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DEVELOPMENT OF LOCAL SELF-GOVERNMENT IN THE REPUBLIC OF KAZAKHSTAN AND THE ROLE OF FOREIGN EXPERIENCE IN ITS IMPROVEMENT

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Abstract. *The relevance of the problem stated in the article is due to the world experience shows that the development and well-being of the state at the same time largely depends on the development of local self-government, on its independence in solving local problems. Since Kazakhstan gained independence from the state, reforms have been carried out to promote the effective implementation of the local institution. It is also necessary to evaluate the experience of foreign countries in the development of local self-government. The experience of foreign countries in the development of local self-government allows us to conclude that when certain conditions are created, they can successfully adapt to the practice of local self-government in Kazakhstan. The purpose of the research is to reveal the essence of the key problems that, according to the author, make it difficult to effectively introduce the institution of local self-government into the social and political life. The theoretical basis of the research is the essence and structure analysis of local self-government. The author concludes that the lack of a decision on the choice of a holistic model of local self-government is the main problem of its development. The current model*

of local self-government in the Republic of Kazakhstan does not fit into any of the models of local self-government (Anglo-Saxon, continental, mixed). The practical significance of the research lies in the use of theoretical ideas, proposals and conclusions by state bodies in the development of regulations aimed at improving local self-government in the Republic of Kazakhstan.

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Keywords: *local self-government; local community; concept of local self-government development; role of foreign experience*

Introduction

To date, local self-government functions are vested with local government bodies, namely akims (local executive bodies), akimats (local executive bodies), territorial council of local authorities (advisory bodies under akimats). Thus, local authorities are represented by local government bodies of Kazakhstan that function as local self-government. The principle of local self-government, defined by the European Charter of Local Self-Government of 1985, implies: first, the self-government of local self-government bodies; second, the specific powers and powers established in the laws; third, economical self-extinguishing, within the established central authority; fourth, the right of local authorities to judicial protection to protect autonomy in the exercise of their powers.

From the point of view of the basic principles of local self-government defined by the European Charter of Local Self-Government of 1985 (European Charter... 1986) the dualism of local authorities – local self-government caused by a combination of local self-government functions creates a conflict and distorts the idea of local self-government. We explain the state of local self-government in Kazakhstan by the Soviet heritage, since local self-government was no different from the unified system of public administration during this period. In fact, the model of local self-government in Kazakhstan can be defined as a “quasi”, in which local self-government is guaranteed by the state, but its functions are performed by local authorities, the government, which, in turn, turns local self-government into a fiction (Balabiev 2014, p. 34-36; Karabin et al. 2021, p. 781-803; Shalbolova et al. 2020).

The right guaranteed by the Constitution of 1995 (The Constitution of the... 1995) to the direct exercise of local self-government by the population is represented only by assemblies and assemblies of the local community, this local community is not a local self-government body and does not have the status of a legal entity. At the same time, the local community has no real management mechanisms, but only coordination functions. In 2012, the Concept of Local Self-Government Development was approved to implement the Decree of the President of the Republic of Kazakhstan (2012) (hereinafter referred to as the “Concept”). The experience of foreign countries in the development of local self-government allows us to conclude that when certain conditions are created, they can successfully adapt to the practice of local self-government in Kazakhstan.

Despite attempts to develop the Kazakh Institute of Local Self-government reflected in the concept, the process of its formation in accordance with the principles of the European

Charter of Local Self-Government remains unchanged unresolved. There is no border in the law "On Local Public Administration" that defines issues of local self-government and self-government. The current system of local self-government needs decentralization and decentralization of functions (Glotov and Mazaev 2009; Melnyk et al. 2020, p. 1-10; Babak et al. 2020, p. 23-70).

Materials and Methods

The methodological basis of the study was made up of general scientific dialectical methods of cognition, including the principles of objectivity, consistency, historicism, induction, deduction, etc. Along with general scientific methods of cognition, private scientific methods were used: formal-legal, descriptive, linguistic, formal-logical, historical, system-legal, comparative-legal and others. The modeling method is the leading method of studying this problem. Therefore, we can consider this issue as a purposeful and organized process of professional development, advanced training and the formation of scientists of special competencies that allow us to effectively study the development of local self-government in the Republic of Kazakhstan and the role of foreign experience in its improvement.

The complex nature of the research predetermined the application of a wide range of scientific, political, sociological and historical methods and principles. Relying on a systematic approach and the method of modern structural functionalism, the author presented the issues of the development of local self-government in the Republic of Kazakhstan and the role of foreign experience in its improvement as a set of different types of interacting relations, as a system with a complex structure and as a certain integrity (Babak et al. 2007, p. 31-36). The spatial-analytical paradigm used in the work made it possible to assess the prospects for the development of local self-government in the Republic of Kazakhstan and the role of foreign experience in its improvement.

The main methods of this research can be considered the legal method, including legal and technical methods and methods of interpretation of the law. The legal and technical method is widely used in rationing. The system of the code and each of its articles must comply with the established rules of disposition and authorization of norms to be clear, clear and logically consistent. There is a system method. He undertakes to investigate criminal phenomena and understand them as systems, that is, an integral set consisting of subsystems and elements. This method is used in legislation, law enforcement and theory of construction, cognition, application of such systemic institutions as criminal law, principles of law, crime, guilt, multiple crimes, complicity, exemption from criminal liability and punishment. The principle of consistency should correspond to the location of sections, chapters, and norms in the code. The macro system is the laws of Kazakhstan as a whole. A microsystem is a norm, the disposition of which describes the composition of the crime, and the sanction is the nature and amount of punishment (Novikov and Novikov 2013).

The theoretical basis of the study was the work of scientists in the fields of local self-government and other legal sciences, revealing the theoretical and practical essence of the issues of local self-government development in the Republic of Kazakhstan.

Results

The implementation of the Concept is planned for the period 2013-2020. The absence of a local holistic model of self-government is recognized as the concept of creating a local self-government institution.

Table 1. Structural and functional model of local self-government development in the Republic of Kazakhstan and the role of foreign experience in its improvement

Experience of foreign countries in the development of local self-government	Ways to borrow experience on the development of local self-government
<p>The European Charter of Local Self-Government defines four main features, without which local self-government cannot be carried out:</p> <ul style="list-style-type: none"> – an authority acting within the limits established by law; – granting local self-government bodies the right to independently manage resources; – a government with clearly defined functions; <ul style="list-style-type: none"> – separate local self-government bodies. 	<p>Kazakhstan is particularly interested in the continental model, which is implemented in Scandinavia with the following characteristics:</p> <ul style="list-style-type: none"> – Rationalization of the distribution of powers between authorities at all levels; – Transfer of important state social functions to local authorities; – An independent body that oversees the activities of local authorities. <p>Defining the features of the implementation of various models of local self-government in the largest countries of the world, the interdependence of organizations and forms of interdependence between central government agencies and local authorities, as well as the features of interdependence largely depend on historical and geographical factors, socio-economic status, traditional and cultural values, etc.</p>
<p>England is the birthplace of the Anglo-Saxon model. A high degree of local self-government, transparency of local authorities, and constant monitoring of decision-making by local residents are its features. The continental model is characterized by the unification of the legal status of local self-government bodies located at the same level as local territorial units (Shustov 2011, p. 87-91).</p>	<p>The studied experience of foreign countries in the development of local self-government allows us to conclude that when certain conditions are created, they can successfully adapt to the practice of local self-government in Kazakhstan (Salov 2008). Undoubtedly, the key problem that needs to be solved is not only the problem of the effective development of rural akims, but also the problem of insufficient income base for rural development. The European Charter on Local Self-Government clearly provides for the right of local self-government bodies to independently own and dispose of financial resources to carry out their work (Article 9) (Shalbolova and Kenzhagaliyeva 2018)</p>

The main aspect determining the effectiveness of local self-government is the participation of the population. Local self-government committees are an effective tool for implementing the constitutional rights of citizens and solving social problems of the local population. It is planned to hold preliminary discussions on the results of the implementation of territorial strategic plans, local budgets, social plans, regulatory documents, etc. (Kemelbekov 2019a, p. 45-47; Kalaur and Fedorchenko 2018, p. 38-49).

Therefore, the current stage of development of national and local self-government is characterized by the fact that the institutional way of life in Kazakh society as a whole is fixed.

To achieve the goals, we propose: firstly, at the level of auls (villages), settlements, the gradual development of the role of the population in solving problems of local significance through local community meetings (meetings) by encouraging the participation, involvement and responsibility of the population in making managerial decisions. Second, at the city level, to solve the most pressing problems of concern to the local population, it is necessary to create a mechanism for the interaction of a part of the workforce in the process of making a management decision. Third, increasing the role of maslikhats in the appointment or election of akims in cities of regional significance, districts (rural areas), districts (villages) that are not part of the Olkhov (rural) district. Fourth, financial expansion and economic autonomy at the local government level are valuable. To date, preliminary results of the Concept implementation plan can be achieved.

The Law “On Local State Administration and Self-Government in the Republic of Kazakhstan” has been amended regarding the participation of citizens in the implementation of self-government, namely, regulation of the procedure and powers of meetings and assemblies of the local community, the right to control the use of the budget, coordination of property disposal, discussions in the local community, initiating dismissal of the akim. Expansion of financial autonomy by opening control over treasury accounts to carry out the functions of local self-government (Resolution of the Government... 2021). The Ministry of National Economy of the Republic of Kazakhstan has developed a Concept for the development of local self-government in the Republic of Kazakhstan until 2025 (About the draft Decree... 2021), as emphasized, from the adoption of the concept to the implementation of constitutional provisions, the creation of a legislative framework for local self-government, an effective transition from reform to decentralization and democratization of power, increasing the role of citizens in solving local issues, creating conditions for direct participation of citizens in land management.

The implementation of the concept is planned in two stages:

Stage 1: 2021-2024. New reforms should begin with the introduction of direct elections in rural districts. The development of local self-government is impossible without the participation of residents. In this regard, it is necessary to actively involve the local population in the management of settlements. In addition, all meetings of maslikhats will be broadcast online. The activities of the maslikhat will be open to all citizens. Direct elections of akims of districts in regions and cities, as well as cities of regional significance, except for the administrative centers of the regions, will also be introduced.

Stage 2: 2025. At the second stage, decentralization will continue. The transferred powers will be accompanied by the necessary funds. In addition, the system of national external audit institutions will be improved. Gradually, the administrative-territorial structure will be improved taking into account the opinion of the population. All the measures will be accompanied by an active discussion and monitoring the implementation with the help of modern management tools.

Discussion

The existing system of local self-government in Kazakhstan needs further improvement. For the effective implementation of the institution of local self-government, it may be necessary to start with a decision on the choice of a holistic model of local self-government. The concept has an indication of this problem, but without solving it. Other regulatory principles of self-government and self-organization will depend on the development of a global system of local self-government. Guarantees of the implementation of local self-government, enshrined in the Constitution, require more detailed regulation and granting the local community greater autonomy in solving local problems. The powers granted to the commission of the day do not allow the population of the local community to realize their potential.

An important step in the planned implementation of autonomy is the transfer of functions from the district level to the village level: formulate and approve rules for landscaping and sanitation, maintain and protect green spaces, graze and walk pets; solve problems of the landscape and the population; organize and implement separate collection of municipal waste; monitor and prepare monthly problem-solving reports presented at the reporting meeting; use information systems within the competence to provide electronic services; monitor social tensions and risks of labor disputes, etc. (Shalbolova et al. 2012, p. 540-555; Lukianov et al. 2021, p. 61-70). In addition, it is planned to transfer the duties of regional police inspectors to the akims of rural areas taking into account the strengthening of local self-government institutions and the role of citizens when managing rural areas. As the developers of this concept emphasize, the development of local self-government will require an increase in the level of knowledge of the population about the right of civil legal assistance. For this purpose, it is recommended to effectively use the potential of non-governmental organizations. It is also necessary to create an online portal for local self-government, where rural development plans, information on budget revenues, decisions of local government offices, civil budgets and other information should be published. It is necessary to publish information on rural development plans, information on budget revenues, decisions of local government offices, civil budgets and other information.

The portal will become a platform for interaction of local authorities with the local community, a review of civic initiatives and others. Information should always be up-to-date, simple and understandable for all citizens (Chirkin 2009, p. 98; Byelov 2018, p. 49-52). Project competitions should be held periodically in local communities. The best projects for landscaping, creation, repair and lighting of public spaces (parks, playgrounds, sports and playgrounds and other facilities), for which the majority of residents will vote, will be financed from the budget of the rural district (Sarybayev et al. 2021, p. 155-169; Shalbolova et al. 2021, p. 585-597; Lukianov et al. 2020, p. 29-42). The amount of funds allocated for the competitions will be determined by the representative body.

In addition, based on the existing houses of culture, it is planned to organize centers of attraction for residents and social and cultural activities of the village – the “community center” (community center), where you can find libraries, a conference room, conditions

for receiving electronic utilities, as well as other areas of consumer services. This facility should become a place of cooperation (cooperation) of the local community. One of the components of civic education will be to raise awareness among young people about the importance of community initiatives to solve local problems. In addition, it should be possible to introduce leadership elections aimed at encouraging youth participation in local government and informing students about the goals and objectives of local government, the possibility of participation in the development of the region.

The law defines the methods of education and the powers of public meetings, as well as various tools for attracting citizens, including the use of modern approaches and digital technologies. It is also necessary to take into account the importance of online communities as an effective tool for the development of local self-government and increasing the activity of civil society. The implementation of the above measures will ensure successful continuity in the further development of the institute of local self-government, as well as consideration and solution of problems of local self-government at a qualitatively new level. In addition, the document provides for the creation of a collegial local self-government body by transforming the current assembly of the local community with the functions of a representative body at the level of rural districts - *kenes* (Bondarev 2009; Yarotskiy et al. 2021, p. 73-90). The procedure for holding individual meetings of the local community and the number of representatives of the locality, district, street, residential building to participate in the meeting of the local community will be determined by the district *maslikhat* (city of regional significance).

Thus, to expand the powers to gather the local community on the issues of determining the priorities of the development of the local community and the timing of their implementation, to agree on a plan for the development of the local community proposed by the *akim* of a higher rank, changes in the administrative organization, hearing reports of the *akim* of agriculture of the district, as well as initiating before considering the termination of the functions of the *akim* of agriculture of the district (Kemelbekov 2019b, p. 8-12).

Members of the *kenes* are elected by direct universal suffrage at a meeting of the local community for a period of three years from among the citizens of the Republic of Kazakhstan residing in the corresponding administrative-territorial unit. At the same time, the *kenes* can be dissolved at a meeting of the local community. The President of the *Kenes* will be elected by open vote from among the members of the *Kenes* for a term of three years. Subsequently, it is planned to provide for the possibility of online voting using electronic voting technology, through applications or an Internet portal. *Kenes* will adopt laws in force in the relevant territory. The powers of the *Kenes* will include the approval of the development plan of the local community, agreed with the local community, the approval of the budget and control over its implementation. In addition, the *Kenes* regulates the improvement of housing conditions, sanitation, street trade, parties and contests. *kenes* will also be authorized to regulate tax rates and fees, for example, increase or decrease of basic property tax rates, set the zoning coefficient to determine the tax base for property tax. *Kenes* will be able to regulate the salaries of employees of the *akim's* office (local self-government) hired under an employment contract, at the suggestion

of the akim of the rural district. Kenes will also approve tariffs for paid services provided by the local administration.

Thus, the formation of the kenes will become the basis for creating the level of local self-government closest to citizens. The developers note that thanks to the direct election of kenes members, citizens will be able to participate in local political life. Akim in rural areas will serve as the head of the executive body – the department of local self-government, and his position will be directly elected by citizens. Candidates for akims of rural areas will be nominated by political parties, as well as by self-nomination and the establishment of basic qualification requirements – the minimum age of candidates for akims of rural areas is at least 25 years, as well as the availability of higher education. In addition, the law will prescribe the reasons and procedures for initiating early termination of powers by mayors of rural areas, including unsatisfactory results, unethical behavior, etc. The maslikhat of the district (a city of regional significance) has the right to terminate the powers of the akim in rural areas ahead of schedule. A community meeting, and after the formation of a collective body, Kenyans will also be able to proceed with the termination of the powers of the akim before the maslikhat (Zhanuzakova 2006, p. 14-30).

At this stage, the status of akims of rural districts should be assigned to administrative officials. In the future, when introducing direct elections of women from regions and cities of regional significance, it is necessary to consider the issue of assigning Akim rural districts to the category of elected state politicians (Kozhuganova and Menzyuk 2021). In the future, based on a detailed analysis of the results of direct elections in rural districts and, if necessary, adjustments will be made to the electoral process. What are the powers of akims? They will ensure the implementation of kenes decisions and strategic goals at the local level. The main functions of the akim of the rural district will be: regulation of land relations, provision of settlements with water, accounting and organization of assistance to socially vulnerable segments of the population, organization of works on landscaping, lighting, landscaping and improvement of settlements, etc. Subsequently, as a result of functional analysis and decentralization, the powers of the mayors of rural districts will be expanded. He will be responsible for the performance of his duties in kenes (Berentaev 2021, p. 38-47).

The introduction of direct elections of mayors will allow to elect mayors directly by the population. In turn, the elected mayor will be responsible for the work performed by the population. In addition, the assignment of functions to the akim of the rural district aimed at the development of infrastructure and other socially significant life support facilities will have a positive impact on the operational solution of these problems, the concept says. A new executive agency is being created, and a new structure of the executive agency will appear – the Department of Local Authorities. Based on the analysis of foreign experience, a new regulatory and legal form of “local self-government” will be developed instead of the existing akim’s office.

Within the framework of the pilot project, the creation of “local self-government” will be tested, and its regulatory form will allow providing certain services to ensure the life of local communities, including paid services defined by the kenes. Many business processes in the activities of local authorities have been improved to ensure the flexibility, speed

and efficiency of their activities to address local issues. The number of employees of the national (administrative) administration will remain within the number of employees in rural areas. At the same time, due to budget and/or income savings, workers in rural areas can accept additional workers under employment contracts.

The list of employees appointed under the employment contract will be compiled according to the decision, taking into account the needs of production, there will be auxiliary equipment (management) services (programmer, statistician, clerk, archivist, secretary, supervisor, agronomist, driver, mechanic, carpenter, janitor, foreman). In addition, social and financial support measures will be provided (distribution of wages, provision of housing, lump-sum payment upon dismissal, etc.) to attract qualified and experienced workers to local self-government bodies. The responsibilities of the Department of Local Self-Government will include providing akim and important events in the relevant rural areas. With such an organization and logistics of kenes activities, in particular in the preparation of meetings, keeping protocols, collecting signatures of kenes members and others, the functions of the administration will also be performed.

Conclusions

1. The absence of a local holistic model of self-government is recognized as the concept of creating a local self-government institution. To improve the experience, the similarity of the administrative-territorial division and post-social reforms of local self-government were taken into account. One of the most important tasks of modern local self-government in the Republic of Kazakhstan is the formation of its financial base, legality and financial support of local self-government.
2. Without stable and sufficient financial sources, local self-government is inefficient and unviable. It may be associated with a variety of local self-government and broad powers, but they will remain a dead point without taking into account the material, technical and financial base. Until there is a clear distinction between the sources of budget revenues at all levels, the division of budgetary powers, until the legislation determines the principles of formation and use of financial resources, the relations of local self-government with economic entities and financial and credit institutions, however, in the aggregate, the prospects for the development of local self-government in the Republic of Kazakhstan can be assessed positively.
3. According to the results of the pilot project, the implementation of “local self-government” will be considered. As planned, according to the results of the implementation of the concept in the second half of the year from 2021 to 2025, 2,345 akims of cities of regional significance, villages, villages, rural districts will be re-elected. Based on the established standards, comprehensive work will be carried out on the unification and grouping settlements, their redistribution and changing their status, taking into account economic, social and demographic characteristics. Any changes concerning the borders and status of settlements will necessarily be coordinated with the local community.

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