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**Changes Impact Assessment on National Legislation
Development in International Law**

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Abstract

The legal system of Kazakhstan is based on the Romano-Germanic legal system. The current law in the Republic of Kazakhstan is the norms of the Constitution, laws corresponding to it, other regulatory legal acts, international treaties and other obligations of the Republic, as well as regulatory resolutions of the Constitutional Court and the Supreme Court of the Republic. The primary law source in Kazakhstan is the following regulatory legal acts: legislative acts and by-laws.

The Constitution of the Republic of Kazakhstan, adopted by a national referendum on August 30, 1995, is the country's fundamental law. It is designed to strengthen the foundations of the constitutional order, the rights and freedoms of man and citizen, and the state structure foundations. The Constitution of the Republic of Kazakhstan has the highest legal force concerning all other legal acts: none of the legal acts adopted in the country (constitutional law, Presidential Decree, Government decree, regional law-making act, decree, etc.) can contradict the Basic Law, and in case of conflict (legal conflicts), the Constitution takes precedence. The Constitution of the Republic of Kazakhstan is the core of the state's legal system and the basis of the current (industry) legislation.

The **purpose** of the research is to study the impact of the changes in international law on the national legislation development of the Republic of Kazakhstan.

The analysis was carried out using analytical and research data on the application of international law in developing national legislation. Studies have shown that international law has a relatively strong influence on the development of national legislation.

Keywords

norms of law, national legislation of the Republic of Kazakhstan, international norms of law, changes in international norms, development of national legislation

Introduction

International laws are considered superior to national laws. However, the relationship between them is still complex and not yet clear. It seems pretty evident as the States apply international rules to prepare their national laws (Morozov, 2018).

The States dominate the international legal system. The States implement international legal norms and apply them to the laws of their country. These are the States that can become members of the International Court of Justice and other organizations. In order to maintain international relations, states must be recognized by other states. With the advent of newly recognized states, the balance of power may change, and international relations can improve.

States create international organizations to maintain balance in international relations. For example, the United Nations was a joint US peacekeeping effort after World War II. Every international organization has different obligations and obligations under international law. One of the principal organs of the United Nations, the International Court of Justice, has the right to challenge the decisions of states in the context of international law.

The study **aims** to examine the impact of the changes in international law on the development of national legislation of the Republic of Kazakhstan.

The object of the study is international legal norms and their influence on national legislation.

Literature Review

Analyzing the literature on the influence of international law on national legislation, the following can be noted. One of the fundamental values of any legal system is the principle of certainty of law, the highest expression of which is its coding in various branches of law. Today, however, this value has been substantial, albeit unintentionally, called into question - in particular by a set of principles and associated mechanisms designed to ensure the uniformity of law in states. These include the principle of primacy of international law over the laws of states, the principle of not applying national laws that are inconsistent with international law (including the provisions of directives that have not yet been implemented or have been implemented that are considered incorrect), the principle of interpreting national law following international law, and first of all, the final and binding nature of the decisions of the International Court of Justice, even if they give a "unique" or unusual interpretation, not expressly provided for by national law. These principles are now well-established guidelines in supreme and national courts, as there has been a radical shift in the system and hierarchy of sources of law in each legal system of states (Benacchio, 2020).

Bossakoma (2020) finds that international law is more inclined to adopt and promote legal approaches. However, since these approaches can lead to undue discrimination and perverse incentives, the ideal primary right is upheld for the sake of international peace and justice. However, recognizing such a right under general international law is an unrealistic utopia since the central legislators are states, and many are neither liberal nor democratic (Bossakoma, 2020).

Frenkel (2020) notes that the function of the International Court of Justice (ICJ) is to resolve, following international law, such disputes or advisory opinions that are presented to it. Although ICJ has consistently applied and contributed to the development of general international law, in some areas, such as international humanitarian law (IHL), the Court has vacillated between genuine contribution and judicial restraints. In other words, while the ICJ has justified its IHL decisions in some cases, it has deliberately refrained from doing so, perhaps because of the subject matter or to justify a departure from its previous case law (Frenkel, 2020).

Shani (2012) discusses selected social science approaches organizational performance and explains why a goal-based definition of performance is appropriate for evaluating the performance of an international court. The proposed model offers new analytical tools for understanding the goals set for international courts by their mandate holders (the States and international organizations that create and control international courts) and for assessing how critical concepts regarding the structure, process and results of international courts are, for example, the independence of the judiciary, the enforcement of decisions, and the legitimacy of the judiciary all contribute to their effectiveness (Shani, 2012).

Public international law is relevant to a wide range of sustainable development goals. However, it often fails to link the two, and there is very little literature on the interaction between public international law and the policies and political structures that underlie development (McInerney-Lankford, 2020).

Gerd (2020) proposes a broader concept of "the subject of international law". It recalls the concepts of sovereignty and the subject of international law, which were different and broader in the Middle Ages than in the period after the Peace of Westphalia, as it emphasizes that the concept of a subject of international law can be viewed in a much broader context than its current position. International law has no internal restrictions on recognizing entities other than states or intergovernmental organizations as subjects of international law. Thus, a new class of dual or mixed organizations has emerged, created following national law, but with the recognition of their international legal personality by the country of origin and other countries (Gerd, 2020).

Research methods

The methodological basis of the study was the principles of social phenomena cognition in their historical development and, at the same time, in interconnection, interdependence, from the point of view of theory and practice, history and modernity, the correlation of general civilizational and national features of these phenomena. Particular importance in the study of the relationship between international law and the legal system of the Republic of Kazakhstan is given to the comparative law method.

Studying problematic issues related to national and international law interaction involves a comprehensive theoretical and applied interdisciplinary approach. It necessitates using such methods as the reconstruction of ideas and theories and systemic and structural-functional methods by the author. The work also used formal-legal, legal and state modelling methods.

Discussion

To date, many developed countries have primarily coped with developing international law. The need for development in this area, first of all, is determined by the desire of people around the world to promote and develop modern

international values, such as respect for the rights of people, improving their living standards, the level of economic development, protecting the environment, as well as the desire to combat the threats of modernity.

The norms established by international law are mainly in the form of treaties. Treaties are given various other names such as conventions, agreements, rules, etc. Treaties were the only source of hope during the war. Although some treaties also fueled wars, such as the Treaty of Versailles. After the end of the war, the Vienna Convention on the Law of Treaties (1969) was adopted (Neshataeva, 2004). This convention is also known as the law of treaties. It contains everything about how contracts should be made. The critical point here is that all treaties are binding only on states and not on any third party (Khabrieva, 2016).

Many countries recognize the General Principles as an essential source of international law. Treaties settle not all disputes between countries. General principles are used when contracts are not provided. General principles can be seen in all legal systems. These general principles are good faith, the impartiality of judges, etc. (Marochkin, 2011).

Individual entities do not have legal obligations under international law. However, individuals who have mentioned specific theories stand out as a distinguishing feature when it comes to national and international law. Two crucial ones are called dualism and monism (Lukashuk, 2005).

According to the dualistic tradition, the national legal system is entirely different from the international legal system. According to this theory, international law applies to laws between states, while national law applies to laws within each state (Khabrieva, 2007). In this context, international norms will operate only in international legal circulation and not in the domestic legal order.

The monistic theory of international law is directly opposed to the dualistic theory. This theory states that international and national laws should be combined into one legal order. On this basis, a balance will be achieved between national and international legislation. The main representatives of this theory were Hans Kelsen and Gersh Lauterpacht (Kartashkin, 2015).

The relationship between international and national laws has not been the subject of debate or dispute between countries. Both laws operate in their jurisdictions without interference (Pano, 2018). International laws help maintain international relations, while national laws help the sovereignty and development of nation-states. Many people believe that international laws take precedence over national laws, but such a debate should only be started if there is a conflict between them. Otherwise, both laws are equally important (Bakhin, 2007).

The Republic of Kazakhstan, having proclaimed itself a democratic, legal state, embarked on the path of civilizational development and turned to the great values of constitutionalism. One of these immutable values, in our opinion, is parliamentarism.

Generally, it should be noted that the regulation of the procedure for adopting laws and the legislative process itself is in its infancy.

The universally recognized norms of international law provide a legal basis and do not create new conflicts in domestic law. On the one hand, the Constitution of the Republic of Kazakhstan contains legal principles that contain many legal systems of independent countries and are recognized as principles recognized by international law. Although, if you look at it from the other side, according to part 1 of Art. 4 of the Constitution of the Republic of Kazakhstan, the principles and norms of international law and international treaties are an essential part of domestic law, that is, they are direct practice throughout the territory of the Republic of Kazakhstan (18).

International law's general principles and norms regulate domestic relations as an integral part of the country's legal system. Declaring the universally recognized principles and norms of international law in the form in which they exist in the Kazakh legal system, the Constitution does not separate the principles of international law from the norms of international law. That is, it does not separate the principles of international law and the norms of international law (8). Therefore, the basic principles of international law are directly reflected in the Constitution of the Republic of Kazakhstan. The norms that are not directly reflected in the text of the Constitution of the Republic of Kazakhstan correspond to international treaties adopted by the Republic of Kazakhstan.

The constitutional control of the Republic of Kazakhstan is a structure that does not belong to any of the branches of power. Its main task is to ensure the supremacy of the Constitution and the direct application of its norms under the spirit and letter, following the fundamental will of the legislator. The Constitution and constitutional legislation of the state, brought into the correct system, is the key to the development and integration of the Republic of Kazakhstan as a full member of the international community.

Modern international law will become the main direction of universal development and a means of positively solving problems in the context of modern globalization. The solution of international problems only in interaction with the norms and principles of international law is the key to achieving the well-being of all humanity.

The conditions formed in the constitutional evolution of the Republic of Kazakhstan represent a system for developing world constitutionalism. The changes of recent years from May 21, 2007, March 17, 2017, and June 8, 2022 (20) are aimed at strengthening the diversification of power in the power sector of Kazakhstan, increasing institutions and mechanisms aimed at ensuring the rule of law, including strengthening influence, independence and professionalism of the body of constitutional control (justice).

Through the Constitutional Court of the Republic of Kazakhstan, measures are taken in the following areas related to the development of statehood and the legal system within the international community:

The norms of international treaties and conventions generally recognize international principles and norms, and international standards and decisions of

international organizations (the UN Committee on Human Rights, the International Court of Justice, etc.) are the basis of the national legal system. International legal norms are used as the basis of legal understanding in the interpretation of constitutional norms, also "International treaties ratified by the Republic have priority over its laws and are applied directly" (21) (The Constitutional Court of the Republic of Kazakhstan, being a member of organizations such as the Venice Commission, The Association of Asian Constitutional Courts and Equivalent Institutions conducts consultations and expert work with them, accepts their proposals; When adopting several laws, conclusions and recommendations of experts from these organizations were received.

1. In addition, in connection with the latest constitutional change, the transformation of the body of the Constitutional Council into the body of the Constitutional Court will introduce some functional changes in its activities. It ensures the direct participation of citizens in the formation of constitutional legislation and an increase in meaningful activity, the existence of the actual effective practice of law enforcement with a causal interpretation.

In general, the Constitutional Court of the Republic of Kazakhstan will integrate international law into the national legal system, implement and harmonize it, and introduce practical legal concepts, institutions and mechanisms into the country's legislative system. Today, the existing elements of international law in the field of human rights in the constitutional legislation, other normative acts, the political system and other democratic institutions have been effectively continued in national legislation. However, today, within the framework of constitutional reform and political transformations, it is still necessary to introduce the norms of international law and improve national legislation. (22) These are political pluralism in society and the creation of a genuinely competitive party system in the political system, the improvement of effective means of protecting human rights, the creation of an information society, the improvement of civil society institutions, etc.

At the same time, the adoption of the Administrative Procedure Code of the Republic of Kazakhstan became the basis for the formation of the institution of administrative justice. Thanks to this, a new system was formed between the state and citizens (organizations). Through specialized administrative courts, a unique form of administrative legal proceedings has been defined, an effective system for reviewing administrative and public disputes has been defined, the participation of citizens in the government has increased, and administrative rights have been protected to the maximum, effective control of the judiciary over the executive has been established.

Currently, the administrative justice system has become a mechanism for effectively considering citizens' complaints about administrative acts and services. In administrative and public disputes, many disputes are resolved in favour of citizens (organizations), transparency and professionalism in the field of public administration are increasing, and administrative legislation and practice are being improved.

International treaties and conventions, international norms and principles are recognized as part of national law. Courts use them in resolving administrative disputes and regulating legal relations. Therefore, administrative courts directly apply and refer to them, forming their law enforcement practice. Ratified international conventions and treaties are an obligation of Kazakhstan.

Today, in the field of administrative management, the rights of citizens have been effectively implemented thanks to a legal system based on international law. The norms of international law define the fundamental values of human rights and freedoms, public administration and the judiciary of any state as the achievements of human civilization.

Under the Constitution, the president, who holds most of the executive power, is directly elected for up to two five-year terms. However, former President Nursultan Nazarbayev's unique status as the "first president of Kazakhstan" exempted him from term limits. In July 2018, Nazarbayev signed a decree making him the chairman of the Security Council for life. The decree gave the Security Council significant constitutional powers that could allow Nazarbayev to remain in power despite his resignation from the presidency in March 2019 after nearly 30 years in office. Senate chairman Kassym-Jomart Tokayev was named acting president and then won a five-year term in the June 2019 elections with 71 per cent of the vote. Amirzhan Kosanov from the Ult Tagdyry party scored 16.2 per cent, while Daniya Yespayeva from Ak Zhol scored 5.1 per cent. Other candidates have earned 7.

After his resignation in 2019, Nazarbayev gradually handed over power to Tokayev. Nazarbayev stepped down as chairman of the Assembly of the People of Kazakhstan in April 2021, handing over the role to Tokayev, and announced in November that he was stepping down as leader of Nur Otan. However, the former president still wields significant power in Kazakhstan: at the end of the year, Nazarbayev remained head of the Security Council and continued to be responsible for appointing ministers and key officials, except for the ministries of foreign affairs, interior and defence.

The upper house of the bicameral parliament is the 49-member Senate, of which directly elected regional councils elect 34 and 15 are appointed by the president. Senators, who are officially nonpartisan, are elected to six-year terms, with half of the elected members being re-elected every three years. The lower house, the Mazhilis, has 107 deputies, of whom 98 are elected based on proportional representation from party lists, and nine are appointed by the Assembly of the People of Kazakhstan, which ostensibly represents the country's various ethnic groups. Members are elected for a five-year term.

The judiciary is effectively subordinate to the executive branch, with the president appointing or directly appointing judges based on the recommendation of the Supreme Judicial Council, which is itself appointed by the president.

In the practice of the courts of the Republic of Kazakhstan, the most important and necessary is the application of the principle of respect for human

rights and human freedoms. The Constitution of the Republic of Kazakhstan has a special section devoted to the rights and freedoms of man and citizen - it is compatible with the rights and freedoms described in the leading international legal documents on the management of these rights and freedoms.

It seems that the establishment of Part 3 of Art. 4 of the Constitution of the Republic of Kazakhstan, the priority of international law over domestic law should be read as follows: subjects of law rights are recognized and guaranteed under the Constitution, which fixes them under generally recognized norms of international law. Because of this, the constitutional norm, part 3, article 4 of the Constitution of the Republic of Kazakhstan, does not weaken the Constitution's provisions in the internal law system, part 4, art. 15 establishes the priority of treaties over laws but not over the Constitution.

A literal reading of the articles of the Constitution of the Republic of Kazakhstan leads to the idea that the main priority of national law is the conditions for a bilateral, regional and multilateral cooperation, as well as the norms of international law defined in treaties (6).

For judgments, treaties are used, which seem to have the same characteristics as domestic laws: specific title, precise form, precision and legal certainty. Generally accepted legal principles do not contain such elements unless they are established in international instruments. Because of this, courts rarely rely on well-known principles of international law to substantiate their positions and decisions using existing treaties or other international instruments (Aydinkyzy, 2015).

Currently, the most important in this area is the cooperation of countries in international affairs through the conclusion of various international treaties that regulate many legal relations. Moreover, the validity of such agreements is achieved through the use of international norms in national law. In particular, the Republic of Kazakhstan pays great attention to compliance with international laws and principles.

Thus, relying on international norms of law and international principles, on June 5, 2022, a republican referendum was held in Kazakhstan on amending the Constitution. According to the results, which the Central Electoral Commission announced on June 7, the referendum was declared valid, and the voter turnout was 68.05% or almost 8 million people. 77.18%, or 6.15 million people, voted for the amendments. The main amendments include:

- prohibition of the death penalty;
- the restoration of the Constitutional Court
- the abolition of the title of Elbasy ("Leader of the Peoples" (Leader of the Nation) and the privileges provided for the First President. For example, the privilege of the first president to be elected more than twice in a row has been abolished. Now no one can be president for more than two consecutive terms;
- the introduction of a ban on close relatives of the president holding positions of political civil servants or heads of organizations in the quasi-public sector;

- The President does not have the right to be a member of any political party during his tenure.

The judicial system will involve professionals specializing in certain areas of law, the list of which will be approved by the Supreme Judicial Council.

The extended plenary session of the Supreme Court will approve the distribution of the judiciary's budget by levels and areas of expenditure.

Amendments are being implemented to improve civil procedural legislation and develop institutions for out-of-court and out-of-court settlement of disputes.

In particular, the circle of persons who can draw up an agreement on the payment of alimony has been expanded; now (in addition to notaries), these are mediators, lawyers, and legal advisers.

The main functions of mediators' organization and the authorized body's competence are determined. The rights and obligations of the mediator are clarified. There are amendments aimed at the development of online mediation.

Conclusion

The main feature of the current stage in the development of international law is the shift in the geopolitical picture. A new paradigm of international relations is being born, the essence of which is forming a polycentric international legal system. Under these conditions, Kazakhstan is actively involved in resolving the world community's acute threats.

Recently, the opinion about the "fading of international law" has become widespread. There are statements about its inability to function, and doubts about its necessity are expressed. However, according to the author, all this is due to a misunderstanding of the evolution and ontology of international law and its essence and possibilities of influence. The emergence and functioning of international law is an objective process. As soon as a state appears, the law appears within the country and rules of conduct appear outside, that is, between the states. Today, the problem of the relationship between international and national law is of particular relevance. It is moving from the category of scientific and theoretical to the category of essential ones that must be taken into account and require a particular legal justification.

The Republic of Kazakhstan has typical problems with the relationship between international and national law. The relevance of these problems is associated with the complexity of the formation of a new model of international relations.

To solve these problems, it is necessary to maintain the position of the Republic of Kazakhstan, according to which the supremacy of international law and compliance with its norms in relations between states is the primary vector of the concept of the international policy of the state.

In the context of forming a new paradigm of international relations, the extreme importance of changes in the Constitution of the Republic of Kazakhstan is determined.

It is also necessary to conduct fundamental research on the emerging trend of fundamental resistance. There is a need for practical analysis and search for legal regulators to ensure the coordinated functioning of the two legal systems (national and international).

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