pass the Law “On State Support of Nongovernmental Organizations”, which should describe the mechanism of funding of civil society subjects. In addition, it is necessary to create a regulatory and legal framework that would stimulate the commercial sector and big business to fund the projects of public organizations.

The establishment of an effective civil society in Kazakhstan is possible with a comprehensive implementation of the policy of development of local government, enhancement of the role of people and their participation in the preparation and making of decisions regarding issues of local significance. Some researchers reasonably argue that the European experience of local government organization is best suited for Kazakhstan (Ismailov, 2014; Dosmagambetova & Zheksembekova, 2015; Alimpiyeva & Sayimova, 2015). Therefore, it is necessary to follow the example of many European countries (Hungary, the Czech Republic, Slovakia, Estonia) and legally enshrine the mechanisms of direct local voting: local referendum, local public initiative (so that people could submit issues of local importance for consideration by the local government body within its competence), and local public hearings.

Considering the dual status of maslikhats, it is necessary to make amendments to the Law “on Local Government and Administration”, with a view to defining their functions as those of a representative body of the local government. In particular, it is necessary to assign to them the functions of interaction with the people and the akim (the head of the local government body) of the district from which he or she was elected.

Conclusion

World practice shows that the effectiveness of interaction between the public and the state depends on the level of institutionalization of the public and political activity, which, in turn, is provided by civil society institutions. The issues of citizen participation in the political and legal process as a result come down to the problem of quality and effectiveness of interaction between civil society subjects and governmental bodies.

The essential features (trends) of the development of the civil society in Kazakhstan are as follows:

- imbalance of quantitative and qualitative characteristics of public organizations;
- dominating authoritarian factors in public administration, which predetermines the insignificant influence of civil society institutions on the preparation and making of administrative decisions;
- trends that transform the state order system in the field of information into an additional source of corruption in the government;
- ineffective work of representative bodies in the local government system; excessive centralization of state power and closeness of local authorities to the public;
- targeted creation of a number of pseudo-public organizations by concrete political and commercial structures to realize corporate interests;
- dominating factors of inert thinking in the collective conscious.

The theories of this study may be used to draft a new Concept of Development of Civil Society Institutions in Kazakhstan, as well as respective laws and regulatory acts. The conclusions and recommendations may be used to plan the strategic course and choose the main guidelines that are capable of ensuring the effective development of the civil society in Kazakhstan. The results may be used to optimize the interaction between governmental bodies and civil society institutions.

The contribution of this study to world science lies in the possibility to use its theories and methodology to study comprehensively the civil society institutions with regard to the national features of Central Asian countries.

Disclosure statement

No potential conflict of interest was reported by the authors.

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