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KAZAKHSTAN IN THE WORLD HUMAN RIGHTS PROTECTION SYSTEM

Abstract. This paper analyzes the formation and development of the institution of law enforcement justice, shows the main directions of administrative reforms aimed at protecting human rights in the public life of Kazakhstan. The author considers human rights injustice as one of the elements of the human rights protection system in the Republic of Kazakhstan. Studying the preconditions for the creation of a system of law enforcement, the author pays special attention to the judiciary, aimed at ensuring the rule of law, judicial control in public administration, the establishment of a balance between government and citizens. These problems of legal regulation and legislative changes are of institutional nature and depend not only on the implementation of international human rights standards in law and penitentiary practice but also on positive changes in the legal status of convicts. The objectivity of the court representative, investigator, inquest officer, the prosecutor is a mandatory condition for the proper performance of his duties. This is reflected not only in the content of the decision but also in all the procedural steps that accompany its adoption. If this basic principle is violated, it is impossible to imagine real protection of human rights in criminal proceedings. The article describes Kazakhstan in the global system of human rights protection.

Key words: human rights; protection of rights; world system; declaration; judicial system; reforms.

Introduction. Conceptual provisions of the formation of the Republic of Kazakhstan as a democratic state governed by the rule of law, the principles of transition to market relations, the formation of domestic and foreign policy, the main priorities and directions of human rights reform are set out in development programs, decrees, messages, regulations, and other documents. Consistent implementation of its model of transition to world relations will create a solid material basis for democratic transformations, bringing the Republic of Kazakhstan to the ranks of developed countries, strengthening its international prestige. Each country that has gained independence has sought its path of development, created its model of creating a new society.

The Republic of Kazakhstan cannot be integrated into the world community without bringing its domestic legislation in line with international standards of individual rights and freedoms. At the same time, developed states with the rule of law have established effective mechanisms for the protection of human and civil rights and freedoms, as well as the interests of legal entities, which can be summarized as follows:

- Constitutional justice (constitutional control or supervision);
- administrative justice (quasi-judicial or judicial structures);
- departmental control;
- public control;
- judicial protection of rights and freedoms;
- prosecutorial supervision;
- institute of advocacy;
- representative institution;
- institute of mediation;
- institute of defense and more.

Despite the growing scientific interest in the issues of administrative justice, the regulatory framework of Kazakhstan does not have any legislation governing administrative proceedings, except

for the legislation of the Republic of Kazakhstan on offenses and administrative procedures. In today's world practice, one of the most effective ways and means to protect the rights of citizens, organizations, and legal entities from illegal decisions, actions (inaction) of public administration, local government and self-government bodies, their officials, as well as civil servants in administrative justice. the system is [1]. Unfortunately, Kazakhstan does not have a system of justice in the form of quasi-judicial or judicial education.

Let's not forget that the criminal process is a special area of human-state relations. The peculiarity of this relationship is manifested, first of all, in a certain inequality of the citizen, in the complex system of the state machine, and it is equal to both the accused (defendant) and the victim. This, by the way, determines the importance of the rules and regulations of criminal procedure - even, in the opinion of a public official, a slight deviation from them, non-compliance with them can lead to a serious violation of individual rights. In our opinion, such deviations and inconsistencies cannot be justified by expediency, the desire to "speed up the process" or other good intentions. In this case, errors made at the stage of detection and preliminary investigation may be corrected during the trial. Judicial errors, given the correctness of the decision, are too expensive and can cause serious damage to the interests of the individual and society as a whole [2].

Thus, the state is responsible to citizens for ensuring freedom, inviolability of privacy and privacy, respect for all rights of citizens. The arbitrariness of the authorities towards citizens must be eliminated and the legal protection of the individual must be ensured. In this regard, the Criminal Code of the Republic of Kazakhstan focuses only on the law enforcement purposes of the National Criminal Procedure Code and establishes one of the leading international principles of justice - the protection of the rights and freedoms of citizens. The essence of this principle is reflected in the equality of all participants in the process before the court, before the law.

In this regard, As noted R.A. Podoprigroroda, the function of "protection" of justice has become "priority over punishment", which also applies to the situation in Kazakhstan [3]. Therefore, in our opinion, the leadership of the republic pays such attention to the implementation of international human rights standards, their inclusion in the criminal procedure legislation. Of course, when we talk about standards, we are talking about institutions that are universally recognized, in fact, universally accepted, trying to provide as much protection as possible from criminal acts and violations of the rights of their citizens in criminal proceedings. This applies to the standards set by the most important international legal instruments. Among these documents, first of all, it is necessary to mention the "Universal Declaration of Human Rights" [4].

Material and methods of research. The purpose of this article is a detailed description and analysis of Kazakhstan's global human rights system. Based on this goal, the following objectives can be divided:

- analysis of the current position of Kazakhstan in the system of human rights protection;
- description of existing legal documents in international human rights practice;
- norms and reforms, human Kazakhstan's role in the international system of human rights protection.

The practical significance of the research is that the materials of the article can be used, in particular, in the field of law enforcement. The theoretical basis of the study was the publications of domestic authors (B. Baikadamov, G. Zhangalieva, N.I. Havronyuk, N.M. Meiramov, K.A. Mami, S.M. Apenov) and regulatory documents, the work of foreign scientists (N.M. Chepurnova). The article uses the following research methods: analysis and generalization of scientific and methodological literature, the work of Kazakh and foreign scientists, methodological analysis, which studied Kazakhstan in the global system of human rights protection.

Undoubtedly, one of such steps is to develop a model of administrative justice following generally accepted international practice in the field of human rights and justice in the context of increasing the competitiveness of Kazakhstan and its inclusion in the list of leading countries in the international arena. Therefore, it is necessary to study the long-term European experience of developed countries in the process of creating an administrative justice system in Kazakhstan, to pay attention to the practice of formation of an administrative justice system in some countries of the former Soviet Union and its development prospects. Today, two major reforms in the political and legal life of Kazakhstan, adopted by the entire judicial community, are accompanied by global preparations:

- the judiciary;
- administration.

Before we begin, we would like to draw your attention to the history of the ongoing administrative reforms in the political and legal life of Kazakhstan and the prerequisites for the creation of administrative justice, as administrative justice is one of the most important elements of the reform of Kazakhstan.

We believe that the administrative reform, aimed at improving public administration, is also aimed at strengthening judicial accountability in terms of judicial control and protection of human rights in this area. Kazakhstan's adoption of all international human rights declarations is a sign of democratization of Kazakhstani society, transparency of public authorities, improvement of public administration, and strengthening the role of the judiciary in the separation of powers, primarily acting as an arbiter between individuals and public authorities and their officials. It should be noted.

The experience of Kazakhstan, which we analyzed, shows that for a quarter of a century has done a lot of work to reform the young civil service and human rights, the traditional way of governing the state and society - "transition from administrative to modern management" [5].

The integration processes taking place in the modern world have not left our country out. The Republic of Kazakhstan pursues a differentiated policy on human rights protection, integrating into the international community, various international and regional organizations, as evidenced by the adopted legal acts. Emphasizing the need to ensure and protect the rights of the child, the researchers noted the need for special protection for minors, as it is a requirement of modern society, consistent with the practical activities of international and national human rights bodies and the ideas of international law [6].

Of course, our criminal procedure legislation has long and firmly established principles such as the prohibition of torture, cruel or degrading treatment or punishment, the equality of all persons before the law without discrimination, and the right of courts to effective redress. The universally established norms of the Universal Declaration of Human Rights are of special importance to us. Thus, Article 10 of the Universal Declaration of Human Rights states that everyone has the right to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him [4]. This goal of the global system of human rights protection requires the following objectives of the review:

- description of the legal status of convicts in the context of humanization of the penitentiary system of the Republic of Kazakhstan;
- identification of the main ways to ensure the rights, freedoms, and legitimate interests of convicts;
- assessment of the situation of the rights of convicts in terms of implementation of international legal acts on human rights in the national legislation and penitentiary policy of the Republic of Kazakhstan;
- development of recommendations on the implementation of legal guarantees for the protection of convicts, their inclusion in society, and the improvement of the mechanism for ensuring the constitutional and legal status of citizens in the Republic of Kazakhstan concerning convicts.

Of course, international standards of justice are not limited to the Universal Declaration of Human Rights. The second such document is the “International Covenant on Civil and Political Rights”, adopted by United Nations General Assembly Resolution 2200A (XXI) of 16 December 1966.

In particular, following Article 3 of the Covenant, each State Party shall:

- provide any person whose rights and freedoms have been violated with an effective remedy, even if the violation is committed by persons acting formally;
- for any person requiring such protection, the right to legal protection should be determined by a competent court, administrative, legislative or any other competent authority provided for in the legal system of the state and aimed at developing judicial protection;
- ensuring the use of legal remedies by the competent authorities in the transfer [7].

Article 14 of the Covenant states that all people are equal before courts and tribunals and that everyone has the right to a fair, independent and impartial trial as prescribed by law when considering any criminal charge or when determining his rights and obligations in any case. Civil proceedings have the right to a public hearing [7]. The same article affirms the principles of publicity, the presumption of innocence, and other guarantees of individual rights [7]. Guarantees of individual rights in criminal proceedings are requirements for judges, published in international instruments, and implemented in our national legislation. The principle of objectivity should be included.

In full compliance with generally accepted international standards for the administration of justice - criminal procedure legislation establishes several requirements for judges during the trial [8]. In this case, the main requirements are the requirements of impartiality, objectivity, proper protection of the rights, and legitimate interests of the individual by the judge. In this regard, it is necessary to pay special attention to one important point - the preparation and execution of the minutes of the court session. First of all, it makes it possible to make an objective report by entering "necessary" information and removing "unnecessary" information. The latter may include information that allows a judge to conclude the illegality of certain actions. In this regard, it seems not accidental that in the process of reforming the judicial system of Kazakhstan, appropriate changes have been made to the rules of criminal procedural law governing the procedure for keeping and drawing up minutes of court hearings.

Thus, there is a clear dominance of the humanization of criminal policy and the implementation of criminal penalties, which in turn has a direct impact on the state of rights and freedoms of citizens in the orbit of criminal justice. At the same time, it should be noted that there are several problems and contradictions in the implementation of legislative changes in the field of the penitentiary policy of Kazakhstan in the field of human rights and freedoms. These include:

- the ambiguity of the conceptual model of amnesty, which should cover not only the issue of release of convicts from punishment or imprisonment, but also the issues of post-penitentiary re-socialization of convicts, their material and social structure, adaptation to work, restoration of lost socially useful contacts and relationships. The institution of amnesty for convicts meets its purpose only when solving this complex set of issues;
- the institutionalization of probation in Kazakhstan should not lead to banal rebranding, ie mechanical change of the names of penitentiary inspections in the probation service. First of all, there should be significant changes in the education of convicts, ensuring the priority of social work;
- as for the normative structure of crimes in the field of economic activity, it should be borne in mind that any legislative changes in this area must be socially and criminologically justified. Concerning the depenalization of these crimes, it is necessary to take measures to prevent violations of the equality of citizens before the law and the courts due to their property status.

In our opinion, it is very important to raise the rights and legitimate interests of the participants in the process, first of all, the defendant, to a new level, the introduction of the use of shorthand, the materials of which are attached to the criminal case. Of course, this innovation requires the training of

relevant personnel, training of court clerks in shorthand, which is a complex and lengthy process. Therefore, in our opinion, shorthand in the courtroom has not yet been introduced everywhere.

International experience shows that today the processes associated with the search for alternatives to criminal proceedings, in particular, the expansion of conciliation procedures aimed at restoring justice, increasing the role of both the accused and the victim, recognizing them as full-fledged subjects of criminal proceedings; The introduction of national legislation was recognized as relevant, which is the key to the protection of human rights [9]. Of course, this reflects the task of restoring the violated rights of a particular citizen.

Results and their discussion. Human rights and freedoms have become the highest values of human civilization. It is impossible to imagine the modern world without natural and inalienable rights, such as the right to life, the integrity of the individual, freedom of conscience, and many other rights based on the principles of equality and justice. There is no doubt that the observance of the law by all participants in public relations is a prerequisite for the strengthening and development of the modern state and society. The responsibility of not only the individual but also the state is a necessary, integral element of the formation and guarantee of a true rule of law, its social institutions. Possibilities and concrete examples of impunity of public authorities call into question the principles of the rule of law, especially those related to the priority of human rights and freedoms, their sustainable protection, and enforcement. The effective functioning of the institution of state responsibility to the citizen is the main guarantee of the limitation of power, which should not exceed the limits established by society and established by law.

The law imposes certain obligations on citizens and the Government by granting them appropriate rights, but the law also imposes certain obligations on the Government by granting appropriate rights to citizens. The state is subject to the law through its government. These words refer to the rule of law, but today they can be supplemented:

- the rule of law, not only in law enforcement but also in international law, the political rights of citizens and democratic institutions (elections of deputies and presidents, referendums), etc.) related to the requirement of action;

- the source of power is recognized not by the state, but by its people.

Thus, the principle of state responsibility to citizens is realized in the presence of statutory provisions in national and international law, which provide the basis, types, specific measures, and mechanisms for the violation of human rights and freedoms of the state and its representatives, the possibility of their actual application [10]. The Supreme Court of the Republic of Kazakhstan, which recognizes the principle of mutual legal and legal responsibility of the state and the individual and the principle of equality in their relations, also adheres to this principle.

For example, the principles of the Universal Declaration of Human Rights, adopted by the United Nations in 1948, are an integral part of all democratic constitutions, including the Constitution of the Republic of Kazakhstan [4]. Although the declaration itself has only the status of a proposal, on its basis two conditions were accepted that are mandatory for participants:

1. International Covenant on Civil and Political Rights [7].
2. Covenant on International Economic, Social and Cultural Rights [11].

It should also be borne in mind that the Universal Declaration of Human Rights itself is not an international treaty, but is now widely accepted and binding on custom. It was further developed by the European Convention, which not only proclaimed fundamental human rights and freedoms but also established a special mechanism for their protection, which is the most progressive system in the world.

At the same time, the peculiarity of the application of the highest institutions for the protection of human rights and freedoms is that the state acting as a defendant has international legal responsibility even if the case is initiated by an individual. This provision follows from the general principle underlying

the law of international responsibility of states, according to which any action of a state in violation of its international legal obligations entails international liability. One of the supranational mechanisms for the protection of human rights considered in this article is the UN "Human Rights Committee", established in 1976 following Article 28 of the International Covenant on Civil and Political Rights [7].

The UN Human Rights Committee is not automatically empowered to consider individual complaints about the actions of the authorities. to provide general disciplinary action, including measures to be taken by States to implement these articles.

However, this rule will inevitably begin to disappear with the development of higher legal regulation (as evidenced by recent experience). Thus, we can talk about expanding the competence of the UN and strengthening the role of transnational mechanisms to protect human rights and freedoms. At the same time, the process should not be seen as an invasion and restriction of state sovereignty. In fulfilling its constitutional duty to recognize, observe, guarantee and protect human rights and freedoms, the State must be guided by the provisions outlined in its Constitution and (or) Convention guaranteeing the highest level of protection and enforcement of rights and freedoms [12]. The same position should be at the heart of the algorithm for resolving conflicts over the interpretation of human rights norms between national and supranational courts.

This process will allow to achieve a truly universal nature of human rights and freedoms, their common understanding by the world community. At the same time, it should be borne in mind that changes in the concept of protected "universal rights" sometimes lead to their inflation [13]. The real content of modern human rights is sometimes defined based on "subjective views that reflect the views of certain political or social groups, groups of states by geographical features, or even groups of individuals." To prevent such cases, courts should engage in a constructive dialogue on the understanding and interpretation of human rights and freedoms and, if necessary, pay attention to their observance.

By the Decree of the President of the Republic of Kazakhstan dated September 19, 2002, the Institute "On the appointment of the Commissioner for Human Rights" was established in the republic [14]. It should be noted that the issue of creating such a post has been discussed for several years, Kazakhstani jurists and representatives of national and international non-governmental organizations have made suggestions on how to create it, how to elect it, what powers it will have.

A common feature of all existing ombudsman institutions is, first of all, that this activity is carried out within the framework of parliamentarism and is aimed at monitoring the activities of state bodies in the field of human rights [14]. The ombudsman is designed to protect the rights of the individual from the tyranny or misconduct of the state (administration, bureaucracy), so it acts as a bridge between the government and civil society. The ombudsman is an informal, personalized, depoliticized and independent institution of public oversight. International experience shows that the ombudsman builds trust in people, protecting only their rights and interests, and builds trust in the authorities, rather than the judiciary and law enforcement agencies, which are mainly independent law enforcement agencies.

There are also several human rights NGOs in the Republic of Kazakhstan. The largest and most influential of them are the Kazakhstan International Bureau for Human Rights and the Rule of Law and the Almaty-Helsinki Committee. Kazakhstan International Bureau for Human Rights and Rule of Law is the legal successor of the Kazakh-American Bureau for Human Rights and Rule of Law. The main purpose of the organization is to form a human rights network, to collect and disseminate information on human rights violations, to form public opinion and to influence the Government to address specific human rights issues, to educate the public on human rights, freedoms, procedures, protection of the rights of individuals, groups and organizations [15].

Carries out public monitoring of the observance of the principles of human rights, civil liberties, justice, security structures, police, judicial and prison reform, protection of private property, minority rights, equality of opportunity and non-discrimination. The main goal of all non-governmental

organizations is to assist the Republic of Kazakhstan in fulfilling its international obligations in the field of human rights, promoting democratic reforms and building an open democratic society based on the rule of law.

Conclusion.

The rapprochement of national systems of legal regulation of public life should serve the purpose of establishing the most reliable guarantees of ensuring, observance and protection of human and civil rights and freedoms. A high system of protection of rights and freedoms is intended only to supplement or, if necessary, correct the national system, but at the same time should not be a way to exert political pressure on a particular state.

Experience has shown that, in contrast to domestic instruments of human rights protection, international legal instruments are in many cases carriers of the most progressive and liberal tendencies. usually accumulates the experience of advanced countries on these issues and in some way aims to raise the level of legislation of backward countries, not to allow it to be negatively affected. We note in detail that during the period of strengthening the influence of international law on the processes of expansion, guarantee, protection and implementation of human rights, the situation in this area gradually began to change for the better, and democratic processes and liberal principles were established. The influence of international law on domestic human rights law has been particularly strong: initially, the occasional, shallow effect has been replaced by careful, significant, profound action. At present, international standards act as a normative guide-standard in the process of updating national acts and their application. The result of the development of this process is the question of the priority role of international law in domestic law in the field of human rights.

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АДАМ ҚҰҚЫҒЫН ҚОРҒАУДЫҢ ӘЛЕМДІК ЖҮЙЕСІНДЕГІ ҚАЗАҚСТАН

Андатпа. Осы жұмыста құқық қорғау әділет институтының қалыптасуы мен дамуына талдау жасалды, Қазақстанның мемлекеттік өмірінде болып жатқан, адам құқықтарын қорғауға бағытталған әкімшілік реформалардың негізгі бағыттары көрсетілді. Автор құқық қорғау әділетсіздігін Қазақстан Республикасындағы адам құқықтарын қорғау жүйесіндегі элементтердің бірі ретінде қарастырады. Құқықтарды қорғау жүйесін құрудың алғышарттарын зерттей отырып, автор заңның үстемдігін қамтамасыз етуге, мемлекеттік басқару саласында сот бақылауын жүзеге асыруға, мемлекеттік органдар мен азаматтар арасындағы қатынастардың тепе-теңдігін орнатуға бағытталған сот билігіне ерекше назар аударады. Құқықтық реттеу мен заңнамалық өзгерістердің аталған проблемалары институционалдық сипатта болады және адам құқықтарының халықаралық стандарттарын заңнамаға және қылмыстық-атқару практикасына имплементациялау ғана емес, сондай-ақ сотталғандардың құқықтық жағдайындағы оң өзгерістерге байланысты болады. Сот өкілінің, тергеушінің, анықтаушының, прокурордың объективтілігі оның өз міндеттерін тиісінше атқаруының міндетті шарты болып табылады. Бұл шешімнің мазмұнында ғана емес, сонымен бірге оны қабылдаумен бірге жүретін барлық процедуралық әрекеттерде де көрінеді. Егер осы негізгі қағидат бұзылса, қылмыстық процесте адам құқықтарының нақты қорғалуын елестету мүмкін емес. Мақалада адам құқықтарын қорғаудың әлемдік жүйесіндегі Қазақстан сипатталған.

Негізгі сөздер: адам құқықтары, құқықтарды қорғау, әлемдік жүйе, декларация, сот жүйесі, реформалар.

КАЗАХСТАН В МИРОВОЙ СИСТЕМЕ ЗАЩИТЫ ПРАВ ЧЕЛОВЕКА

Аннотация. В настоящей работе сделан анализ становления и развития института правоохранительных юстиции, показаны основные направления административных реформ, протекающих в государственной жизни Казахстана, что направлены на защиту прав человека. Правоохранительная юстиция рассматривается автором как один из элементов в системе защиты прав человека в Республике Казахстан. Изучая предпосылки создания системы защиты прав, автор уделяет особое внимание судебной власти, которая призвана обеспечивать верховенство закона, осуществлять судебный контроль в сфере государственного управления, устанавливать баланс взаимоотношений между органами публичной власти и гражданами. Указанные проблемы правового регулирования и законодательных изменений носят институциональный характер и связаны не только с имплементацией международных стандартов прав человека в законодательство и уголовно-исполнительную практику, но и с позитивными изменениями в правовом положении осужденных. Объективность судебного представителя, следователя, дознавателя, прокурора является обязательным условием надлежащего исполнения им своих обязанностей. Это проявляется не только в содержании решения, но и во всех процессуальных действиях, сопровождающих его принятие. При нарушении этого основного принципа невозможно представить реальную защиту прав человека в уголовном процессе. В статье описывается Казахстан в мировой системе защиты прав человека.

Ключевые слова: права человека; защита прав; мировая система; декларация; судебная система; реформы.

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