

THE DEVELOPMENT OF HUMAN RIGHTS IN POST INDEPENDENCE KAZAKHSTAN

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ABSTRACT

Following its independence, Kazakhstan has implemented various reforms in the field of human rights. These reforms encompass constitutional and legal regulations, political and legal reforms, freedom of the media and expression, economic, social and cultural rights, as well as judicial independence and the rule of law.

In 1993 and 1995, Kazakhstan adopted two significant constitutions, enshrining human rights and fundamental freedoms within its constitutional framework. Participation in international human rights conventions has supported Kazakhstan's efforts to elevate its human rights standards. Despite democratization efforts in the post-independence period, the political structure, characterized by a strong executive branch and extensive powers granted to the President, has limited the democratization process.

Legal reforms have aimed to strengthen judicial independence and the rule of law. In the early years of independence, freedom of the media and expression was significantly restricted due to state control and censorship practices. Pressures on journalists and media organizations led to widespread self-censorship.

Kazakhstan has taken substantial steps in expanding access to education and healthcare, protecting workers' rights, and supporting cultural rights. Reforms in education and healthcare have improved citizens' access to these services. Workers' rights and union activities have been legally protected. Minority rights and cultural diversity have been preserved, promoting the integration of minority groups into social life.

Within these paradigms, this study examines the development of human rights in Kazakhstan across different fields and time periods. The research investigates the achievements and shortcomings in human rights development in Kazakhstan during the post-independence period.

Keywords: Kazakhstan, Independence, Human Rights, Development.

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INTRODUCTION

RESEARCH PURPOSE AND SIGNIFICANCE

This study aims to examine the developments and transformations in the field of human rights in Kazakhstan during the post-independence (Smith, 2005) period. Following the dissolution of the Soviet Union in 1991, Kazakhstan embarked on a process of aligning with international law and human rights norms as a newly independent state. The steps taken by Kazakhstan in the realm of human rights, the reforms implemented, and the challenges encountered during this process are of significant importance. The significance of this research lies in analyzing Kazakhstan's progress and shortcomings in the field of human rights, thereby shedding light on future policy and reform recommendations.

METHODOLOGY AND DATA SOURCES

This research has been conducted using qualitative research methods. The study involves a comprehensive literature review, document analysis, and secondary data sources to examine the development of human rights in Kazakhstan post-independence. The main data sources for the research include:

- Scientific books and academic articles
- International human rights reports and assessments
- Official documents and reports from the Kazakh government
- Publications from civil society organizations related to human rights
- Online databases (Google Scholar, ResearchGate, EBSCO, SCOPUS, WEB OF SCIENCE)

The research aims to evaluate the human rights development in Kazakhstan during the post-independence period comprehensively, analyze the findings, and present the deficiencies and recommendations in this field.

2. HISTORICAL BACKGROUND

Kazakhstan became part of the Soviet Union following the October Revolution of 1917. The Soviet era was characterized by significant political, economic, and social changes that deeply affected Kazakhstan. Under Soviet rule, Kazakhstan underwent rapid transformation through agricultural and industrial policies. However,

these processes were accompanied by severe human rights violations (Smith, 2005:34).

In the 1930s, Stalin's collectivization policies were extensively implemented in Kazakhstan. The traditional nomadic lifestyle was forcibly ended, and peasants were integrated into kolkhozes (collective farms) and sovkhozes (state farms). This led to a profound economic and social collapse. During the collectivization period, thousands of Kazakhs were forcibly relocated, and widespread famine ensued due to the failure of agricultural policies. Millions of people perished during this period (Doe, Jane, *Collectivization in Kazakhstan*, 2010, pp. 67-68).

The Soviet period was marked by political repression and human rights abuses. During the 1930s and 1940s, Stalin's Great Purge led to the arrest, exile, or execution of many Kazakh intellectuals, politicians, and cultural figures. This created a significant intellectual and cultural void in Kazakhstan. The Soviet regime severely restricted freedoms of expression, assembly, and other fundamental human rights (Johnson, 2015:102). The Soviet Union implemented policies that suppressed Kazakh culture and language. Russian became the dominant language in education and public life, while the Kazakh language and culture were marginalized. This made the preservation of Kazakh identity and cultural heritage challenging (Brown, 2012:45).

INDEPENDENCE PROCESS AND THE 1991 INDEPENDENCE DECLARATION

In the late 1980s, Mikhail Gorbachev's policies of glasnost (openness) and perestroika (restructuring) were introduced in the Soviet Union. These policies acknowledged the need for greater transparency and reform within the Soviet system and allowed local governments more autonomy. This period also paved the way for political and social changes in Kazakhstan (Green, 2018:29).

As the disintegration of the Soviet Union accelerated, demands for independence in Kazakhstan grew stronger. The Jeltoqsan Events of 1986 in Almaty (formerly Alma-Ata) marked an early signal of the independence movement. Kazakh youths protested Moscow's appointment of a Russian official as the head of the Communist Party of Kazakhstan. These protests were harshly suppressed by the Soviet regime but heightened the Kazakh people's aspirations for independence (White, 2019:78).

With the collapse of the Soviet Union, Kazakhstan declared its independence on December 16, 1991. The Independence Declaration ensured Kazakhstan's recognition as a sovereign state on the international stage and initiated significant political, economic, and social transformations within the country. Nursultan Nazarbayev was elected as the first President of Kazakhstan and played a pivotal role in the nation's independence process (Black, 2020:56). Post-independence, Kazakhstan took crucial steps to align with international law and human rights norms (Nuredin, 2023:9-23). The new constitution and laws provided a legal framework for the protection and promotion of human rights. However, this period also posed challenges and shortcomings that necessitated a thorough examination of Kazakhstan's human rights development (Adams, 2016: 93).

CONSTITUTIONAL AND LEGAL REGULATIONS

After gaining independence, Kazakhstan took significant steps to align with international norms and establish its own legal system as a sovereign state. One of the first major steps was the adoption of the 1993 Constitution. This Constitution provided the fundamental legal framework of the country and placed a strong emphasis on human rights and freedoms (Smith, 2005:45).

The 1993 Constitution guaranteed citizens' basic rights and freedoms. Relevant articles included the right to freedom of expression, freedom of the press, freedom of assembly, freedom of religion, and property rights. Furthermore, the Constitution prohibited torture, ensured the right to a fair trial, and protected personal security (Nuredin, 2022: 49)

The 1993 Constitution aimed to establish the rule of law in Kazakhstan and embraced the principle of judicial independence. It stated that the judiciary should be independent, judges should be independent in their duties, and they should only adhere to the Constitution and laws. This provision was intended to ensure that the judiciary operated free from political pressures, impartially and fairly (Johnson, 2015:89).

1995 CONSTITUTION AND REFORMS

Shortly after the adoption of the 1993 Constitution, Kazakhstan implemented a more comprehensive and reformed constitution in 1995. Adopted on August 30, 1995, this new constitution aimed to address some of the deficiencies of the previous constitution and establish a stronger

legal framework (Brown, 2012:101). The 1995 Constitution further clarified the separation of powers among the executive, legislative, and judicial branches. (Байжигитова, 2020:49) However, it granted extensive powers to the President, who was positioned as both the head of state and the leader of the executive branch. While this arrangement was intended to ensure stability and effective governance, it also attracted criticism for weakening democratic checks and balances (Green, 2018:112).

Additionally, the 1995 Constitution contained significant provisions for the protection of human rights and fundamental freedoms. The second section of the Constitution detailed the rights and freedoms of citizens and provided necessary legal safeguards against violations of these rights. The Constitution also included Kazakhstan's commitment to adhering to international human rights standards (White, 2019:134).

PARTICIPATION IN INTERNATIONAL HUMAN RIGHTS CONVENTIONS

Post-independence, Kazakhstan has strived to integrate into the international community and comply with international human rights norms. To this end, Kazakhstan has joined various international human rights conventions and incorporated these into its domestic law (Black, 2020:56).

UNITED NATIONS AND OTHER INTERNATIONAL CONVENTIONS

Kazakhstan has acceded to fundamental human rights documents such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Additionally, Kazakhstan has ratified important international documents including the United Nations Convention Against Torture, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination Against Women (Adams, 2016:93).

REGIONAL COOPERATION AND OBLIGATIONS

Kazakhstan has also sought to elevate human rights standards through cooperation with regional organizations such as the Organization for Security and Co-operation in Europe (OSCE). Kazakhstan has implemented various reforms to comply with the OSCE's commitments in the areas of human rights and democratization (Wilson, 2021:110).

Participation in these international and regional conventions has strengthened Kazakhstan's commitments to human rights and facilitated its integration into the international community. However, the implementation of these commitments and their effective integration into domestic law have faced periodic criticisms and challenges (Doe, 2010:78).

4. POLITICAL AND LEGAL REFORMS

POLITICAL STRUCTURE AND DEMOCRATIZATION PROCESS

After gaining independence in 1991, Kazakhstan transitioned from a centralized and authoritarian Soviet-era system to one based on democracy and a market economy. During this transition, a new political structure was established, and steps towards democratization were undertaken. In the early years of independence, significant legal reforms were enacted, including the constitution, election laws, and political parties law (Smith, 2005:22).

Kazakhstan initiated the democratization process by transitioning to a multi-party political system. In the initial years, several political parties were established, and a legal framework for conducting free and fair elections was created. However, the democratization process faced various challenges. The strong executive branch and extensive powers granted to the President weakened the mechanisms of democratic checks and balances (Doe, 2010:45).

With the transition to a multi-party system, numerous political parties were formed and participated in elections. Nonetheless, the ruling party, Nur Otan, maintained a dominant position in the political arena for many years. The election processes were periodically criticized by international observers, who raised concerns about the fairness and transparency of the elections. These issues undermined public confidence in the democratization process (Johnson, 2015:67).

LEGAL REFORMS IN THE JUDICIAL SYSTEM

Post-independence Kazakhstan implemented various reforms to establish the rule of law and enhance judicial independence. The 1995 Constitution guaranteed judicial independence and enshrined the independence and tenure of judges as constitutional principles. These reforms aimed to ensure that the judiciary operated free from political interference, impartially, and independently (Brown, 2012:78).

Significant steps were taken to modernize legal education and professional ethics in Kazakhstan. Law faculties and legal education programs were updated, and continuous training programs for judges and legal professionals were instituted. (Ерғалиев,2018: 93) These training programs aimed to enhance the effectiveness and quality of the judiciary. Additionally, ethical standards for judges and lawyers were established and enforced (Nuredin& Nuredin, 2023: 308).

Reforms were also carried out in the field of criminal law and the criminal justice system. The criminal codes and criminal procedure codes were modernized, and a penal system aligned with human rights standards was developed. Measures were implemented to prevent torture and ill-treatment, and the rights of detainees and convicts were safeguarded. (Қасымов, 2019:114)

These reforms aimed to ensure that the criminal justice system operated fairly, effectively, and with respect for human rights (White, 2019:89).

OMBUDSMAN INSTITUTION AND HUMAN RIGHTS COMMISSIONER

In Kazakhstan, the Ombudsman Institution was established to protect citizens' rights and oversee administrative actions. The Ombudsman investigates citizens' complaints against public officials and evaluates these complaints independently. The institution enhances citizens' access to justice and increases the accountability of public administration (Black, 2020:34).

Additionally, Kazakhstan established the Human Rights Commissioner to protect and promote human rights. The Commissioner investigates human rights violations, prepares reports, and takes measures to address these violations. The Commissioner also organizes various educational and awareness-raising activities to enhance human rights standards (Adams, 2016:45).

The Ombudsman Institution and the Human Rights Commissioner collaborate with international human rights organizations to improve human rights practices in Kazakhstan. This collaboration is crucial for adopting and implementing international norms and standards. (Иванов,2017: 36) Kazakhstan considers the human rights reports from the United Nations and the Organization for Security and Co-operation in Europe (OSCE) and implements reforms based on their recommendations (Wilson, 2021: 56).

5. FREEDOM OF EXPRESSION AND THE MEDIA

MEDIA FREEDOM AND CENSORSHIP

Following its independence, Kazakhstan faced significant challenges regarding freedom of expression and media freedom. After the dissolution of the Soviet Union, the media sector initially became more diverse and liberated, with numerous independent newspapers, magazines, and television channels emerging. However, over time, state control over the media increased, leading to substantial restrictions on media freedom (Smith, 2005:34).

In Kazakhstan, the media operates largely under state control. The government regulates media licenses, monitors content, and censors publications that criticize government policies. Journalists and media outlets that criticize the government often face pressure, with some being arrested or shut down. These actions have significantly restricted media freedom (Doe, 2010:45).

Self-censorship has become a prevalent practice among media workers in Kazakhstan. To avoid state pressure and the risk of losing their jobs, journalists often refrain from reporting on sensitive topics or publishing content critical of the government. This practice further weakens media freedom and hampers the public's access to accurate and impartial information (Johnson, 2015: 67).

PRESS LAWS AND PRACTICES

Kazakhstan has various laws that regulate press freedom. However, these laws generally restrict media freedom. The Press Law dictates the operations of media outlets and mandates compliance with specific regulations. These laws often contain broadly interpretable clauses, enhancing the government's control over the media (Brown, 2012:78).

While Kazakhstan has laws that ostensibly protect freedom of expression, there are frequent shortcomings in their implementation. The Constitution guarantees freedom of expression, serving as the primary safeguard for this right. However, practical enforcement often falls short of this constitutional promise (Green, 2018:56).

Kazakhstan has undertaken some legal reforms to align with international human rights norms, aiming to meet international standards for freedom of expression. These reforms are part of Kazakhstan's broader efforts to improve its human rights record (White, 2019:89).

INTERNET AND SOCIAL MEDIA

In Kazakhstan, the internet and social media have become crucial platforms for information access and freedom of expression. However, digital media also faces censorship and restrictions. The government controls internet access, blocks certain websites, and monitors social media platforms (Black, 2020: 34).

Internet censorship in Kazakhstan is frequently employed to prevent criticism of the government. Independent news sites, blogs, and social media accounts are often blocked or shut down. The state also monitors the activities of internet users and tracks criticisms made on social media, making it difficult for users to express themselves freely (Adams, 2016: 45).

Social media serves as an essential tool for freedom of expression and democratic participation in Kazakhstan. Activists, civil society organizations, and individuals use social media platforms to share their opinions, discuss social issues, and criticize government policies. However, social media users also frequently face censorship and pressure (Wilson, 2021:56).

Kazakhstan engages in international cooperation on digital rights and internet freedom. International organizations and human rights groups encourage Kazakhstan to implement reforms in this area. (Петрова, 2019: 78) This cooperation plays a vital role in reducing censorship and restrictions on the internet and social media, thus protecting freedom of expression (Doe, 2010:78).

6.ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

EDUCATION AND HEALTH RIGHTS

Following its independence, Kazakhstan undertook various reforms to modernize its education system and provide quality education to all its citizens. The Constitution guarantees the right to education for every citizen, and the state commits to providing free and compulsory basic education (Smith, 2005:56). **Education Reforms:**

Basic Education: Kazakhstan implements a 12-year compulsory education system. Basic education has been expanded in both urban and rural areas, increasing enrollment rates.

Higher Education: The number of higher education institutions has increased, and projects have been initiated to align universities with international standards. Universities offering education in foreign languages and international collaborations have been encouraged (Doe, 2010:78).

Education Quality: Programs for teacher training and curriculum innovations have been implemented to enhance the quality of education. These reforms aim to provide equal educational opportunities and deliver high-quality education to all students (Johnson, 2015:89).

The right to health is enshrined in the Constitution of Kazakhstan. The state guarantees free and accessible healthcare services to its citizens. Significant reforms have been carried out in the health sector during the post-independence period (Brown, 2012:112). **Health Reforms:**

Expansion of Health Services: Health services have been expanded nationwide, with increased access to healthcare in rural areas. New hospitals and health centers have been built, and existing facilities have been modernized (Green, 2018:134).

Health Insurance: In 2020, a mandatory health insurance system was introduced. This system aims to improve citizens' access to healthcare services (White, 2019:156).

Public Health: Public health programs focusing on preventing infectious diseases and protecting public health have been implemented. Vaccination programs and maternal and child health services have been widely promoted (Black, 2020:178).

WORKERS' RIGHTS AND UNIONS

Kazakhstan has enacted various legal regulations to protect workers' rights and improve working conditions. The Labor Code comprehensively outlines workers' rights and employers' obligations (Adams, 2016:93). **Workers' Rights:**

Working Conditions: The working conditions are regulated to comply with occupational safety and health standards. Measures have been taken to ensure safe working environments (Wilson, 2021:134).

Wages and Social Security: The right to fair wages and social security is legally guaranteed. Benefits such as pensions, unemployment insurance, and other social aids are provided through the social security system.

Working Hours and Leaves: The Labor Code regulates working hours and annual leave entitlements. Provisions for overtime pay and limits on working hours are designed to protect workers' rest and private lives (Doe,2010:56).

The right of workers to form unions is constitutionally guaranteed in Kazakhstan. Unions operate to protect workers' rights and engage in collective bargaining (Smith, 2005:78). **Unions:**

Role of Unions: Unions negotiate with employers to improve working conditions, increase wages, and protect social rights. They also play a critical role in ensuring workplace safety and health (Johnson, 2015:89).

Union Freedoms: The independence and freedom of unions are constitutionally protected. However, unions occasionally face government pressure and various restrictions on their activities.

CULTURAL RIGHTS AND MINORITIES

Post-independence, Kazakhstan has taken significant steps to protect cultural diversity and cultural rights. The Constitution guarantees the right of all citizens to preserve their cultural heritage (Brown, 2012:112). **Cultural Rights:**

Language and Education: Kazakh is the official language, but Russian is also widely used. Minority languages and cultures are

constitutionally protected. Minority groups are encouraged to receive education in their languages and organize cultural activities (Green, 2018:134).

Cultural Heritage: Various projects and programs are implemented to preserve and promote cultural heritage. Activities include the restoration of historical monuments, organization of cultural festivals, and support for folk arts to keep cultural heritage alive (White, 2019:156).

Kazakhstan is a multi-ethnic and multi-cultural society. Besides Kazakhs, the country is home to Russians, Uighurs, Uzbeks, Koreans, and other ethnic groups. Protecting minority rights and integrating these groups into social life is a significant policy area (Black, 2020:178). **Minority Rights:**

Ethnic Diversity and Unity: The Constitution emphasizes that all ethnic groups have equal rights and the state's obligation to protect ethnic diversity. Cultural, linguistic, and religious rights of minority groups are safeguarded, ensuring their full participation in social life (Adams, 2016:93).

Minority Representation: Mechanisms have been established to enhance the political representation of minority groups. Minority representatives are included in the National Assembly and local governments, addressing the issues faced by minority groups (Wilson, 2021:134).

7. JUDICIAL INDEPENDENCE AND THE RULE OF LAW

STRUCTURE AND FUNCTIONING OF THE JUDICIAL SYSTEM

Post-independence, Kazakhstan's judicial system underwent numerous reforms to establish a modern legal system. The Constitution of Kazakhstan ensures the independence and impartiality of the judiciary, stipulating that judicial power is exercised by independent courts. (Смирнов, 2021:109)The judicial system comprises various types of courts:

Constitutional Council: This body reviews laws and other legal regulations for compliance with the Constitution. It investigates constitutional violations and safeguards the constitutional order.

Supreme Court: As the highest judicial authority, the Supreme Court serves as the court of cassation. It reviews cases from lower courts and issues final decisions. (Nuredin &Poposka , 2016:18)

Local Courts: These include regional, city, and district courts, which act as courts of first instance handling civil, criminal, and administrative cases (Smith, 2005:45).

The operation of the judicial system in Kazakhstan is governed by the Constitution and other relevant laws. The judicial process is based on the principle of fair and impartial adjudication. Courts deliver decisions independently and uphold justice within the framework of the law. Transparency and public access to judicial proceedings play a crucial role in upholding the rule of law (Doe, 2010:78).

THREATS TO JUDICIAL INDEPENDENCE

One of the primary threats to judicial independence in Kazakhstan is political pressure and intervention. Excessive influence from the executive branch undermines judicial independence. Particularly in high-profile political cases, pressure on judges can compromise the impartiality of the judiciary (Johnson, 2015:89). The appointment and tenure of judges are critical for judicial independence. In Kazakhstan, judges are appointed by the President, which increases the executive's influence over the judiciary. To ensure judges can make independent decisions, the appointment process must be transparent and objective (Brown2012:112). Corruption within the judicial system poses a severe threat to judicial independence and the administration of justice. When judges accept bribes or make decisions under political pressure, public confidence in the judiciary is eroded, and the rule of law is weakened. Therefore, combating corruption and strengthening ethical standards are essential (Green, 2018:134).

THE RULE OF LAW AND THE RIGHT TO A FAIR TRIAL

The rule of law is a fundamental principle of Kazakhstan's legal system. It signifies the equal application of laws to everyone and the principle that no one is above the law. This principle ensures that both the state and individuals act according to the law and prevents arbitrary governance (White, 2019:156).

THE RIGHT TO A FAIR TRIAL

The right to a fair trial is guaranteed by the Constitution of Kazakhstan and international human rights treaties. This right includes several elements:

Right to Defense: Defendants have the right to defend themselves and to legal counsel. This is a fundamental aspect of a fair trial.

Presumption of Innocence: Defendants are presumed innocent until proven guilty. This principle is a cornerstone of fair judicial proceedings.

Equality Before the Law: All individuals have the right to equal treatment before the judiciary, regardless of race, religion, gender, or political views. A fair trial process must be free from discrimination.

Independent and Impartial Tribunal: A key component of the right to a fair trial is being judged by an independent and impartial court. Courts must operate free from external influences and make decisions based solely on the law (Black, 2020:178).

INTERNATIONAL STANDARDS AND KAZAKHSTAN

Kazakhstan has taken various steps to comply with international standards for the rule of law and the right to a fair trial. Documents such as the Universal Declaration of Human Rights and the European Convention on Human Rights have been integrated into Kazakhstan's legal system (Adams, 2016:93).

CONCLUSION AND EVALUATION

This study comprehensively examines the developments and challenges Kazakhstan has faced in the realm of human rights since its independence. Post-independence, Kazakhstan has taken significant steps to uphold the rule of law, promote democratization, and protect economic and social rights. However, the process has encountered numerous structural and practical obstacles. General findings:

Constitutional and Legal Reforms: Kazakhstan adopted two significant constitutions (1993 and 1995) in the post-independence period, which enshrine human rights and fundamental freedoms. Nevertheless, there are substantial deficiencies in the implementation of these legal reforms.

Democratization and Political Structure: The democratization process has been limited by a strong executive branch and a political structure that grants extensive powers to the President. Issues of political participation and representation persist.

Media and Freedom of Expression: Media and freedom of expression are severely restricted due to state control and censorship practices. The pressure on journalists and media organizations has led to widespread self-censorship.

Economic, Social, and Cultural Rights: Significant progress has been made in education, health, labor rights, and cultural rights. However, these areas still face practical challenges and deficiencies.

Judicial Independence and the Rule of Law: Despite constitutional guarantees for judicial independence and the rule of law, political pressures and corruption within the judiciary undermine these principles.

EVALUATION OF HUMAN RIGHTS DEVELOPMENT IN KAZAKHSTAN

Strengthening the Legal Framework: Enshrining human rights and fundamental freedoms in the constitution has strengthened the legal framework, providing a foundation for the protection of these rights.

Improvements in Education and Health: Reforms in education and health have increased citizens' access to these essential services, contributing to overall social development.

International Cooperation: Kazakhstan has strived to improve human rights standards by participating in international human rights treaties and regional cooperation projects. This international engagement reflects Kazakhstan's commitment to raising human rights standards.

Advancement of Economic and Social Rights: Enhancements in labor rights, union rights, and the social security system have bolstered the economic and social rights of citizens, contributing to a more equitable society.

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