

3. Elliptic // elliptic.com [Электронный ресурс]. - Режим доступа: <https://www.elliptic.com/>. - Дата доступа: 30.04.2021.

4. Walletexplorer // walletexplorer.com [Электронный ресурс]. - Режим доступа: walletexplorer.com. - Дата доступа: 30.04.2021.

5. Закон Республики Беларусь от 06.01.2021 N 85-З "Об изменении кодексов по вопросам уголовной ответственности" // Доступ из СПС «КонсультантПлюс».

6. Уголовно-процессуальный кодекс Республики Беларусь [Электронный ресурс] : Кодекс Республики Беларусь, 24 июня 1999 г. No 295-З : в ред.от 14.04.2021г. // ЭТАЛОН. Законодательство Республики Беларусь / Нац.центр правовой информ. Республики Беларусь. – Минск, 2021.

## CONSTITUTIONAL AND LEGAL FOUNDATIONS OF THE FORMATION OF THE INSTITUTION OF LOCAL SELF- GOVERNMENT IN THE REPUBLIC OF KAZAKHSTAN.

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The history of the formation and development of local representative bodies of the Republic of Kazakhstan began only with the proclamation of Kazakhstan's independence on December 16, 1991, however, without studying the historical roots of their origin, it is impossible to understand the essence and driving leitmotifs that led to the reform of local authorities and the creation of maslikhats in their modern version.[1]

Initially, in Kazakhstan, the ideas of self-government, not representation, receive the greatest embodiment. The roots of self-government among the Kazakhs were formed with the emergence of tribal and tribal communities, as the nomadic lifestyle emerged. Elders and tribal leaders were elected at kurultai. They were authorized to resolve disputes, train and command units of soldiers, and tribal communities enjoyed great

autonomy and weight. If we approach the national history as a whole, it should be noted that the entire history of the Kazakh people is the history of independent administrative units. Each yurt, each aul were in fact independent subjects. The hierarchy of self-government has risen higher - from a large bai to a representative of the ruling elite - the sultan. That is, the chain of local self-government has been expanded and branched.

After Kazakhstan joined Russia in the 1930s, the political institutions of the Russian Empire significantly influenced the system of power in Kazakhstan.

The experience of local self-government, in which Kazakhstan was directly involved in its current spatial limits, can be systematized according to several historical periods, starting with the zemstvo reform of 1864.[2]

The first period (1864-1889) Begins with the introduction of zemstvo institutions by Alexander II and the reform of city administration in 1870 and ends in 1889, when Alexander III introduced the institute of zemstvo chiefs.

An in-depth analysis of the experience of local self-government in Western Europe allowed Russia in the XIX century to decentralize public administration and introduce local government institutions, which also functioned in Kazakhstan, despite repeated attempts to restrict them, until 1918.

Local self-government during this period was divided into three main categories: zemstvo, city and volost. The system of state administration of the municipality worked not only in settlements, but also in nomadic areas and regions of Kazakhstan.

After the abolition of serfdom, provincial and county zemstvo institutions received significant powers in the system of administrative and territorial administration. The zemstvo assemblies became the distribution bodies of the provincial autonomy, whose decisions were controlled by the zemstvo provincial councils and special commissions. The zemstvo administration was in the hands of the nobles and was carried out under the direct control of the governors. His competence included issues of public education, healthcare, charity and guardianship, as well as the management of local roads, trade and industry, the structure of taxes and fees, the costs of maintaining the administration and the court. However, zemstvo bodies have not spread to the vast majority of national regions, including in Kazakhstan, which is largely due to the lack of representative property institutions.

The main legal documents of this period, the regulatory framework for the formation of local self-government in the steppe of Kazakhstan were the "Decree on the transformation of the management of the Kazakhs of the Orenburg and Siberian departments" (1868) and the "Temporary Regulation on management in the Ural, Turgai, Akmola and Semipalatinsk regions" (1868), which elaborated in detail the principles of local self-government of the nomadic population of the regions. At the head of the volosts were the volost leaders, at the head of the halls were the foremen of the village. Since 1868, these positions have been elective. Any resident of the village could be elected at least 25 years old, who had no criminal record and was respected by the people. The administration was elected for a term of three years. The elections were held at the congresses of voters in volosts, and in villages and auls - with the participation of all residents who had the right to vote. One elector from each of the 50 households was sent to the congresses. The elections were held in two stages and were held under the control of the tsarist authorities. The cities were governed by deputies of city societies under the heads of districts, under the control of governors and regional governments, which carried out local self-government in Kazakhstan.

It is also necessary to mention the desire of the peasants to organize public administration bodies in their villages, including the village assembly and the headman. The village assembly was convened by the headman on his own initiative or by order of senior officials of peasant institutions. His competence included issues of land redistribution, division into permanently allocated plots; issues of distribution of all state taxes owed to peasants, state and world monetary receipts and taxes in kind. The assembly could pass sentences to expel people from rural society with the transfer of the latter to state authority.

The second period (1890-1917) is characterized by the strengthening of control over the institutions of local self-government by the state and the subsequent liberalization of local life, especially after the revolution of 1905 and the revolution of February 1917.

It should be noted during this period the development and regulatory support of the reform of local self-government at the level of the municipality by the Provisional Government, which approved on May 21, 1917. "Temporary regulations on the volostzemstvo administration".

The peculiarity of the February-October situation in Kazakhstan was that, unlike central Russia, there was no dual power, but even a triarchy in the person of the provisional government, Soviets and Kazakh committees.

The idea of committees in Kyrgyzstan (Kazakhs) as autonomous national bodies, it emerged shortly before the February Revolution.

In March-April, Kazakhstan committees were established in Verny, Akmolinsk, Semipalatinsk, and Aulie-Ata. According to the calculations of the Kazakh historian, the number of active members of the Kazakh congresses and committees was about 5 thousand people. From a structural point of view, the Kazakh committees were divided into aul, volost, county and regional. At the same time, congresses on a number of issues related to the interests of the Kazakh part of the population often assumed the prerogatives of the supreme power.

Kazakh committees had great powers. Therefore, they interfered in financial matters falling within the competence of the zemstvo councils, in tax relations, establishing their control over the collection and expenditure of amounts received from the Kazakh population, and introducing additional taxes. Kazakh committees actively participated in the organization of Kazakh refugees arriving from China, actively participated in the program of development of public education. They took on the task of creating gymnasiums, mektebas, primary schools, madrasas for Kazakh children, hiring them as teachers. Health problems have not been ignored. The committees supervised hospitals and insurance, medical and charitable institutions created with money received from the population of Kazakhstan. Kazakh committees participated in the organization of aul and volost militia.

Summing up the second period, it can be noted that the Kazakh committees, which assumed many functions to ensure local governance, can be considered as a local executive power in the conditions of the practical collapse of the old form of governance and the inefficiency of the new one.[3]

The third period (1918 - 1989) is notable for the fact that from the first days after October there was a struggle between the central and local authorities, the existing individual elements of local self-government were actively eradicated from life, and in July 1918 the zemstvo and city autonomy were liquidated.

An important legislative act reflecting the problems of the state structure of the republic was the adoption in 1926 of the "Constitution (Basic Law) Kyrgyz Soviet Socialist Republic", in which a whole section was devoted to the organization of public administration. Soviet power on earth. The subjects of the jurisdiction of the local Soviet authorities, the relationship between central and local authorities, the procedure for the

formation of Councils, the procedure for convening and holding congresses of Soviets are determined.

The USSR Constitution of 1936 contained a special chapter - "Local state authorities". It defines the competence of local councils, the main organizational and legal forms of their activities, the types of legal acts adopted by local Councils of People's Deputies, the powers of the executive and administrative authorities of the Councils. The Constitution of the Kazakh SSR of 1937 established that local Councils manage cultural, political and economic development on their territory, form a budget, direct the activities of state bodies subordinate to them, and ensure the protection of public order. contributes to strengthening the country's defense capability, ensures compliance with the law and protection of citizens' rights.

On October 7, 1977, the new Constitution of the USSR was adopted and the constitutions of the Union republics were drawn up on its basis. On April 20, 1978, the Supreme Soviet of the Republic adopted the Constitution of the Kazakh SSR at an extraordinary meeting.

In Kazakhstan, regional, district, city, city, village, rural and aul representative bodies are classified as local councils. They were proclaimed sovereign local bodies that resolved all issues of local importance based on the national interests and interests of citizens living on the territory of the Council and governing the activities of subordinate Councils. Local councils were elected for a term of two and a half years by direct universal suffrage. However, the elections there were indisputable, candidates for deputies were selected by the territorial committees of the party or had to receive their approval.

The laws define the rights and obligations of city councils in the areas of planning, logistics, accounting and reporting, budget and financial work, prices, agriculture, land use, use of natural resources and environmental protection, industry, construction, planning and development. . , roads. construction, transport and communications, housing and communal services, landscaping, trade and public catering, public services, public education, science, cultural and educational work and art, healthcare, physical culture and sports, ensuring the state of law, protection of the state and public order, citizens' rights and labor rights, use of labor and educational resources, social security, protection, etc.

The activity of the councils was based on the principles of legality, discussion and resolution of collective business problems, public and

periodic reports of the bodies created by them, broad participation of citizens in their work.

The councils that make up a single hierarchical system had the right to cancel the decisions of the lower councils that did not comply with the law.

Most of the deputies of local councils exercised their powers voluntarily, without breaking away from their main production or official activities. Only during the sessions or meetings of the bodies to which they were elected, they were exempted from performing production or official functions while maintaining an average income in their main job.

The policy of "perestroika", proclaimed by the April (1985) Plenum of the Central Committee of the CPSU, caused the development of the processes of glasnost and democratization in Soviet society, the liberalization of the political regime, the growth of consciousness of the people. The USSR, which eventually led to a significant reform of its political system. In 1989, the Congress of People's Deputies of the USSR was convened, which marked the gradual transfer of real power from the party organs to the Soviets.

The slogan "All power to the Soviets", voiced during the period of perestroika, reflected not only general democratic requirements, but also "the need for rational transformations of the management system realized by society in order to ensure its social effectiveness and, above all, to establish a rational balance of powers in the entire system of relations between representative and executive bodies of public power."

The fourth period (from 1990 to September 1995) can be characterized as a period of notable attempts to reform local self-government on the principles of decentralization and autonomy. In April 1990, the USSR Law "On the General Principles of Local self-government and local economy in the USSR" was adopted.

Democratic transformations at the central level have led to the realization of the need for changes in the Union republics. On October 25, 1990, the Declaration of State Sovereignty of the Kazakh SSR was adopted.

The Declaration proclaimed the sovereignty of the Republic, its right to independently resolve all issues related to political, economic, social and national-cultural development on its territory, to determine the structure and competence of the authorities and administration of the State. as well as the exercise of the powers of the state according to the principle of its division into legislative, executive and judicial. Thus, he laid the

foundations for the development of a new Constitution of Kazakhstan and legislative acts recognizing its status as a sovereign state.

An important step in the formation and development of representative bodies of the republic was the adoption on February 15, 1991 of the Law of the Kazakh SSR "On local Self-government and local Councils of People's Deputies of the SSR of Kazakhstan". In fact, it was the first official state law that established local self-government in Kazakhstan.

The Law defined local self-government as a self-organization of citizens to solve directly or through their elected bodies all issues related to a given territory and its population on the basis of laws and their own material and financial base. It was established that it is carried out within the boundaries of the village, village, aul, district, city, district in the city.

The system of local self-government consisted of local councils of people's deputies, independent regional public organizations, local referendums, meetings, conferences of citizens and other forms of urgent democracy. Regional, municipal, rural and municipal councils have received bilateral status: local self-government bodies and state authorities. The main provisions of the law were based on the independence and independence of any level of self-government without interference of the higher councils in the competence of the lower councils. This approach was conditioned by the processes of decentralization and democratization of power.

The Law of February 15, 1991 defined the structure of local councils, which formed the basis of the modern model of local representative bodies - maslikhats. The key figure was the Chairman of the Council, who was also the Chairman of the Executive Committee (Article 3 of the Law). At the same time, the Chairman of the Council was fully responsible for the situation on the territory of the Council and its economic and social development.

One of the first steps of the state was its development by specialists of the Head of State's office and the adoption by the Supreme Council of the Republic on January 13, 1992 of the law On amendments and additions to the Law of the Kazakh SSR "On Local Self-Government and Local Councils of People's Deputies of the Kazakh SSR" for the transitional period.

The adoption of the first Constitution of the Republic of Kazakhstan as an independent and sovereign State on January 28, 1993 was an important step in the development of local representative bodies. Chapter 15 of the

Constitution was devoted to the regional organization of State and local self-government.

On December 10, 1993, the law "On Local Representative and Executive Bodies of the Republic of Kazakhstan" was adopted, in which the legislative body for the first time introduced the idea of a permanent terminological turn: "Local representative bodies".

Article 1 of the law states that "the representative body of the population in the territory of the region, district, city (except for the city of district subordination and the district in the city, village, aul, village, aul (rural) district) is the Maslikhat - the Assembly of Deputies"[4].

It was recognized that the meetings of deputies of the Maslikhat will express the will of the population of the regional administrative unit, taking into account the national interest.

Therefore, not only the name of local representative bodies has changed, but also their status. Unlike local councils established at all levels of regional self-government, assemblies of deputies of Maslikhats were elected only in districts, districts and cities of regional and republican significance, as well as in the capital. If, in accordance with the 1991 Law, local councils had a dual status (independent bodies and representative bodies of state power), then deputy assemblies of Maslikhats were actually recognized only by state bodies. If the Councils of People's Deputies formed a unified state system of power and the management of subordination vertically, then the assemblies of Maslikhati deputies acted independently within their powers.

The fifth period of development of local representative bodies of the Republic of Kazakhstan (from September 1995 to the present) began on August 30, 1995 with the adoption by a republican referendum of the new Constitution of the Republic of Kazakhstan, and the eighth section was devoted to issues of local government and self-government. Not only the name of the section of the Constitution has changed, but also the content of its norms, as a result of which the intensive development of draft laws on local self-government and local public administration in the Republic of Kazakhstan has begun. The specifics of the current constitutional regulation of these issues is the systematization of the current legislation in this area.

Summing up the results of the historical and legal analysis of the formation and development of local representative bodies in the mechanism of state power of the Republic of Kazakhstan, the following conclusions can be drawn:

The history of the formation and development of local representative bodies of the Republic of Kazakhstan began with the declaration of independence of Kazakhstan on December 16, 1991, but its historical roots occurred much earlier. But initially, Kazakhstan decriminalized not ideas, but ideas of self-government, their foundations are formed among Kazakhs during the formation of a nomadic lifestyle, as well as during the emergence of tribal and tribal communities.

#### List of literature:

1. Liang L. L. Foreign experience of municipal management. // Bulletin of KazNU Economic Series No. 5(63) 2007
2. Matsupa L. V. Maslikhaty. Constitutional and legal bases of activity // Kostanay, 2006
3. Matsupa L.V. Maslikhaty. Institutionalization: ten years of formation and development// Kostanay, 2004
4. The Law "On Local representative and executive bodies of the Republic of Kazakhstan" of December 10, 1993.