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| **Transformation of law through the eyes of young researchers** |
| **Conference Handout**  **of the Eurasian Summer Law School**  **(06-16 July, 2015)** |
| **Tallinn**  **2015** |
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**Transformation of law through the eyes of young researchers**

Conference Handout

of the Eurasian Summer Law School

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Published by the decision of the Board of the Educational Centre “ABConsult Õppekeskus“.

Transformation of law through the eyes of young researchers: Conference Handout of the Eurasian Summer Law School (06-16 July, 2015) / Editorial board: R. Jansarayeva, K. Ivanov, A. Melikhova, G. Murtazaieva. – Tallinn:  Educational Centre “ABConsult Õppekeskus”, 2015. – 58 p.

The collection includes materials of the scientific conference in the framework of the Eurasian Summer Law School, held in Tallinn (Republic of Estonia), 06-16 July, 2015.

For scientists, professors, post-graduate students.

**ISBN 978-9949-38-658-1 (pdf)**

Articles are published in author's edition.

The editorial board is not responsible for any inaccuracies, arising in the process of publication layout.

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**Problems of legal awareness and legal culture of modern Kazakhstan society**

Problems of legal awareness and legal culture of youth - it is one of the most urgent problems of any society. In his address to the nation President NA Nazarbayev said that "we have laid the foundation of our independent sovereign state. We must patiently to transform the mass consciousness, drawing on the younger generation, which is better adapted to the new system of values, a new look at the future".

The Republic of Kazakhstan's independence has come a long way of formation as an independent, democratic and legal state. Building the rule of law in addition to legal reforms in the country, requires the formation of a full-fledged civil society, one of the characteristic features of which is a high level of legal awareness and legal culture of the population, especially the youth.

Unfortunately, the youth is today one of the most vulnerable people. Young people are often subject to exploitation, fraud, involvement in a criminal environment, are drawn into drug use. And the performance of these negative developments from year to year does not decrease. The crime rate among young people is now the greatest threat to the stability and security of society and the individual. There is such an unfortunate trend as the rejuvenation of crime, increased its group character. The reasons for this are varied. The first priority should be the education of young people a positive view of the law in general. An urgent problem is the youth of legal nihilism. Its essence is to underestimate the importance and role of law and legality, and sometimes ignoring the law.

Legal or legal nihilism, is skeptical and negative attitude to the right until the full of unbelief and its potential to solve social problems as required by social justice, manifested in various forms: from skepticism, disrespect for the value of law as a regulator of social relations, lack of faith in its ability to maintain order in the based on the principle of justice - a complete rejection of its positive values. Various case studies of justice the legal culture of youth show such specific terms as the low level of awareness of the law, expressed skepticism in evaluating the activity of law enforcement agencies, especially the police, and identify gaps in legislation, law enforcement shortcomings and the like.

The level of legal awareness is expressed in the validity or contraventional individual behavior.

The sense of justice recognized the phenomena that make up the legal aspect of the life of society. It covers the process of establishing the rule of law, the implementation of their demands in public life. The second direction is the organization of the educational system of justice among young people, one of the main tasks of which should be a correction and harmonization of the effect of all factors relevant to the formation of legal consciousness of young people, mixing random negative effects to a minimum.

Legal awareness of Kazakhstan people is subject to the general laws of development of social consciousness. It acts as a specific reflection of the economic, political and other relations of Kazakhstan society, the situation of social groups and individuals in the system of social production and the socio-political structure. Significant impact on the justice of the people of Kazakhstan have other forms of social consciousness, especially the political consciousness and morality, as well as social psychology, historical traditions, established way of life, etc.

Thus, the right in the Kazakh society is a system of maintaining the general conditions of human existence and society, its stability and order in relation to the destabilizing effects of retarding development.

In the development of Kazakhstan's society there is a need to cover the general rule repetitive day-to-day acts of production, distribution and exchange of products and make sure that the individual subject to the general conditions of production and exchange. It usually first expressed in the customary becomes law, with whom there are the bodies that abide by it.

This allows us to allocate the right of the core of the Kazakh human values ​​are integrated into a common legal culture and humanity and its constituent peoples. So, how can you determine the legal culture? Naturally, in the scientific literature there is no consensus on this subject. Moreover, we note three things. Firstly, the definition of the legal culture in the literature are 60-80 years., In later periods to this definition hardly addressed. Second, the definition of legal culture are, as a rule, legal scholars, because in the past it was considered axiomatic that legal issues is available only to lawyers; philosophers, sociologists, historians, political scientists there doing nothing. Third, the definition of legal culture quite a bit.

The most well-known definition of legal culture, proposed A.I. Kireyev and S.N. Sergeyev. "Under the legal culture - they write - are invited to understand the system and reified ideal elements, within the scope of law, politics and their reflection in the consciousness, thinking and behavior of people and the people."[[1]](#footnote-1) Very informative and definition in "sociological dictionary", "Legal culture is one of the kinds of culture that characterizes the state of development and application of legal theory, the execution of laws and regulations. A prerequisite was the formation of the legal culture of human rights and responsibilities, which is directly dependent on the economic and political conditions of society is determined by its social structure and the level of general culture".[[2]](#footnote-2)

The legal culture of society is a collection of all the components of the legal superstructure in their actual functioning for progressive development of the social organism by using the legal form of regulation of social relations and the impact on people's minds.[[3]](#footnote-3) Raising the level of legal education and culture of the population, overcoming legal nihilism is an important part of improving the legal culture of society. In the same way, and the problem of the state system are closely linked to an increase in the level of legal culture in the practical, administrative and organizational level. According to scientists, the legal culture can manifest itself in the four main states: ideological and psychological; normative, fixed set of rules of law; behavioral, indicating the nature of legal action; objectified, and fix the results of legal activity. The study of these states legal culture should be done in the context of the evaluation, from the standpoint of different actors. Also important is the degree of manifestation of the legal activity in different population groups in different situations.[[4]](#footnote-4)

From our point of view, in the post-socialist Kazakhstan are starting to be implemented basic values, principles and norms of modern democratic civilized legal systems, creating the conditions for civil and civic self-identification. These principles and norms set forth in the Constitution of the Republic of Kazakhstan,[[5]](#footnote-5) constitutional, civil and other branches of law. The Kazakh society there is a certain degree of subordination of law, his prestige, certain general bedding various estimates, moral and socio-political positions and customs that support or weaken the effect of the political and legal system of the country. This commonality of skills and values ​​related to the approval, evaluation, criticism and implement policies and legal system, can be defined as a common legal culture of the Kazakh society. This legal culture of our society may be more or less developed, and its separate parts can be matched to varying degrees with all the culture of the country. But there are some deviations from the fundamental principles of a common legal culture.[[6]](#footnote-6)

In the socio-psychological level legal culture as the legal system as a whole, it is characterized by the unity of the legal norms and actual behavior of people; matches norms and values; achieving social efficiency of law. Its implementation begins when we study the estimated relationship between the individual citizen of Kazakhstan to the result, the purpose of its activities aimed at changing the legal environment of reality, to the standards, patterns of behavior prescribed by the law, the behavior and activities of others. Estimated reality in the legal culture of Kazakhstan is to "change" the individual, society, law, law, law enforcement, legal, political and legal mechanism of regulation by comparison with the relevant political, legal values.

The educational function of legal culture of Kazakh society is expressed in the formation of Kazakhstani legal personality qualities. The transformation of the legal regulations, the rule of law in the habit, in a natural regulator of the Kazakhstani citizen suggests that they learned personality Kazakhstanis became her inner conviction. The degree of assimilation of the law can be judged by the actual behavior of Kazakhstani citizens in different legal situations. In this sense, the culture of the legal activities of the individual citizen of Kazakhstan has a culture of its behavior in the legal sphere. The person in Kazakhstan should be characterized by a distinct legal orientation, knowledge and understanding of the law. Legal Culture of Kazakhstan society should contribute to the formation of the legal culture of the individual citizen of Kazakhstan, respect for the law. Inherent in the legal culture of Kazakhstan ideals, the rule of law, principles and traditions imply the consolidation of the members of the Kazakhstan society, the concentration of their efforts to meet the challenges of building the rule of law. Legal Culture of Kazakhstan provides a socio-political unity of the people. It allows you not only to legal communication between citizens, but also to regulate their relations in the legal sphere.

Legal Culture of Kazakhstan, thus expresses essentially socio-political communication and interaction of the individual, the state and society, and in his capacity as such an assessment appears as a characteristic of political science of legal culture of the country. Also, legal culture in Kazakhstan essentially acts expression, reflecting both the spirit and content of the functions of law, and the result of the legal policy of the Republic of Kazakhstan, which are based on legal education of the population.

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**Strengthening the role of advocacy in the constitutional rights and freedoms of citizens in the adoption of the new Criminal Procedure Law of the Republic of Kazakhstan**

Decree of the President of the Republic of Kazakhstan 24 August 2009 approved the Concept of Legal Policy of the Republic of Kazakhstan for the period from 2010 to 2020.

Concept determined that the priority of the criminal procedure is further consistent implementation of the fundamental principles of criminal justice to protect human rights and freedoms.

The legal procedure in criminal cases should strictly provide protection against unjustified accusation and conviction, from unlawful restriction of the rights and freedoms of man and citizen. [3]

It should be noted that for the first time lawyers were part of the working group of the interdepartmental and participated actively in the discussion of a number of articles and provisions of the new draft Code of Criminal Procedure, presented today.

But not all offers of the National Bar Association were taken into account in the current October 1 this year, the new edition of the Criminal Procedure Code.

Given the time and format of the presentation at the conference can only be stopped on some of the proposals of practicing lawyers.

1. In particular, it seems to me that in Chapter 2, "The objectives and principles of due process" is necessary to formulate the principle: ensuring the right to counsel. The principle should include not only the participation of the lawyer as a defender of the suspects, accused, defendants, convicted and acquitted, but the right to counsel for victims and witnesses. [5]

This principle will be implemented provisions of the concept of improving the mechanisms for providing qualified legal assistance in criminal matters is not only the defendants and suspects, but the victims and witnesses.

This principle does not repeat or contradict the existing principle of the right to qualified legal assistance (art. 27), but on the contrary, will expand and specify the rights of citizens involved in the orbit of the criminal proceedings, for legal aid.

2. The principle of exemption from the obligation to testify (art. 28) should apply not only to clerics who are not obliged to testify against those who confided in him in the confessional, but also lawyers who are involved in specific criminal cases, it is also necessary to specify in the head 2 of the draft Code of Criminal Procedure.

That Article 28 of the draft Code of Criminal Procedure no. Although, I suppose, an exemption from the obligation to testify advocates for their clients at the level of principle will only enhance the credibility of the lawyers of the citizens and enhance the authority and role of lawyers in criminal proceedings. [4]

3. As one of the principles of the Code of Criminal Procedure is the administration of justice on the basis of equality of the parties (Art. 23), for the implementation of this principle is necessary to give counsel in criminal proceedings on the proposal of the rights of pre-trial investigation body and the court justified reasons, denies the accusations.

Justify such arguments can only be provided if the law provides for the right to a lawyer to get the necessary for a comprehensive, complete and objective investigation of a specific criminal case, information from individuals and legal entities, with different forms of ownership.

Accordingly, the law must be anchored obligation to those individuals and directors of legal persons as soon as possible (no more than 3 working days) to provide an answer to his lawyer handling criminal cases.

A lawyer must be granted the right to an equal footing with the prosecution authorities to identify the evidence on which the facts can be established, refuting suspicions and accusations (Art. 24).

The draft Code of Criminal Procedure is proposed to introduce a new member of the criminal proceedings - the investigating judge.

Of course it will, to a certain extent, improve judicial supervision of pre-trial investigation authorities.

But even the powers of the investigating judge in the proposed wording of Article 55, are limited in the exercise of powers of the lawyers.

Thus, provided that the investigating judge "on a reasoned request counsel considering reclamation of any information." But in this case there is nothing unreasonable restriction "except for information constituting other secrets protected by law."

In other words, even the investigating judge can not obtain the information necessary for a criminal investigation. [3]

The lawyer in criminal proceedings again acts as a supplicant.

If you now, a lawyer turns to the investigators and prosecutors, that the proposed project would be a lawyer, please contact the investigating judge, who also restrict access to certain "information" that is protected by law.

However, no independent work on the collection of information, the lawyer of the CCP to carry out the project does not qualify.

That provision lawyer franchisees gather information and active participation in the provision and examination of evidence is evidence of the implementation of the principle of equality and the adversarial principle.

4. Chapter 9 of the Draft Code of Criminal Procedure Articles 66-70 regulates the main position of the defense in criminal proceedings (of 5 articles).

Separate article regulated mandatory participation of defense counsel, the invitation, appointment, replacing defender and his remuneration, authority defender.

The legal status of the representative of the victim in the draft Criminal Procedure Code combined with the concepts of representative civil plaintiff and private prosecutor and regulated by a single article (Art. 76). [1]

I believe that such a simplified securing rights representative of the victim is not conducive to the full protection of persons affected by the criminal offense.

In order to extend the same principle of equality of arms in criminal proceedings, must be the introduction of the draft Code of Criminal Procedure independent participant of criminal trial - lawyer of the victim.

It is necessary to separate articles regulate: mandatory representation by a lawyer of the victim, his authority, order invitations, appointment, replacement and remuneration of the lawyer of the victim.

5. Draft Code of Criminal Procedure extended the concept of witness and introduced a new concept of a witness, has the right to protection (Art. 78).

In this case, moreover, regulation of the rights of the witness is required to receive qualified legal aid lawyer.

To this end, the draft Criminal Procedure Code necessary to introduce the concept of a lawyer who provides legal advice to the witness.

If the "just a witness" and "a witness, has the right to protection" of their procedural status different then, for clarity realizing citizens involved in criminal proceedings, their rights and duties, it would be more correct to state, and procedural status of independent witnesses articles CCP.

Also, a separate article of the CCP is necessary to determine: the powers of lawyers to provide legal assistance to the witness and the procedure for his invitation, appointment, replacement, payment for his work.

6. Unlawful is to equate the status of the defense of individuals who, along with his lawyer - a professional lawyer who participated in the defense, that is, to the procedural activities, which ensures the rights and legitimate interests of the persons held liable for the commission of criminal acts.

Non-professional lawyers, who have no idea about the procedural nuances of criminal proceedings can not be called champions and must have independent status of persons involved in the protection. [2]

It is necessary to clearly distinguish lawyers - advocates, whom will be entrusted with the main work on protection in criminal proceedings against persons involved in the protection, that is, relatives, and others, on whom a greater extent is the moral support of the accused and the accused.

7. My colleagues who participated in the meetings of the working group have suggested the need to abolish the existing state of affairs in practice for the admission of lawyers to defend for a security classification.

It is obvious that the right to choose a lawyer and an invitation to a particular disturbed by the existence of a system of tolerances.

Any citizen involved in a criminal case is "hushed up" can not exercise his right to invite any lawyer, but must select only those lawyers who are entitled to work with secret documents.

Lawyers were made concrete proposals for possible settlement of this situation that the draft Code of Criminal Procedure are not logged in.

In conclusion, I would ask to pay attention to the following.

For the adoption of measures for the further development of the principle of adversarial prosecution and the defense in criminal proceedings, in view of the revolutionary changes in the legal life of the citizens of our society in connection with the adoption of the new Criminal Procedure Code, a very topical issue of reasonable fair balance between the rights and opportunities of the prosecuting authorities and compliance the rights and freedoms of everyone who would be involved in the criminal proceedings, the protection and promotion of which is entrusted to the legal profession in Kazakhstan.[3]

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**The penalties imposed for criminal offenses and crimes: criminal and penitentiary aspects**

This article discusses issues related to the execution of criminal penalties imposed for criminal offenses and crimes. Particular attention is paid to the new criminal legislation of the Republic of Kazakhstan.

Any society is in constant development. It comes up with new ways to improve the living conditions, improving the smallest details, from which his welfare depends. Solving these problems, mankind has been forced to pay a certain price for their cultivation. Any progress entails various negative aspects, is not possible to avoid that, because everything has it’s price, and does not pay it actually means a step back, which has a detrimental both for one individual, and for society as a whole. The most important achievement is the universal worked out over the years, generally divided into a plurality of sectors. But any right to impossible without certain measures of influence or coercion, and criminal law is not an exception to the rule. The main measure of coercion in the criminal law is the institution of punishment.

The Republic of Kazakhstan carrying out crime-fighting organization uses a variety of educational, economic, spiritual measures are widely public involvement in policing. Particular attention government authorities and the public are paying for the prevention of crimes. Very important tool that uses the state in the fight against crime in the country, is a criminal offense. It is one of the measures of state coercion applied to persons convicted of crimes. The concept of punishment is defined in hours. Part 1 article 39 of the Criminal Code: "Punishment is a measure of state coercion appointed by a court. The penalty applies to a person convicted of a criminal offense and is prescribed by this Code deprivation or restriction of the rights and freedoms of the person."[5]

The doctrine of the punishment (that goal, penalties, the conditions for serving and responsibility for violations related to the penal) there is a mandatory element of the criminal laws of any country. Without it can not function normally the whole criminal justice system as a whole, as in this case, it lost the meaning inherent in it. [3] That punishment terminates the criminal activities of perpetrators of crime and criminal offenses. It affects a certain part of the morally unstable people, forcing them, under penalty not to commit criminal acts. In this regard, the criminal law of the differentiated approach to the implementation of the strictest punishment as a measure of state coercion. [3] V.I. Zubkov said that the purpose of correction should not be put in front of all perpetual punishments (fine, deprivation of military, special or honorary title, class rank and state awards; the death penalty), "With the appointment of these penalties is not the purpose of correction there because due to the nature of the performance Sentences such purpose there should be no". But if for the purpose of correction do not understand the crimes after serving person (execution) of punishment, then this goal can be put in front of all punishment. [2] The Criminal Code of the Republic of Kazakhstan sentencing classified according to Article 40:

1. a person convicted of a criminal offense may be applied following penalties:

1) fine;

2) corrective work;

3) community service;

4) arrest.

2. For a person convicted of a crime, can be used following penalties:

1) fine;

2) corrective work;

3) restriction of freedom;

4) imprisonment;

5) the death penalty.

3. A person convicted of a criminal offense, along with the main punishment may include the following additional penalties:

1) confiscation of property;

2) deprivation of special, military or honorary title, class rank, diplomatic rank, qualification class and state awards;

3) deprivation of the right to occupy certain positions or engage in certain activities;

4) expulsion from the Republic of Kazakhstan a foreigner or a stateless person. [1]

Thus, the criminal punishment - is set criminal law measure of state coercion applied by the court in the judgment to the person guilty of a crime, with the property punishment for their deeds and to express on behalf of the state censure (negative value) of the crime the person has committed a crime. [1]

I want to pay immediate attention to such kinds of punishments as fines and corrective work. In accordance with Article 41 of the Criminal Code of the Republic of Kazakhstan defines the penalty as a monetary penalty to the state, appointed within the limits defined by the Criminal Code, in the amount corresponding to a certain number of monthly calculation indices established by the legislation and current at the time of sentencing or in the amount of wages or other income. [1] For criminal offenses set in a fine ranging from twenty-five to five hundred monthly calculation indices, for crimes - ranging from five hundred to ten thousand monthly calculation indices. Correctional work is to attract the convicted to work at the main place of work with a deduction from his salary to the state income monetary penalty in the amount corresponding to a certain number of monthly calculation indices established by legislation of the Republic of Kazakhstan and the force at the time the criminal offense, and executed by the monthly transfer of twenty to forty percent of earnings (cash allowance) convicted in the state. For criminal offenses correctional labor installed in the range of twenty-five to five hundred monthly calculation indices, for crimes - ranging from five hundred to ten thousand monthly calculation indices. Corrective works shall be appointed persons recognized as disabled who do not have a permanent job or training in educational institutions with job. In the event of circumstances preventing the fulfillment of corrective labor, unfulfilled part of a sentence for a criminal offense, it is replaced by engagement in public works at the rate of one o'clock public works at a monthly calculation index or arrest at the rate of four days in jail for MCI. Execution penalty penal legislation imposes on the court. The court imposes a duty on the convicted person to make the assigned amount of the fine within one month from the date of entry of the verdict. If the convicted person is unable to pay the fine within the specified period, the payment of a fine on his application may be delayed or installments court for a specified period established by law. In the case of non-payment of fines convicted in a timely execution of a sentence of a fine by the court by force, including through repossession of property of the convicted person.

The law provides an indication of liability for willful evasion of payment of the fine. Malicious evasion considered cases where the convicted person deliberately hide their money, property or the payment of any other opportunities, he openly declares refusal to pay. As a kind of penal correctional labor are forced convicts to work for a period specified in the verdict of the court, with deduction in state revenue corresponding part of his earnings (Article 43 of the Criminal Code). This type of sentence can only be assigned as the primary. Corrective works are used in the case where this type of punishment is specifically provided in the sanctions article of the Criminal Code of the Republic of Kazakhstan.[1] Sentenced to correctional labor shall not be deprived of liberty does not come off from the family, the team continues to work in the same workplace, where it is I worked until conviction. Its correction can be achieved in the workplace without isolation from society and the removal from the locality in which he resides. This allows you to monitor the administration of convicted workforce, family members and loved ones. However, remedial work as well as deprivation of liberty, involve certain punitive effects on the convicted person. This means that the process of correcting the convicted person is based on mandatory participation in socially useful work in the same or another organization.

July 3, 2014 the Head of State signed a new Criminal Code, which was introduced with effect from 1 January 2015. One of its distinctive features can be regarded as the implementation of the Concept of Legal Policy of the Republic of Kazakhstan for the period from 2010 to 2020 on the dual-track approach to criminal acts. On the one hand, the provisions of the new Criminal Code provides humanity and minimize penalties for first-time minor offense committed, as well as for vulnerable groups - pregnant women and women with dependent minor children, minors, the elderly.

However, with regard to those responsible for committing grave and especially grave crimes, hiding from criminal prosecution provided tough criminal policy. Moreover, given the current realities to a higher degree of protection of the rights and freedoms of citizens, the security of society and the state was revised well-established approach to the definition of socially dangerous acts.[3]

A criminal offense in the new Code provides for both criminal offenses. This is due to the fact that, taking into account international experience introduced a two-tier system of criminal offenses. It is made up of crime and criminal offenses. Among the offenses are acts and who are on the "junction" of administrative offenses and crimes in the degree of danger to society, but which today includes the Code of Administrative Offences. It fits into the head of state on the principle of "zero" tolerance for disorder, strengthen prevention of serious crime.[3] In general, under the Criminal Code of the Republic of Kazakhstan, acts of assignment to the category of criminal offenses based on their danger to society, as well as the types of penalties imposed for their commission.

On this basis, for criminal offenses, along with other, new Criminal Code provides for punishment in the form of "arrest", which is the main feature of the of the "imprisonment" designated only for committing a crime.

The concept of the new code was provided need to distinguish between crimes and misdemeanors on the criterion is the possibility of imposing a sentence of imprisonment, because this kind of punishment is the most distinct boundary between serious and less serious public danger.

"Same" basic measures and criminal penalties for offenses, and offenses are just fine and correctional labor. Despite this, the fines for the criminal offense are significantly different from the penalties prescribed for the offense. The same applies to correctional labor.

This "broad" scope of punishment is due in no small importance degree of the provisions of the Concept of Legal Policy for 2010-2020, the wider application of criminal penalties not involving deprivation of liberty, as well as the objectives of reducing the "prison" of the population.

For criminal offenses the new Criminal Code provides for a wide range of mild forms of punishment in the first place, community and correctional work, and the minimum period of limitation. [1]

The most significant - a conviction for a criminal offense does not involve a criminal record. Thus, the transfer of certain administrative delicts in criminal matters do not involve criminal record growth in the statistics."

In modern conditions, when the crime rate is steadily increasing with each passing day, the institution of criminal punishment, no doubt, can be considered one of the main methods of struggle against such manifestations of social degradation. State creates a certain sphere of social life, send it to the most appropriate, in his view, the mainstream. It works out the laws that must unquestioningly obey everything - from ordinary citizens to senior government officials directly involved in the creation of these laws. If the delicate balance perfectly functioning system is broken, the State applies a series of measures to recover it. One such measure is a criminal offense as an inevitable consequence of the offense committed by a particular person.[2]

Therefore, we can safely conclude that criminal punishment is a tool in the hands of the state, which acts as a kind of "whip" for the guilty and, at the same time, a kind of "warning signal" for those who are in principle capable of committing a crime. In other words, it is - an important detail in a complex, multi-step mechanism called "Criminal Law."

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**Cruelty to animals: criminal and criminological aspects.**

**Comparative analysis with other countries**

In today's world the problems of the relationship between man and animal has ceased to be arguments about the moral principles of human activity. Opposition to animal cruelty became, in my opinion, one of the important issues and factors of social, political and economic life of the Republic of Kazakhstan, in spite of little attention paid to this issue on the part of the Kazakh society and of the state as a whole.

First of all, the specificity of the problem of cruelty to animals causes patchy information about the facts of the wrongful conduct and at the same time, latent component of this type of crime which is high enough. In Kazakhstan, as well as in foreign countries it rates higher than those officially taken into statistics account. And, if you rely on these statistics, the proportion of crimes against animals in Kazakhstan remains stable. One aspect of the infringement in the case of animal cruelty is the morality of society, and, in my opinion, morals must be the object of criminal law protection, as it is human value which suffers primarily with crimes against animals. [3]

The problem of cruelty to animals is not paid so much time and effort as it should be, especially compared Kazakhstan with other countries where animal rights are protected quite efficiently. Many people underestimate the importance of the moral aspects of the problem of cruelty to animals, and in fact treatment of animals is reflected in the moral and ethical, economic and social aspects of life in any society and affects the feelings and interests of many people. Cruelty to animals forms among offenders a sense of indifference to the livings beings suffering, as well as the seeds of violence and aggression towards the people around them. These actions have an impact on the consciousness of those who commit acts of cruelty to animals and to people who witnesses such acts. It is especially dangerous for young children to witness such acts, as it may impose a negative impact on the rest of their life, as well as affect the attitude of the children to violence in the future. Modern criminology and psychology clearly show the direct connection between cruel acts against animals and violent crimes against people. [1]

An analysis of the scientific and educational literature suggests the general criminological situation troubles related to animal cruelty.

Cruelty to animals is illegal and punishable acts consisting in the ruthless and inhumane treatment of animals hooligan or mercenary motives committed with the use of sadistic methods, or in the presence of minors, and which caused the death or injury of an animal. [1]

Signs of the person committed the offense can be divided as follows:

* By gender perpetrators cruelty to animals, in most cases are men;
* The criterion of age criminal is the most disadvantaged age group of 14 to 17 years. It adolescents in this age make about 40% of all reported crimes. Persons aged 18 to 24 years according to statistics make about 20-25% of these acts. For those aged 25-29 years is characterized by large criminal activity, which is expressed in about 35% of the commission of crimes. The last group consists of citizens aged 30-40 years, makes about 10-15% of the number of offenses recorded crimes [1].

In view of the obvious disadvantage of criminological younger age group in the context of animal cruelty advisable to bring some doctrinal views on the determinants of its criminality. Among these determinants several criminologists call asocial in its various forms and manifestations. So, O.V. Saratov in his study came to the conclusion that a person prone to acts of implementation is in a particular social and psychological distance from the society and its values. [3] R.B. Osokin studying personality perpetrators of the act indicates that among these persons is dominated by a larger percentage of juvenile delinquents who carried out violent or selfish and violent acts prohibited by the Criminal Code, under threat of punishment. These same individuals repeatedly tortured animals, and the cruelty of taking them sustainable and turned into a personality trait that later contributed to the commission of offenses. A.V. Chibizov also notes that "... the future is often the first victims of serial killers are animals". [4]

Based on the general problem of cruelty to animals in the Republic of Kazakhstan, i would like to focus on a special law "On the treatment of animals." as one of the ways to solve this problem. This bill should, in my opinion, provide first general requirements for the treatment of animals and should pay attention to the following points:

* pet owner must take care of their animals and provide them with all necessary living conditions;
* any person who is obliged to refrain from causing suffering to an animal, regardless of its origin;
* the use of animals in scientific experiments or in the educational process is allowed only if there is no possibility of an alternative replacement;
* the use of animals in various activities for profit is permitted only with special permission;
* during animal breeding using genetic engineering techniques is not allowed to change the appearance and nature of animals, in case this may lead to animal suffering.

 Secondly, i consider it necessary in this bill to establish direct prohibitions on improper uses or treatment of animals. More specifically, to make bans on:

* -the use of traumatic methods and techniques in the capture of animals from the cells;
* sports, entertainment events, including fighting animals;
* hunting, trapping and other forms of extraction of wild animals having young animals who are not capable to exist independently;
* carrying out hunting in the form of entertainment, built on the persecution and killing of animals;
* the use of animals with the suffering infliction on them as live bait while training, hunting, trapping them and other forms of wild animals extractions.[2]

As part of the means of specially-criminological prevention and to develop effective measures against crime, interaction between the legislative and executive authorities, local governments, law enforcement agencies and public organizations in the field of animals protection is required. It is necessary to create the Coordination Council for Prevention of Cruelty to Animals in the subjects of the Republic of Kazakhstan. The priority tasks of creation and activity of these councils could, in particular, be the followings:

* to develop measures of counteraction to cruelty to animals; to develop the principles and procedures of interaction between different bodies, institutions and organizations, including the public ones, in terms of sharing necessary information about the relevant facts of unlawful acts against animals;
* to promote international and interregional relations in order to study, analyze and implement best practices for the prevention of cruelty to animals;
* to participate in the preparation of annual reports on the state of animal protection in any region, as well as conferences and seminars on the organization and ensure animal welfare protection;
* to organize regular research on this issue with the appropriate funding. [4]
* In conclusion, I would like to note that the necessary measures of specially-criminological preventive nature, in my opinion, are:
* the organization of preventive conversations with people who are potentially able to commit such crimes;
* active involvement in the process of detecting animal cruelty facts the members of the public who are able to immediately notify the related authorities to take the necessary response measures. [3]

Kazakhstan needs a unified law on animals, it is the law, rather than regulation or rules for the treatment at the local level that each regional administration can formulate and interpret as it is convenient for them. This law must be efficient and effective, according to which every person maltreating defenseless living creature would be justly punished.

First of all, the facts of indifference are unacceptable If a person has witnessed the mistreatment of animals, he must not remain on the sidelines, even morally. Cruelty to animals deserves careful and serious attitude from the part of society in all aspects.

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**Constitutional and legal bases of information security in the Republic of Kazakhstan**

The technological revolution as the basis for globalization, has acquired the characteristics of the socio-politic process, integrating force which has been the development and the transformation of the human, his emotional, intellectual and moral world, its values, interests, and needs motivation. Intellectual and spiritual revolution produces people themselves, transformation basis of production and society. The result is an unprecedented scientific and technological revolution the growing influence of information and communication technologies in the social and political process that emphasizes the relevance of understanding the information aspect of civilization changes in Kazakhstan.

Information is becoming an increasingly important component of the national security of any state. But we should not interpret the information security only in terms control unauthorized admission, etc., as in this case, put the problem only in "negative" wing.

So, what is information security? I would like to give the following definition of this concept: information security - state security information environment, allowing its formation, use and development in the interests of citizens and State. [2]

According to Article 22 of the Law of the Republic of Kazakhstan "On National Security" in the country organizes and strengthen national security system, including public informational resources. Also in this article indicate problems in the field of information security. These include:

* the likelihood of information depending Kazakhstan;
* information expansion and the Siege of other States;
* the information isolation of the President, the Parliament, the Government and the Forces to ensure the security of the Republic of Kazakhstan (Law of the Republic of Kazakhstan dated 26.06.1998, "On National Security").[2] According to Article 4 of the Law of the Republic of Kazakhstan "On information objectives state regulation in the field of information are the formation and development of information infrastructure in the Republic of Kazakhstan taking into account the level of development of the modern world informational technologies and information support for social and economic development of the country. State regulation in the field of information aimed at:
* providing conditions for the formation of the market of information services;
* the development and improvement of the legislation of the Republic of Kazakhstan on informatization;
* the formation and development of the state information resources, information system, information networks, ensuring compatibility and interoperability in a single space of information in the Republic of Kazakhstan;
* implementation of the registration of state information resources and information systems;
* the creation of conditions for the development of electronic document management system, application electronic document and electronic digital signature;
* the formation and implementation of a unified scientific-technical policy in the sphere of information, taking into account the level of development of the global information technology;
* the organization of protection of state information resources and information systems (Legal act of the Republic of Kazakhstan from 08.05.2003 "On information").

Security is closely linked with the notion of stability, immutability, order. However, the information sphere in modern conditions characterized previously unprecedented speed making important processes. And if you use the concept of stability, we can only talk about the stability of the changes. We will not mention the technological progress (the well-known Moore's Law states that processor performance doubles every year and a half), it seems astonishing speed of social change (the emergence of new professions, new communities). It is easy to note the impact of changes even in the language - at least remember the virtual reality. Indeed, modern information technologies overturn the world. [3]

And, very importantly, the processes in the sphere of information are often the catalyst for other social processes. Therefore, the information sphere is a kind of natural training ground for finding and developing new techniques and methods, including in the sphere of national security. Herein lays the danger for the further development of society: foundation in information security can be used for the benefit and detriment.

Ensuring protection of national interests of the individual, society and the state from threats in the information sphere and the purpose of the information security. It must be emphasized that this is the order of the objects provision security - individual, society and the state - is a principal.

Now the world is a project of the Global Information Infrastructure, part of which should be implemented in each country, building projects national information infrastructure. In the next few years, with the launch by a new generation of systems satellite, the realization of other ambitious projects in the field of telecommunications, radically change the situation in this area. In fact, it is about creating a global information and telecommunication systems, which, figuratively speaking, will play the role of the nervous system of the new world order. Today's Internet is very remotely possible illustrate the situation that will arise in the coming years. [4]

In modern conditions, has not lost relevance and the traditional problem of protecting information, including part of the state and other statutory forms of mystery. In recent year serious steps aimed at adapting this institution to modern conditions. Public relations in this field are regulated by the Republic Kazakhstan "On State Secrets" from 15.03.1999, the In accordance with Article 9 of the Law Committee of National Security of the Republic of Kazakhstan and its agencies:

* develop and implement measures to counter-intelligence protection of information considering state secrets in the state bodies and organizations, as well as controls their activities in this area;
* a special check made out citizens of the Republic of Kazakhstan (restructured) for access to information constituting state secrets;
* licensed activities related to the development, production, repair and sale of cryptographic information protection, special technical means for making special search operations;
* organizing the technical certification, including cryptographic protection are united constituting state secrets;
* issued in the established order permission for works using are united constituting state secrets;
* identify, prevent, disclose and investigate crimes related to violation of legislation the Republic of Kazakhstan on state secrets (Law of the Republic of Kazakhstan dated 15.03.1999, "On State Secrets" as amended on 16.03.2001).

Equally important and dangerous are the threats related to the Internet, including legal unsettled many of the problems associated with the development of this information system. [5]

The study of such phenomena as information warfare, information security, informational space; use of information and communication technologies in the context of the changes of social and political attitudes of Kazakhstanis as the citizens of the former Soviet Union is not only relevant and important area of ​​research political, but the fundamental challenge for lawyers.

Effective use of technology for shaping public opinion, reasonable limited (legal and moral) in the form of giving certain types of information, the real definition of emphasis in the economic and social agenda in the context of the gain in terms of freedom of speech the role of modern mass media will allow, in our opinion, creating common mechanisms of formation of a single information space of Kazakhstan. This will also contribute to the creation of a single system and information security, as modern consciousness Kazakhstanis at all levels are exposed to a range of threats, the inability stay against which leads to destabilization of the entire state.[1]

With the transition from an industrial society to an information and relevant development of information technology, considerable attention is paid to the newest types of so-called "humane weapon" ("non-lethal weapons and techniques of war"). These include information, psychotropic, economic, weapons and so on. A special place among them is the information technology weapons and information warfare.

The difference between the types of technology and "non-lethal weapons" from conventional military weapons lies in the fact that it focuses on the use of algorithms and technologies, concentrating a basic understanding aimed at the defeat of the enemy. Information warfare, in fact, a war of civilizations impersonate for survival in an ever-dwindling resources. Information weapons shocked the conscience of man, destroys the ways and forms of identity in relation to fixed communities, it transforms individual memory array, creating a personality with preset parameters (type of consciousness, artificial needs, forms of self-determination, etc.) satisfying the requirements of the aggressor, it disables control system enemy state and its armed forces. It is proved that the greatest losses of the armed forces are used against them "non-violent" information weapons and, above all, against damaging elements, acting on the control system and the human psyche. Information and weapons affects the "ideal" objects (sign systems) or physical media. Currently, there is a global information and cultural and information-ideological expansion of the West, carried out by global telecommunication networks (eg, Internet) and through the media. Many countries are forced to take special measures to protect their fellow citizens, their culture, traditions and spiritual values ​​of alien informational influence.

There is a need to protect national information resources and conservation confidentional information exchange on global open networks, since this soil occur political and economic confrontation of new crises in international relations. Therefore, information security, information warfare and weapons informational now find themselves in the limelight. The destruction, mutilation or theft of information files; disorganization of the work of the technical means computer systems; computer viruses that can multiply implemented in programs transmitted via communication lines, data networks, disable control, etc .; logic bombs - software embedded devices that are pre-embedded in the information and control centres of military or civilian infrastructure to the signal or made time to bring them into action; suppressant telecommunication information exchange networks, falsification of information in the channels of state and military control; various kinds of errors deliberately introduced an opponent in the software of the object - that is what is dangerous information weapons. Versatility, stealth, multi-variant forms of software and hardware implementation, a radical impact, adequate timing and application finally make efficiency information weapon is extremely dangerous: it is easily masked by means of protection, such as intellectual property; It even allows you to conduct offensive operations anonymously without declaring war.[6]

The normal life of the social organism entirely determined by the level develepment, quality of operation and safety of the information environment. Production and management, defence and telecommunications, transport and energy, finance, science and education, the media - it all depends on the intensity of the exchange of information, completeness, timeliness, reliability of the information. That is the information infrastructure of society - the target informational weapons. But first and foremost a new weapon aimed at the armed forces, defence companies complex structures responsible for internal and external security of the country. The high degree of centralization of governance structures of Russian economics can lead to disastrous consequences as a result of information aggression. The rate of improvement of information warfare (as indeed, any kind of attacks by armed) exceeds the rate of development of security technologies. Therefore, the task of neutralizing the information weapon, with the threat of its use should be considered as one of the priorities in the national security of the country. Currently around the world is the issue of protection of national information resources in connection with the expansion of access to them through opening information networks such as Internet. Besides the fact that an increasing number of widely computer crimes became a real threat to information attacks at a higher level in order to achieve political and economic goals.

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**The judicial system in the Republic of Kazakhstan**

It is truly understand that one of the most important elements of state sovereignty is the state's foreign policy. Foreign policy - is the person of the state. It should be independent and be in the state capital. Foreign policy doctrine and foreign policy are determined by the country's head of state. "Foreign policy - a policy of the President", - said Nursultan Nazarbaev.

The law enforcement system of Kazakhstan the courts have a special position. They are organs of justice administration and have expertise relevant to the status of an independent branch of government.

Court - an organ of the state, to administer justice in the form of resolution of criminal, civil and administrative cases established by the laws of the state judicial order. In modern countries, the activities of vessels is aimed at ensuring constitutional principles, protect the legitimate rights and interests of citizens and organizations.

The system of government the judiciary is the main balancing mechanism to effectively guide the action of the legislative and executive power in the legal framework.

The court among other public authorities occupies a special place. Only the Court decision could put an end to the dispute the plaintiff and defendant, only the court can recognize a person guilty of a crime. Court implements the right of citizens to appeal the actions of officials, hears about certain types of administrative offenses. No other authority is not competent to perform these tasks.

The new Constitution of the Republic of Kazakhstan adopted in a national referendum, under the principle of separation of powers idea of ​​separating the judiciary from the legislative and executive found expression in strict isolation.

Separation of powers means that each government has the monopoly on its functions and can not perform the functions of other authorities [1].

The Constitution provides that justice is a special kind of state activity, self-government functions performed pursuant to laws which shall be entitled to only specifically for this purpose bodies - the courts. Transfer of functions to other bodies of justice unconstitutional and invalid. That is, in Kazakhstan there is no and there should be no other than the courts, the state or public authorities, which would have the right to hear and determine civil, criminal and other cases.

The Supreme Court of the Republic of Kazakhstan is the highest judicial body for civil, criminal and other cases which are under the courts of general jurisdiction, as stipulated by the law implementing the procedural forms supervision over their activities and provide explanations on issues of judicial practice.

The local courts are:

- Regional and equated courts (municipal court of the capital of the republic, municipal courts of the cities of national significance, specialized court - Military Court of the Republic of Kazakhstan, specialized financial courts and others);

- Regional and equated courts (city, interdistrict, specialized court - the military court of the garrison, and others). The Republic of Kazakhstan may establish specialized courts (military, financial, economic, administrative, juvenile, etc.).

The unity of the judicial system of the Republic of Kazakhstan is ensured by:

- Common and uniform for all courts and judges in the principles of justice established by the Constitution, the present Constitutional Law, procedural and other laws;

- The exercise of judicial power in common to all forms of judicial courts established by law;

- The use of the law in all courts of the Republic of Kazakhstan;

- Legislative embodiment of a single status of judges;

- Mandatory execution throughout the territory of Kazakhstan have entered into force court acts;

financing of all courts only from the national budget. [2]

Constitution in respect of the post of judge establishes the following criteria:

- The achievement of twenty-five years of age;

- The existence of higher legal education;

- Availability of work experience in the legal profession for at least two years;

- Qualification exam.

The Constitution was amended procedure for the formation of courts of the Republic of Kazakhstan. The Decree of the President of the Republic of Kazakhstan having the force of Constitutional Law "On Courts and Status of Judges in the Republic of Kazakhstan" dated December 20, 1995. Constitution has been defined the status of two new subsidiary bodies established in order to build an independent and independent branch of the government. Thus, in forming the composition of the judicial big role to the High Judicial Council and the Qualification Collegium of Justice.

Under the Constitution, the judiciary is intended to protect the rights, freedoms and legitimate interests of citizens and organizations, ensuring compliance with the Constitution, laws, other regulatory legal acts, international treaties of the Republic. The judicial Power shall extend to all cases and disputes arising on the basis of the Constitution, laws, other regulatory legal acts, international treaties of the Republic.

According to article 78 of the Constitution "The courts are not entitled to apply laws and other regulatory legal acts infringing on the Constitution enshrined the rights and freedoms of man and citizen. If the court finds that a law or other regulatory legal act subject to application infringes the Constitution enshrined the rights and freedoms of man and citizen it shall suspend legal proceedings and address the Constitutional Council with a proposal to declare that law unconstitutional. "

The Constitution of the Republic of Kazakhstan prohibits the establishment of special and extraordinary courts under whatever name.

The legislation allows for the implementation of specialized courts and the creation of specialized courts for this purpose. Specialized courts may be set up on economic, tax, family, administrative, labor affairs, juvenile, and so on. D. If there are established specialized courts, they will have the status of a district (city) court.

The district (city) court formed by the President of the Republic on the proposal of the authorized body, agreed with the President of the Supreme Court. District (city) court shall consist of a chairman and permanent judges. The total number of judges of district (city) courts established by the President.

The district (city) court: 1) consider in the first instance all cases, except in cases referred by law to the jurisdiction of other courts; 2) conducts and analyzes judicial statistics; 3) exercise other powers granted to him by law. Chairman of the district court is endowed with certain powers. It hears cases on the first instance, accept citizens organize the work on the study of jurisprudence, and so on. D.

The regional and equated courts are formed, reorganized and abolished by the President of the Republic for each area. The total number of judges for each of the regional court also establishes the President. The Regional Court consists of a president, chairmen of boards and permanent judges. The bodies of the regional court are: Civil Division; the Criminal Division; the supervisory board and the plenary session of the court. [3]

The Regional Court has the authority to: 1) consider within the powers of the case as a court of first instance, in appeal (cassation), and the supervisory review of newly discovered circumstances; 2) supervises the activities of the courts administrator area; 3) conducts and analyzes judicial statistics, studies and summarizes judicial practice, and so on. D.

College Regional Court considered within its authority cases as courts of first instance, in appeal (cassation) procedure and the newly discovered circumstances.

On the territory of the Republic of Kazakhstan formed the Military Court of the Republic of Kazakhstan, military courts associations (armies compounds garrisons). The total number of military judges established by the President. The Military Court of association shall be composed of the Chairman of the Court and judges of the military court. Military Court hears cases of association referred to it by the law, analyzes judicial statistics.

The Supreme Court of the Republic of Kazakhstan crowns the entire judicial system. The Supreme Court is the highest judicial body for civil, commercial, criminal and other cases under the jurisdiction of the lower courts. The Supreme Court shall have the following powers:

- Considering lawsuits related to its jurisdiction;

- Examines the supervisory procedure and the newly discovered circumstances all cases dealt with by the lower courts;

- Examines and generalizes the practice of application of laws and other regulations;

- Issue regulatory decisions, the courts give explanations on issues of judicial practice;

- Develop proposals for the improvement of laws and other normative legal acts, and so on. D.

The total number of judges of the Supreme Court established by the President. The bodies of the Supreme Court are: The supervisory board of the Plenum, Collegium on civil cases, Collegium on criminal cases.

Collegium of the Supreme Court considered the case on the court of first instance, in appeal (cassation), and the supervisory review and newly discovered circumstances. Collegium of the President of the Supreme Court make suggestions and materials to give the Plenary of the Supreme Court for clarification on the issues of judicial practice. [4]

The unity of the judicial system of the republic is provided:

1) the constitutional principles of justice;

2) the implementation of the judiciary in proceedings prescribed by the law;

3) the application of a single law courts;

4) procedure of formation of courts;

5) The system of enforcement of a final judicial decisions throughout the territory of the republic;

6) financing all the courts at the expense of the republican budget.

Judicial decisions and requirements of judges in the exercise of their powers are binding on all state authorities and their officials, natural and legal persons. Failure to comply with court decisions and requirements of the judges entails liability under the law.

In accordance with the principle of separation of powers, the appointment of the judiciary - is the protection of rights, freedoms and legitimate interests of citizens, state bodies, organizations, enforcement of the Constitution, laws, other regulations, international agreements of the RK.

Specific features of the judiciary consists in the fact that it is carried out only by special state bodies - the courts, through the consideration in court proceedings in civil, criminal and other cases prescribed by law in order Procedure [5].

The primary function of the courts is the function of justice.

Justice - kind of state activity, carried out by a court to hear and determine civil and criminal cases in the order, ensuring legality, validity, fairness and universal validity of judgments. The judiciary and justice based on democratic principles, which are enshrined in the Constitution and the law on courts and status of judges basic provisions governing ideas that define the nature and content of the organization and order of the courts in administering justice.

Judicial power in the power granted by the Constitution of the Republic of Kazakhstan.

Ships powers designed to influence the decisions of the legislative and executive powers, interacting with them through a system of checks and balances. With this status, the court granted by law to the general jurisdiction in the resolution of questions of law and fact. [6]

Relying on the provisions of the Constitution of the Republic, the KA Kazahstan1995 Mami highlights the following main features of the judiciary:

The first sign - is the power of a single branch of the government, the constitutionally enshrined. In this regard, not exactly determine its view of government activities, because many state bodies perform activities that do not quite fit into the nature of the branches of government (eg, the Constitutional Council, Prosecutor).

The second feature - belonging judiciary only special state bodies - the courts, established in the manner prescribed by the Constitution.

The third feature - the independence of the judiciary, which offers its organizational, functional and financial independence, manifested, in turn, the creation of special state bodies formed in the manner prescribed by the Constitution; staged before the courts of their own goals and objectives and the vesting of their own competence, as well as a separate funding from the state budget.

The independence of this power is not its subordination to other government authorities: the President of the Republic of Kazakhstan, the Parliament of the Republic of Kazakhstan, the Government of the Republic of Kazakhstan. At the same time there is no absolute, complete independence of the courts, as they have to comply with the requirements of the Constitution of the Republic of Kazakhstan and other legislative acts. The illegal decision of the court can only undo the court and other institutions do not have this right.

Fourth sign - is the implementation of the judiciary on behalf of the state: the announcement of the verdict and other decisions of the courts on behalf of the Republic of Kazakhstan (para. 1, Art. 76 of the Constitution of the Republic of Kazakhstan).

Fifth sign - the administration of justice, ie, activities related to the consideration of legal disputes and cases.

The sixth feature - the spread of the power only to such cases and disputes arising on the basis of the Constitution, laws, other regulatory legal acts, international treaties of the Republic. The Court did not consider and resolve conflicts related to violation of the norms of morality, religion, ethics, and so forth.

Seventh sign - typical of this government in the activities, ie, Procedure (civil proceedings, the prosecution and defense participate in the process).

The eighth feature - a human rights nature of the authority, in whose activity in this connection would stand out as the two aspects: the rule of law and the law in general, as well as the protection of the rights, freedoms and legitimate interests of citizens and organizations.

Nine grounds - to ensure its decisions coercive power of the state.

In view of the above, the judiciary is determined - as an independent branch of the unified state power established by the Constitution, sold on behalf of the state courts as special state bodies established by the order stipulated by the Constitution, by law vested with competence to resolve legal disputes and cases, and perform other tasks assigned to them in to protect the rights, freedoms and legitimate interests of citizens, the State and organizations working in the special procedural forms, which have the power to issue binding decisions on the whole territory of the State provided its coercive power.

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**Features tactics crime scene investigation**

Inspection of the scene allows you to set a number of important factors: the nature of the test event, whether it contains elements of a crime; where the offense is committed - on-site inspection or in some other place; when the events under investigation occurred; who took part in it, what features and what put the actions of each of the participants; What are the goals and motives of their actions; what subjects, parts, material left them on the spot or taken away (turned out to be, for example, on the body, clothes); how the person entered the scene and left it; how long they were on the scene; what technical (eg, transportation) funds were used; who could observe the event and where; what actions were taken to conceal the traces of real events, or staging an event; which contributed to the onset of harmful consequences of the crime, and others.

Investigation crime scene examination can be divided into three stages: preparation, work and final. This division into stages inspection without disrupting the unity of the investigative procedure, ensures the implementation of the general provisions of tactics inspection. Completeness, objectivity, methodical and other general tactical situation can be realized only if the work of the investigator will be clearly organized, if the examination of the problem will be solved them in a certain order, in strict sequence. The sense of separation crime scene on stage is thus to systematize actions of the investigator at the scene, to establish their sequence, provides quality inspection.

Systematics actions of the investigator at the scene, the definition of the circle of these actions are also needed to ensure compliance with the investigator in the production of all inspection requirements related to this investigation. It should be noted also that the most appropriate and effective use of forensic methods and means of detection, recording and examination of evidence at the scene becomes possible only when the time will be determined and the conditions for their use, ie when ordering and organizing actions of the investigator.[5]

The division inspection of the scene for the preparatory, work and final stage based on the fact that the actions of an investigator in the course of the inspection are heterogeneous, although all of them are aimed at achieving the common goal of inspection.

Professional readiness of the investigator to the production inspection requires a solid theoretical knowledge and practical skills to operate during the investigation. The greater the volume of knowledge, techniques, resources owned by the investigator, the more guarantees the success of the survey. However, on their own knowledge and skills do not guarantee success in the work of the investigator. It is necessary to their creative application in the inspection, the constant search for new methods of work.

Professional readiness also includes psychological preparation of the investigator to the production of inspection, that is, the willingness peacefully and creatively work in the most difficult conditions and unpleasant circumstances, ably led by persons who will assist him in carrying out the inspection.

Professional readiness and provides a good knowledge of the territory served by the investigator, dislocation of settlements, enterprises, institutions and organizations, communication centers and means of communication, health centers. This will help him maps and charts of the city (district), lists of institutions, enterprises and organizations with their addresses and phone numbers, timetables of all modes of transport, the information on the state of roads at different times of the year.

Inspection of the scene lasts sometimes for hours under the most unfavorable conditions. Therefore, the investigator must also have personal equipment for the appropriate time of year and weather conditions.

The preparatory phase consists of the activities carried out before leaving the scene and carried out after the arrival of the specified area of land or premises.[2]

The investigator typically receives the initial information about the incident from the staff duty units or other units of inquiry. When you receive a message, you need to find out from whom it was obtained, what is the alleged offense, where and when it occurred. In cases where as a result of the incident harmed the health of people, it turns out, they provided medical care. If such assistance is not provided, provides guidance on the delivery of the doctors on the scene and transported the victims to hospitals. It is also necessary to find out whether the known perpetrator, and where they are now. If the named person fled the scene, provides guidance on their wanted list.

In situations where these subjects are unknown, but there are data on the basis of their appearance, which is damaged, the direction of travel, it is advisable to entrust the bodies of inquiry hot pursuit, blocking and combing the areas adjacent to the scene. When the perpetrator hiding by public transport or otherwise, must be the production of special prohibitive measures for the implementation of which should involve employees of various departments of the Interior.

Further details are clarified the circumstances of the incident, traces of which are on the scene, whether it is protected and where the participants are located.

If necessary, an indication is given on the protection of the scene, removed from its territory of foreign and securing existing tracks.

In order to establish the circumstances and witnesses of the events staff of the inquiry may be entrusted the production of polls in the homestead, door-rounds, special search operations. In general, the best option is leaving the scene employees of agencies of inquiry and holding them before the arrival of the investigator listed preparations.

An important prerequisite for efficiency and quality of the preliminary investigation as a whole and in particular investigation is to organize proper interaction between investigators and bodies of inquiry.

Especially brightly it appears when viewed from the scene. In fact, well-organized inspection is not some separate actions of the investigator and the tactical operation.

Tactical mission can be defined as a single on the objectives and the overall objectives of subordinate coordinated system of investigation, investigative, operational-search and other actions aimed at achieving the truth in the case. Thus, the investigator should not act in isolation, and in view of the police personnel conducted search operations, and therefore the role of the interaction between the parties.

An important role in solving crimes belongs investigative leads. Construction of versions and actions on their checks are carried out by the investigator as in the inspection of the scene, and after its completion. Already during the inspection of unconfirmed version disappear and are replaced by new ones, need to be tested.

When viewed from the scene may be made not only general (including typical) version explaining the offense as a whole, but also private, aimed at establishing a motive, goals, instruments of crime, identity of the offender, the circumstances that contributed to the commission of a crime, and other important establish the truth of the facts.[3]

In contrast, each version it is advisable to nominate and kontrversiyu that will avoid unilateral actions to solve the crime, the dangers of enthusiasm one seeming the most likely, and at the same time a false explanation of events. So, if the investigator examines the place of theft from a store or warehouse, the version of the crime by outsiders must confront version of the staging of theft financially responsible person.

A variety of private investigation is the investigative versions, put forward in the cases when it is required to find the disappeared famous criminal, as well as other objects are hoarding (the body, wealth, etc..). Search version, the subject of which is the investigator, it is necessary to distinguish between operational and investigative nominated operatives body of inquiry.

In the future, the investigator takes measures to establish the investigation group. In the circumstances, it may include: forensic expert, a forensic physician or a specialist, operative officer of the criminal investigation department, the operative employee of the department for combating economic crime, employee traffic police, district police officer, canine, and other law enforcement officers (the public prosecutor, the head law-enforcement body). If the scene is in a secluded spot, the investigator should take with you and witnesses.

To the formation of the investigation group occurred in a short time, the investigator must always be at the lists, addresses and telephone numbers of persons who may be called to participate in the inspection of the scene. Many law enforcement investigator on duty and authority are pre-prepared lists of surnames investigative team for traveling to the scene defined categories of crimes: thefts, robberies and robberies, murders, arson, traffic accidents, etc.. It facilitates and accelerates the formation of investigative team and a positive impact on the investigation, as included in these groups persons with experience in solving crimes of this type.

Tactics investigative inspection depends on the specific circumstances of the event varies depending on the investigation of certain types of crimes.

The most widely used tactics are working step inspection of the scene.

The content of the working stage of examination of the scene - the direct study of the objects of inspection. If the actions of an investigator at the preparatory stage are mainly institutional in nature, the working stage, they acquire the character of research.

There are three main tactical situation relating to the investigation examined: ubiquitous concrete consistently and systematically.

In relation to spatial crime scene characterized by tactics such as inspection from the center to the periphery and from the periphery to the center. At the same time the center of the scene is considered the most important objects related to the crime event, for example, the body, the place of breaking, the seat of fire.

Line inspection is to survey the scene sections in straight lines from edge to edge.

When viewed from the hub alternately individual nodes examined the scene. So, if the apartment is found dead human inspection is performed on the following sites: the entrance to the staircase, stairs, staircase, entrance door from the outside and the inside, a corridor, a room where the corpse Draw directly corpse, the other rooms of the apartment, including utility. Go to the following site inspection is carried out only after the previous survey with all facilities located there.[4]

Vast areas of land it is advisable to inspect the indefinite form of pre-scheduled sectors or squares, as well as moving in zigzags.

The planned inspection involves a systematic, thorough and complete examination of all the relevant event facilities, science-based inspection methods striping, all parties commit progress and results of the investigation.

Work stage examination of the scene is made up of general and detailed inspections. General examination begins with inspection of the scene in order to:

* Orientation;
* Address the issue of the starting point and the way the inspection;
* Select the position for the production of orienting and review the implementation of its photography and to changes in the environment scene.
* Each stage has its own inspection objectives and is implemented using a variety of tactics.

Work stage inspection of the scene in the tactical plan can be divided into three phases: visibility, static and dynamic.

Choosing a starting point in many respects determines the method of inspection of the scene as a whole. The most common methods of inspection:

Eccentric method involves examination beginning from the center of the scene to the periphery of the helix unwinding. This method is most expedient if the scene explicit Center, which focused on the most important tracks (the corpse, crack a safe, and so on. D.). The investigator, examining the central node and moving away as indicated above, continue inspection and gradually approaching the borders of the scene.

Concentric method is to reverse (with respect to the eccentric) inspection process, starting from the periphery to the center of the scene on the tapered spiral. This method is appropriate to apply when the scene does not have a clearly defined center, and traces of the crime are located in all areas of the scene, including its borders (found here traces of the offender leaving the scene can be used for parallel examination of the operational-search measures for its persecution). Concentric method is preferred, and when the periphery of the scene traces, which by virtue of meteorological conditions may disappear, and the center of the scene, while a clear and defined, but is protected from the weather.

Linear (front) method is a major inspection (by extension) terrain in the linear direction (from one boundary adopted for the original to another). Said linear trends may not be as when a large area scene is divided into strips. Thus bandwidth is determined in such a way that the investigator, moving along the strip centerline, could view the whole strip. Several bands are usually released on the ground accidents. Inspection may be subject to one lane and occupying the road (highway) when a traffic accident.

Nodal method - the most combined and a fairly common way to inspection, including the components of the subjective, objective, static and dynamic methods. Of course, it is applicable where the scene can be identified corresponding nodes. This method can be selected and applied immediately after the general perception of the situation and highlight the scene it hosts. The subsequent part of the total whole expedient to carry out a detailed inspection of selected sites at the scene. In the course of its implementation, each node generally subjected to a general inspection and fixing. At the same time determined by the nature of the objects (tracks) in a node, their appearance, relative positions and their relationship with the original static state. Then, a detailed examination of objects and tracks within the assembly dynamic process comprising a thorough inspection of the entire site is in order to identify its characteristics, individual attributes and so on. F. To the application of the method of inspection is not compromised node sequence study the situation in the whole scene and its components, it is necessary to inspect the selected nodes are not randomly, but by clearly laid out sys- tem based on the degree of importance of the nodes, the nature of their information and territorial connection, a certain sequence of criminal events, topographical proximity and others. This method is, in practice, with a professional its application is best ensures the completeness, objectivity and methodical examination.[5]

For all methods of examination should pay attention to the presence in the atmosphere of the scene of negative circumstances, which are defined as any evidence contrary to the objective representation of the situation course of things. For example, entering the room where he kept the value of the enterprise, according to the initial situation looming, made by sawing the bow door lock room. However, near the place of sawing metal filings were found. A detailed examination of the castle on the spot it was found that sawing bow made at the open lock. This allows to conclude that the theft was staged in order to conceal the theft of an officer.

Standing rules for the application of a method does not exist. When choosing a method takes into account the specific circumstances. Thus, inspection is usually recommended to make room from the entrance to it, ie, concentric manner. Visit the open countryside it is advisable to conduct from the center to the periphery (eccentric method), as is sometimes difficult at the beginning of the inspection to determine the boundaries of the crime scene, the front viewing any way, when the territory is very extensive and can be divided into strips.

Identified adverse circumstances must be described: the protocol inspection and fix using photography, video, or by making impressions, reflections on the scheme, etc.

The final stage of examination of the scene with the cost of measures to preserve material evidence, the removal of which is not possible, the packaging of seized objects, the end of the preparation of plans and schemes inspected the crime scene and of the report of the investigative procedure, as detailed in considering the general provisions of the investigative tactics inspection.

The final stage of a general summary inspection revealed that it was missing, is not covered by inspection. If necessary, these shortcomings are eliminated.[6]

And finally, the last tactical recommendations to the final stage examination of the scene, if there is an opportunity to save some time scene without changes, then surely it should be used by, for example, sealing apartments, office space and so on. D., where took place the events under investigation (which, naturally, should be reflected in the minutes of the inspection). This will allow the most efficient repeated or additional examination of the scene, prevent the introduction of completely natural otherwise changes in the situation of the accident.

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**Sources of Muslim** **law**

As we know from the course theory of law, the Koran - the unshakable foundation of Islamic law, its undisputed and the main source. This is the main holy book of Muslims, which collected various sermons, ritual and legal establishment, prayers, edifying stories and parables, "in the hope that people come to their senses and correct", uttered by the Prophet Muhammad in Mecca and Medina, which in turn had informed him Allah[[7]](#footnote-7). Verses of the Quran is divided into muhkamat - indisputable, unequivocal and mutashbihat - poems, which are interpreted in different ways[[8]](#footnote-8). In Islamic law, there are problems associated with the interpretation of certain verses of the Quran: 1) the number of Muslim legal scholars believe that judicial decisions can not be invoked in the verses that can be interpreted in different ways; 2) the interpretation of the Koran, there are three approaches: - a literal interpretation of when the hidden meaning in the text is not allowed (ahl al-Zahir); - Interpretation of the search for the secret, hidden meaning in the verses of the Quran (ahl al-Batan); - When a conflict in the Qur'an and Sunnah primacy given to reason, instead of writing (rationalists); 3) there are two attitudes to the Koran: a) in the traditional sense of the Koran - is the eternal word of God and direct; b) according to the position of the Mu'tazilites, the Koran - creation and the eternal Word of God, ie, We must take the possibility that God can create it again[[9]](#footnote-9).

The second source of Islamic law is the Sunnah of the Prophet (Hadith compilation). In the case where in the Quran does not answer certain questions at issue, refer to the Sunnah (the traditions of the behavior, actions, thinking and actions of the Prophet Muhammad). Sunnah evolved over several centuries (VII to IX centuries.). Like the Quran, Sunnah contains rules of moral and legal nature. The Hadith primarily presents specific incidents and incidents from the life of Muhammad. The authority of tradition is unshakable, but if tradition is contrary to the Koran, the qadi (judge) is obliged to follow the latter. If the two traditions contradict each other, then you need to follow that which contains the latest by the time of the act or saying of Muhammad[[10]](#footnote-10).

Rational sources of Islamic criminal law - opinions and decisions on the discussed legal issues that arose after the death of the Prophet Muhammad, and that is not answered either in the Quran or the Sunnah. So, ijma - is the unanimous opinion of Muslim scholars, jurists of Medina on the interpretation and application of the rules[[11]](#footnote-11). For the axiom has been recognized a provision under which the Muslim community (ummah) unanimously could not accept a false opinion. Malik ibn Anas and al-Shafi'i Idois as ijma recognized only the unanimous opinion of scientists, the Medina and Abu Hanif ibn Thabit believed that ijma 'can come from any influential group of Muslim scholars. By way of occurrence are three types of ijma: a) expressed aloud general decision taken public discussion; b) a decision not to discuss, but stemming from the same already made the decisions and actions taken under the same circumstances; c) a solution known in principle all against which there had been no objection.

The sources of Islamic criminal law applies qiyas - analogy, ie when the decision on the legal issue is taken by analogy with other sources, according to the main provisions of logic[[12]](#footnote-12). In accordance with Islamic law reasoning by analogy consists of four parts: 1) the case, it's a question, etc., which requires a legal decision (headlights); 2) The case is a model for the solution, which is the first time will be compared and correlated by analogy (SLA); 3) basis, ie something in common that unites both cases and allows us to consider them similar (illa); 4) the rate previously used to solve the first case and tolerated by analogy to the second because of the similarity (hukm) 2. Key questions Kiyasov application as a source of Islamic law have been developed Hammad ibn Abi Sulayman (first half of VII century.) And the founder of the Hanafi legal school of Abu Hanifa ibn Thabit[[13]](#footnote-13). Fatwa - the decision (opinion) on any legal issue or action taken by the Mufti of prominent Muslim legal scholars who have recognized authority (the wise zhtahid) in the Islamic world based on the principles of Sharia. In his fatwa of the Council of Islamic Jurisprudence Academy he pointed out that "a custom that should be taken into account in terms of the Shari'a must meet certain requirements: a) does not conflict with Sharia; if the custom is contrary to the sacred texts, or any of the provisions of Sharia, it is not acceptable; b) be continuous and repetitive; c) to be spread in the society, if it is important in terms of keeping in any document"[[14]](#footnote-14).

Usually a fatwa is formed on the basis of the conclusions of the religious-legal school to which it belongs has passed the mufti or a mujtahid. Fatwa contains a statement of the problem and the presentation of arguments Mufti, based primarily on the Koran, the second - in the Sunnah, the third - on the conclusion of the existing Islamic scholars who are authorities for him. The most difficult source of Islamic criminal law applies ijtihad[[15]](#footnote-15). Ijtihad is the independent or the imposition of solutions, starting directly from indisputable sources or the use of existing solutions. Independent solutions were removed from the Quran and Sunnah of the Prophet Muhammad's companions, founder of the religious and legal schools (schools of thought), as well as imams. In the VIII-IX centuries. the main and most numerous legal issues have been resolved and systematically, so the representatives of the Hanafi, Maliki and Shafi'i legal schools agreed that the continuation of ijtihad on legal issues is required[[16]](#footnote-16). After the "closing of the gates of ijtihad" the emergence of new schools of thought was impossible, and began the "age of taqlid" - imitation, repetition authorities. Closing of ijtihad was not recognized Hanbali school of law and Shiites, which ijtihad on all legal issues is open and is performed only with respect to issues on which it is impossible to make unambiguous decisions, if necessary, allowed to apply not only to direct the arguments of the Qur'an, the Sunnah, but also to the ijma and to Kiyasov. The positive source of Islamic criminal law are legal customs and local traditions (adat), which do not contradict the fundamentals of Shari'a and Islamic law are the legacy of customary law or legal traditions. Adat - sanctioned by society and the state rules of conduct that historically due to constant repetition, and to recognize the authority as a mandatory code of conduct[[17]](#footnote-17).

During the period of decolonization to the sources of Islamic law added the basic laws - the Constitution of the Arab countries. According to the Constitution of the United Arab Emirates (1971) and Bahrain (1973) Sharia - the main source of law and any legal act contrary to or inconsistent with Sharia, invalid and inapplicable. The other provisions of the Constitution of these countries recognize and protect private property confiscation as a punishment allowed only by court decision, the issue of forced labor, the possibility of expulsion. However, the Constitution of Bahrain and the United Arab Emirates contain provisions directly related to the criminal law: 1) in art. 20 and Art. 27, 28, respectively, no crime, no punishment for it without specifying in the law, there is no punishment for acts prior to the entry into force of the law recognizing the act of crime; 2) Art. 21 and Art. 38 prohibits the extradition of political prisoners; 3) Art. 41 and Art. 54 establish the right of the Emir of the country for a pardon and commutation of sentences of convicts.

In Saudi Arabia, the criminal law is not codified and is in the form of doctrinal findings and recognized representatives of the Hanbali school works, the main provisions of which have developed in the Middle Ages. Afghanistan's 2004 constitution does not allow the adoption of laws, protivorechaschihislamu, but establishes the equality of all before the law in Afghanistan, declares adherence to the UN Charter and the Universal Declaration of Human Rights[[18]](#footnote-18). In Pakistan, after the coup d'etat in 1977, it was announced the construction of an Islamic state, and in 1979 in the criminal law were classical sharia rules on liability for adultery and false accusation of it, for drinking, for theft and robbery[[19]](#footnote-19).

From the above we can draw the following conclusions: almost everywhere in Muslim countries, the Constitution contains a provision on the public nature of the religion of Islam, Sharia and declare its principles the main source of legislation.

The criminal legislation of these countries allow, in some cases application of penalties provided for Sharia (Iran, Libya, Saudi Arabia, etc.). In areas such as the author, inventor, etc., the impact of Islamic law, as a rule, lacking. Therefore, even in countries which proclaimed Islamic character acting in their right, it is really some combination of European and Muslim norms, institutions and principles. In addition, the influence of European law is manifested in the fact that in many Muslim countries carried codification of the law. Islamic law is gradually transformed from the dominant legal system in the subsystem of national law. Rationalist-minded jurists of Muslim countries are carefully studying the legal system and the experience of the countries of Western Europe and America, are working to improve their national systems of law, based on the ideology of Islam.

All this gives grounds to conclude that Islamic law gradually loses its independent significance at the level of the legal system as a whole.

         All of the above sources and institutions are documented dogmatic base, on which is currently based doctrine of Islam, outlook and behavior of Muslims. They and the entire system of sharia - Islamic law in the broadest sense.

    We agree with the EV Bykova, that Islam - a universal outlook, containing their concept of culture, politics and rights, which sometimes exceed the international declarations and conventions. Religion is closely related to and based on the ethno-cultural tradition, ie on the experience of hundreds of generations, it gives its norms sacred character and that makes them a stricter standard of conduct, mandatory.[[20]](#footnote-20)

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**The history of legal regulation of land relations Kazakhstan**

In this article the history of legal regulation of land relations the Republic of Kazakhstan. This article discusses of legal regulation of land relations Kazakhsta. The history of the land laws of the Republic of Kazakhstan on December 16, 1991 of the Republic of Kazakhstan "The State Independence of Republic of Kazakhstan" begins on the date of the adoption of the constitutional law. Land legislation intensively developed since the founding of independent Kazakhstan.

In Kazakhstan , as in other countries , land relations are the basis of social and economic relations , due to the special role of land in society. The Earth is a universal basis to accommodate all types of industries , communications, public places of residence , the main component of the entire environment. At the same time , in different countries , the development of land relations occurred in different ways, so the peoples previously passed to a settled way of life, mainly engaged in farming forming a market form of land relations , and private ownership of land became prevalent in the earlier stages of development of society and the state . Nomadic peoples development of land relations had big differences , since there prevailed maintaining nomadic livestock grazing , and only in some small oases of the population , living a settled life , engaged in farming .

Thousands of land inhabited by our ancestors before independence, paid special attention to the richness of the earth. Local people which need pasture land, every season, making it a habit to immigration.

During Kazakh Khanate proprietary such as for, selling, exchanging, and giving gifts and the property was inherited goods all these means property things.

Wellknown, a group of scientists for a long time now and is committed to the following conclusions: nomadic peoples, Kazakhs feudal forms hadn't earth property, and another group of scientists predicted the Nomads feudal form had land relations.

Becoming a sovereign country, public relations, including relations began to develop in accordance with the norms of the Basic Law of the Republic of Kazakhstan.

In accordance with paragraph 3 of Article 6 of the Constitution of the Republic of Kazakhstan, "the earth and its resources, water resources, flora and fauna, and other natural resources are owned by the State. Land, as well as the conditions and within the limits established by the law may be in private ownership, "[1]. This conclusion is the importance of the land to the state, the supremacy of the Constitution of the state about regulation of land improved.

Private property of land was not until the XIX century, land considered the property of the community. Community was mainly as a tribe community. Refer to the history of the Kazakh society, in fact, where there is land ownership, land use tribe, will be realized on the basis of the community. Therefore, the land was the property of an integral part of the Kazakh people. So, over time, Land was owned by Kazakh people . The ancestral traditions the land was not for sale. Story telling about the Kasim Khan (1511- 1520) "Kaska joly", the Esim Khan (1598-1628) "Esky joly" Taukekhan (1680-1718) "Jeti Jargy" customrules of legal ownership of the land use of the general public and dispute arising as an object of public interest in a land from a relationship within the country[2, 36 p]. Nomadic Kazakh people really didn't need private land ownership. The land which lived ancestors believed the next generation will live. Issues related to the land dispute between the customs of the population was covered by the rules.

In accordance with paragraph 7 of Article 12 of the Land Code of the Republic of Kazakhstan of the territorial space within which the sovereignty of the Republic of Kazakhstan, natural resource, a common means of production and of any territorial basis of the process [3, 12 p]. Land Code of the Republic of Kazakhstan, the laws of the land and all the land is to define the basic legal act.

B.J.Abdirayımov, land is- the standard of living of the state and population, which is the mean subject of the nature. He wrote land property, to whom was given to use, depending on the quality of our future wrote [4, 8 p]. At the same time, as the earth's natural resources and labor attitudes of the population is one of the territorial basis.

President of Kazakhstan Nursultan Nazarbayev "Kazakhstan's way - 2050: The common goal, common interests, common future" says: "Work with earth, most of all, new technologies, and continuously improve productivity, and must be perform work on the basis of international standards " [5, 2 p]. Earth - a tool for the agricultural sector. Therefore, the efficient use of land is one of the main goals. Message from the President of Kazakhstan Nursultan Nazarbayev "Kazakhstan - 2050" the main mechanisms for the implementation of the tasks outlined in the strategy. President in each direction is clear to show the world level the ways that points.

Since independence mainly due to structural economic changes in the country, earth relations and earth reforms suggested for radical change. Refomasın of land in the country is carried out in practice in several provisions aimed at the depth of its compliance with the requirements based on a number of reforms, which has led to the introduction of a positive life.

Nowadays A.E.Erenov "Essays on the history of feudal relation of land" monographic work is of special attention. Because here the author, in an equitable way, history and other issues, such as nomadic feudal relations that is based on ownership of land, calling into question the issue is still open şeşilmegeniñ wrote [6, 21 p]. Our opinion that A.E.Erenov monographic work is fully issue of land property Kazakh people and is the main source of natural wealth for the people, and issues related to the use of the property not be linked because of the nomadic agricultural economic relations. Mainly to the historical period, earth relations in the political structure of the social, economic, legal features of certain characteristics. At the same time, a group of scientists in their research in the period before the stage of earth development of relations between the Khanate and Russia, as a part of Russia period.

According to N.Siroedov "the use and protection of land and other natural resources in the area of traditional state government agencies to ensure the efficient use of natural resources and protection of carrying out" wrote [7, 31 p]. We join with scientist N.Siroedov's opinion and most of all, the concept of the protection of the earth, nature and the purpose of the protection of the property is the main task.

Since Kazakhstan received independence, the formation of the ground state property and considering, depending on the timing of the adoption of the following stages of the second period.

period I: - " Kazakh SSR property", December 15, 1990;

* "Kazakh SSR land reformation " Law of the Kazakh SSR, June 28, 1991;
* "Land tax" law of the Kazakh SSR, December 17, 1991;
* "Joint ventures, international associations and organizations, foreign legal entities and citizens on the approval of the rules of procedure for the use of the land," the decision of the Supreme Council of the Republic of Kazakhstan, July 3, 1992;
* "On some issues of regulation of land relations" Decree of the President of the Republic of Kazakhstan, January 24, 1994;
* "To improve the regulation of land relation" Decree of the President of the Republic of Kazakhstan, on April 5, 1994;

period II: - "Earth" Decree of the President of the Republic of Kazakhstan, December 22, 1995;

* "Peasant (farmer) on the farm" Law of the Republic of Kazakhstan, May 21, 1998;
* "Earth" Law of the Republic of Kazakhstan, January 24, 2001.
* June 20, 2003, the Land Code of the Republic of Kazakhstan.

December 15, 1990 "Kazakh SSR-property" to adopt a law making the country one of the most important stages in the development of the rule of law under the law. This act in all the history of the Soviet approved the basic principles and concepts of ownership. The law has become a base for the development of a number of legislative acts. This is the middle of the main features of the Act include the following:

* the land of the Kazakh SSR and other natural resources in the a special property approved. All other public property declared national property.
* for the first time in the "socialist" or "national" was excluded by the use of the concept of ownership.
* to earn the right to private property, which was approved. Income to satisfaction of the physical and spiritual needs, not the property of the citizens was aimed at gaining personal income and personal property types. However, taking into account the peculiarities of the country's social and national, private land ownership was prohibited. The land was state owned, only for rent or life in the inheritance of ownership.
* a new solution on the right of the state-owned entities. State ownership of the property on behalf of the State, approved by the Council of People's Deputies. Administrative territorial structure must be of the state as the owner of the property.

You can see in that law wrong rules of. For example, the Kazakh SSR as the country, which is the subject of municipal property.

    Between 1990-1994, adopted regulations aimed at regulating land relations

based on principles of the state property depending on the time. At the same time, these principles, the Constitution was adopted and kept on January 28, 1993 in the Republic of Kazakhstan.

On June 28, 1991, the Land Reform Act was adopted, the purpose of which

was the reestablishment of land relations. The main objectives of this law to the various forms of ownership to the effective action on the basis of the legal, economic and agricultural products is a sustainable way to grow.

The main directions of land reform were the following:

* for distribution in the interests of rational land use and land resources;
* state agricultural enterprises in the case of the privatization of land re-distribution of property;
* land registration documents and the right to re-use.

December 17, 1991, to be paid in land use "land tax" defined by the Law, ie,

the state granted rights of ownership or use of property of individuals and legal to persons established the basic rates of land tax for land.

The history of the land laws of the Republic of Kazakhstan on December 16,

1991 of the Republic of Kazakhstan "The State Independence of Republic of Kazakhstan" begins on the date of the adoption of the constitutional law.

Directed to at the development and regulation of land relations in 1991, the

laws have been referred to a special law that "land reform" law. The importance of this law, which developed during the Soviet era usage sphere of land has the potential to private and non-governmental to persons.

In 1994, "about some issues of regulation of land relations" and "to improve

the regulation of land relations" the President of the Republic of Kazakhstan decrees having the force of law. On this label, known as the property of the land in accordance with the norms of the Constitution of the state of the deal value is defined as the right to property and land relations of the earth into the category of a market economy.

Adopted January 24, 2001 "About Land" in terms of the content of this

Decree Law of the Republic of Kazakhstan kept all the rules and regulation of the land relations and further developed. This is in contrast to mentioned Decree Law, "About Land" Decree on the deal which is the subject of "permanent land use" has the right to institute significant changes.

June 20, 2003, after the political discussion for a long time, it was adopted

the Land Code of the Republic of Kazakhstan. Stages of the development of the laws of the land in the country and improvement of the private properties of the earth in the market was held in the gradual process of transition to private ownership. At the same time, the law of the land grow from year to year, the development and adoption of appropriate forms several times that of the law is aimed at the improvement of relations and the laws of the land. Sign of the unity of the people a deep sense of national knowledge. For the Such an approach each country have own place , it is a legacy of ancestors. So do not miss the integrity of the people must not lose their lands.

Any of the goals and objectives of the legislation are the main institutions of

the law and they are the main provisions of the law, individual institutions will be linked with the provisions of the legislation. Plays a key role of the life of each state.

Is the condition of the Earth and how the effective use of the rich resources

of the subsoil, lands protection is determined by how much depends on the circumstances that the country's economic and political future. Therefore, the rational use of land resources is a priority for the government.

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**Influence of the Great Bourgeois Revolution**

**on development of the French State**

The term "revolution" and "evolution", "political revolution" and "social reform" hiding in its content the history of struggle of political ideas, significantly affect not only the ideological preferences of individuals and social groups, but also on practical steps of governments of various countries, on nature of their ongoing social reforms. During the XIX - XX centuries, the problem of social change is described in terms of "evolution", "revolution", "progress".

In the last third of the XX century. the idea of development was given a new interpretation in Western literature. Researchers began to distinguish two concepts of evolution: a linear, unidirectional and multiline, multidirectional. This approach is applied to the problems of social life led to the new features of the revolution, is regarded as one of the possible and the actual parties to the social changes (social evolution). Whatever it was, the impact of the French Revolution on the transformation of the state of this country can hardly be overestimated.

Historically, the state in Europe evolved as a result of confrontation of divergent but equally strong social and political factors. At first it was a struggle between two independent forces - secular and spiritual power. Later, there was a confrontation of equivalent contenders for power: the king, the clergy, the feudal lords and urban communities. In modern times, the state appears as a result of the class struggle and party interests. The meaning of a European state, thus, determines the need for reconciliation and conflict prevention, which found expression in the idea of the social contract. The logical extension of its model was the rule of law, for the law is intended to find a new version of the social balance - balance of private freedom and the common good.

The essential task of the state is to collect people through the tool of centralization under the auspices of a single will. At some point this very process took place in Europe in its history, and this process, named as the creation of a consolidated nation-state was estimated exclusively positive. France stands as a kind of an ideal type of a strong state in the Western world. It is historically and organizationally is the main initiator of modernization reforms in the country. Unlike the United States throughout the history of France it is the state at all stages of development (absolutist, liberal and social), which builds community, and in the process of transformation public institutions were more dependent on the state than the state on them.

In late August - early September of 1789 in the Constituent Assembly the "moderates" proposed for the first time to establish a two-chamber parliament, which in the future will become an important element of the state of France. Then the majority of deputies supported neither this project nor the absolute royal veto. Together with other deputies who voted for the absolute veto of the King, the "moderates" were included in the grouping of the Constituent Assembly, which later became known as "a right wing" and from which have their origin in the subsequent right-wing political parties and currents of France.

An important factor in the ideological evolution of the "moderates" became the law of the Constituent Assembly of 1790-1791, in which they had not become involved any more. Decrees on division of citizens to "active" and "passive", the release of bank notes, the abolition of titles, on Civil Constitution of the Clergy varied with their ideas of monarchical state. Sharp criticism of the "moderates" caused the constitution itself in 1791, which, although retained the monarchy, but, in their opinion, gave unacceptably broad powers to the Legislative Assembly at the expense of the powers of the King. After the uprising on August 10, 1792, that overthrew the monarchy and the establishment of the republic in France, one part of the "moderate" died, another part moved away from political life, and others emigrated. During the revolution, there were new power bodies - the Committee of Public Safety, the Committee of Investigation (later the Committee of surveillance), the Constituent Assembly which later became Legislative etc.

The implementation of institutes of a civil society requires some human material, the appearance of which is possible by two opposite processes of integration and unification of cultural values. The result of the confrontation of these trends is the appearance of the person - the forms of sociality, able to embody the universal content of cultural values at the expense of more mature personality. It allows a person to join the society and culture, institutes of a civil society and citizen ethnicity. French Revolution created the preconditions for more rapid development of a civil society and contributed to the formation of adequate human material.

French bourgeois revolution was the most important and decisive factor in the transformation of the French state in the XIX century.  
We have highlighted three of the most important aspects of the transformation of the socio-political and legal views on the state in France in this period. The first is that the idea of the state makes it possible to formulate and practically organize a "general field" in a society. This approach shifts the focus from the state as an institution of political practice (i.e., the state in the narrow sense of the word), to the state as an idea, to the perception of it as a problem, and as a project.

The second aspect involves the implementation of a historical continuity. Thinkers of a revolutionary France did not put forward as an example the device of neighboring states. Accordingly, it becomes unacceptable conclusion on the possibility of automatic transfer of abstractly designed model of state from one social environment to another.

The third aspect, important for understanding the transformation of the French state in the 19th century, is emphasis on the moral functions of the state, because the main purpose of the state is not just a collective accommodation arising from the needs and benefits of marriage, but also the production of people gathered in the State, and activities aimed to the good.

As a result of revolutionary changes in France that took place over the past two centuries a law state had been formed, which was based on the principles of popular sovereignty, respect for human rights and freedoms by the state, parliamentary democracy, the rule of the constitution in relation to all other laws and regulations, the separation of powers and the institute of responsibility of the authorities as the institutional framework of law, independence of the judiciary, respect for the obligations undertaken by the State in international relations.

The history of France in the XIX century is characterized by frequent changes of forms of government. The First Republic (1792-1804) existed 12 years; The Second Republic (1848-1852) - 4 years; The Third Republic (1870-1940) - 70 years; The Fourth Republic (1946-1958) - 12 years; The Fifth Republic exists till today. Constitutional monarchy of Louis Philippe was replaced by the Second Republic 1848 – 1851, which in its turn was abolished by the Second Empire of Napoleon III in 1852 – 1870. With the proclamation of the Third Republic in France in 1870 and the adoption of its constitution the country entered a long period of relatively state and legal stability. Stable political institutions were established, including bicameralism, implemented for the first time in the Constitution of 1795; single Presidency, established by the Constitution in 1848, the State Council, attached by the Constitution in 1799, a rich state-legal framework was accumulated.

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# Problems of forming of legal consciousness

Legal awareness affects the behavior of people with the rule of law, along with them, and sometimes in spite of them. For example, we can talk about the regulatory impact on social relations legal awareness, if there is a gap of law or the law itself allows manual mailing standards legal awareness in resolving certain issues.

Productive role legal awareness is particularly great in the process of legislative activity. In the course of enforcement this activity is optional (along with the law and with it) factor assessment of the facts and decisions of a legal case.

# Legal awareness is the empowerment of individuals regarding issues involving the law. Legal awareness helps to promote consciousness of [legal culture](http://en.wikipedia.org/wiki/Legal_culture), participation in the formation of laws and the [rule of law](http://en.wikipedia.org/wiki/Rule_of_law).

# Public legal education comprises a range of activities intended to build public awareness and skills related to [law](http://en.wikipedia.org/wiki/Law) and the justice system. This term also refers to the fields of practice and [study](http://en.wiktionary.org/wiki/study) concerned with those activities, and to a social and professional [movement](http://en.wikipedia.org/wiki/Social_movement) that advocates greater societal commitment to [educating](http://en.wikipedia.org/wiki/Education) people about the law. Distinct from the education of students in [law school](http://en.wikipedia.org/wiki/Law_school) seeking a degree in law (which is often simply called "[legal education](http://en.wikipedia.org/wiki/Legal_education)") and the [continuing professional education](http://en.wikipedia.org/wiki/Continuing_education#Continuing_education_for_professionals) of [lawyers](http://en.wikipedia.org/wiki/Lawyer) and [judges](http://en.wikipedia.org/wiki/Judge) (which is sometimes called "[continuing legal education](http://en.wikipedia.org/wiki/Continuing_legal_education)"), public legal education is principally aimed at people who are not lawyers, judges, or degree-seeking law students.

# The term "public legal education" (PLE) is related to, and may encompass, several similar terms. The terms "public legal information" and "public legal education and information" (PLEI) emphasize a difference between educating and providing information. The term "community legal education" is common in Australia and the United States, where it often refers to community-based public legal education activities led by [legal aid](http://en.wikipedia.org/wiki/Legal_aid) organizations. The term "law-related education" (LRE) usually refers to public legal education in [primary](http://en.wikipedia.org/wiki/Primary_education) and [secondary](http://en.wikipedia.org/wiki/Secondary_education) schools (and sometimes in [higher education](http://en.wikipedia.org/wiki/Higher_education)), as opposed to PLE for adults and outside of school.

# Legal awareness - is a form of social consciousness, which is a system of legal opinions, theories, ideas, concepts, beliefs, estimates, moods, feelings, which expresses the ratio of individuals, social groups, the whole society to the existing and the desired rights to legal phenomena, to the behavior of people in the field of law. That is a people's subjective perception of legal phenomena. Legal awareness has one of the priority components of known theoretical constructs (theoretical body) more complex forms of legal consciousness.

The role of the legal awareness.

As a special form of social consciousness is the consciousness legal awareness law, the totality of views ideas, concepts, beliefs, attitudes, emotions, feelings, human, association of persons or of the whole society on the right and his role.

It owns a significant role in various areas of legal life. It is an ideal internal determinant of any legal activity:

* in legislative activities in creating legal regulations;
* in law enforcement practice bodies and state officials in the resolution of specific situations;
* even when ignorance of specific legal requirements, facilitating the selection of variants law-abiding behavior by all subjects of legal relations;
* with direct regulation of some relations in the case of omissionship right when in the absence of the necessary standards enforcers use their own sense of justice. This is especially common in the era of revolutions, when the old legislation is destroyed, and the new is not created.

E.A Ilyin wrote famous book named “The value of Legal awareness” and said the more developed, mature and deeper natural justice, the more perfect will in this case, and "positive law" and guided by them outside people's lives; and back: vagueness, confusion, weakness, and not the objectivity of the natural legal awareness will create "not objective", ie. e. the bad, wrong, unfair, does not correspond to the prototype "positive law." Then the "right" a unified and true to his idea, bifurcates and becomes a kind of internal heteroglossia with itself: a natural legal awareness claims is not something that says knowledge of positive law, and as a result, the soul acquires two different legal awareness, because in addition to the natural there is a legal awareness is positive, it does not coincide with the content. This bifurcation of law, such heteroglossia of justice - evidence, of course, about the spiritual failure, comprehending human: he can not - for lack of will or lack of skills - to understand the content of the natural right and put it in the the unshakable foundation any judgment about the "positive" law; but as always depends on the ability of the heart that loves, and of the will, which forges and brings the ability, all of this great spiritual failure in the law-making rests on universal and historically steady hardening of hearts and the lack of will to legal law.

The social consciousness - a reflection of social existence; totality collective representations inherent in a particular era. It reflects the spirit and the condition itself a particular society. Social consciousness is often contrasted with the individual consciousness as something in common, that is contained in the consciousness of each person as a member of society. Social consciousness is an integral part of the superstructure and expresses his spiritual side. In Soviet philosophy was especially stressed the idea that the public consciousness "active" reflects social being, ie, converts it. Social consciousness, adding up of consciousness are a society of people, it is not a simple sum, and has some system properties that are not reducible to the properties of the individual consciousness. Identify different forms of social consciousness.

The structure of legal awareness.

Legal ideology (society's attitude to the law in general - the legal environment of the person): legal doctrines and concepts, principles, level of legal science in general.

Legal psychology (emotional evaluation societies and individuals of legal phenomena): feelings, moods, feelings.

Individual knowledge about law (the level of knowledge of each individual): the level of legal scholars, nonspecialist, and so on.

Personal values of the individual (personal experience and belief system, based on which a person evaluates the legal phenomena).

Subjective will of an individual - the ability of a person on the basis of knowledge and feelings to make a decision that determines the lawfulness or unlawfulness of its behavior.

Types of legal awareness.

Individual legal awareness - a private attitude of man to the right (to reflect the views and beliefs of specific single individual). The level legal consciousness in this case is defined abilities and capabilities of the individual.

# Group - relating to the right of various small social groups and collectives.

# Corporate - legal awareness of representatives of various professions, social groups and layers, the party legal awareness.

# Mass - legal awareness extensive masses of people.

# The social - relation to the right of the whole society (the sum of saved up knowledge and ideas about right for the entire history of mankind).

# The structure of legal awareness:

# The first element - information. It is the presence in consciousness of a particular amount of information about the law.

# The second element - evaluation. After being informed of the normative actman somehow related to it, such as it evaluates, compares with their own values.

# The third - a strong-willed. Learning about the law and assessing it, the person decides what he will do in the conditions provided for by law. Use the law or not.

# Functions of legal awareness.

# Cognitive function - a certain amount of legal knowledge resulting from intellectual activity.

# The evaluation function is a certain emotional attitude of the person to different aspects and phenomena of life on the basis of legal experience and legal practice.

# The regulatory function legal awareness performed by means of legal systems and legal value-orientations, synthesizes all other sources of legal activity.

# Predictive function (modeling) is the formation of certain models (rules) behavior that are measured legal awareness as it should, social and necessary. It is in anticipation of what standards should be used and how to do so enshrined in their rights and responsibilities effectively regulate social relations. The rule of law are essentially the product of justice. Acting the ideological source of law, legal awareness and performs predictive function.

Legal awareness affects the behavior of people with the rule of law, along with them, and sometimes in spite of them. For example, we can talk about the regulatory impact on social relations legal awareness, if there is a gap of law or the law itself allows manual mailing standards legal awareness in resolving certain issues.

Productive role legal awareness is particularly great in the process of legislative activity. In the course of enforcement this activity is optional (along with the law and with it) factor assessment of the facts and decisions of a legal case.

With the right legal conscience citizens trust the less as a great danger of his deviations from the norm due to personal interest. Moreover, the real danger becomes negative role legal awareness because of its underdevelopment, omissionship, retardation, focus on antisocial values.

The role of the legal awareness is manifested in its functions: cognitive, predictive, regulatory, educational.

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**Bodies of internal affairs of the Republic of Kazakhstan**

Relevance of the topic: The State shall exercise its functions in various spheres of public life. The major tasks of the State are the to ensure law and order, protection of the rights and freedoms of man and citizen, protection of legitimate rights and interests of society as a whole, the various organizations, the implementation of the fight against offenses and crimes. The system of the state mechanism occupy a special place ATS. That ATS provide policing and security of individuals, society and the state. They carry the largest volume of work related to the prevention, detection and suppression of offenses.

Any State which seeks to create the conditions for a safe life living on its territory people. The democratic state takes upon itself the task to guard the observance of the rights, freedoms and lawful interests of the subjects of law, to enforce the country's existing laws and bylaws. For this it creates a special organ called the law.

Law enforcement agencies - the authority responsible for law enforcement, that is, those activities aimed at protecting the rights, freedoms and legitimate interests of legal subjects. Law enforcement activity is carried out a variety of agencies and organizations. The dominating position in this field belongs to state authorities, which include the bodies of internal affairs [1].

Bodies of internal affairs are special state bodies of executive power shall be exercised in accordance with the laws of the Republic of Kazakhstan inquiry, preliminary investigation and operational-search activities, as well as executive and administrative functions for the protection of public order and public security, preventing and combating crime and other illegal encroachments the rights and freedoms of man and citizen, interests of society and the state.

The legal basis of the internal affairs bodies of the Republic is the Constitution, the Law of RK "On the internal affairs of the Republic of Kazakhstan" dated 23 April 2014 and other regulatory legal acts and international treaties ratified by the Republic of Kazakhstan.

The objectives of internal affairs are:

* protection of public order and public security, including during states of emergency or martial law;
* prevention, detection and suppression of crimes and administrative offenses, detection and investigation of crimes and wanted criminals;
* the implementation of the preliminary investigation, inquiry and administrative procedures within their competence established by the legislation;
* execution of administrative penalties;
* law enforcement and maintenance of the detention of persons in places of administrative detainees;
* detection and suppression of child neglect and juvenile delinquency;
* where appropriate assist the authorities of the State Fire Service in ensuring fire safety;
* state supervision and monitoring of road safety;
* state control over narcotic drugs, psychotropic substances and precursors;
* state control of civil and service weapons and ammunition;
* state control over the activities of entities carrying security activity, as well as installation, commissioning and maintenance of intruder alarm systems;
* the protection of state and other objects, individuals, escorting detainees and convicts, participation in the suppression of acts of terrorism, the release of the hostages;
* realization of visa work, monitoring of compliance with foreign citizens and persons without citizenship of rules of stay in the territory[2]
* in accordance with the Law of the Republic of Kazakhstan "On operative-search activity" to carry out activities aimed at prevention, suppression, detection and detection of crime, the security of the system of internal affairs.[3]

The legal basis of the internal affairs bodies is the Constitution of the Republic of Kazakhstan the present law other normative legal acts of the Republic of Kazakhstan, as well as international treaties ratified by the Republic of Kazakhstan.

In Article 3 of the Law "On the internal affairs bodies of the Republic of Kazakhstan" activities of the internal affairs bodies shall be in accordance with the principles of public service and special principles of law enforcement service in the Republic of Kazakhstan.[2]

According to Art. 7 "On the internal affairs of the Republic of Kazakhstan" unified system of law-enforcement bodies form the police, correctional system, the military investigative agencies, internal forces.

Police form the criminal police, administrative police department investigation, inquiry and other units.

Criminal police consists of units to combat organized crime, extremism, illicit trafficking in narcotic drugs, psychotropic substances and precursors, and other units engaged in the operational-search activity.

Administrative Police is composed of units of district inspectors of police, juvenile protection of women from violence, to control in the sphere of circulation of civilian and service weapons, traffic police, immigration, environmental police, specialized agencies and other entities engaged in the protection of public order.

Law-enforcement bodies are made up of the Ministry of Internal Affairs of the Republic of Kazakhstan, agencies, regional bodies and organizations subordinate to the Ministry of Internal Affairs.

Territorial authorities are the Department of the Interior regions, cities and the capital, transport, city, district, city district, the linear bodies of internal affairs, military and investigative authorities. Correctional system form the agency, its territorial bodies and institutions executing punishment, other subordinate organizations:

- The composition and organization of the Internal Troops are defined by the Law of the Republic of Kazakhstan "On the Internal Troops of the Ministry of Internal Affairs of the Republic of Kazakhstan."

- Creation, reorganization and liquidation of structural units of the Ministry of Internal Affairs, agencies, regional bodies and organizations subordinate to the Ministry of Internal Affairs, The Minister of Interior of the Republic of Kazakhstan.

The Interior Ministry is a central executive body of the Republic of Kazakhstan, heads the unified system of law-enforcement bodies.[2]

The Ministry of Internal Affairs of the Republic of Kazakhstan - is the central executive body of the Republic of Kazakhstan in the government of the Republic of Kazakhstan carrying out management of the system of internal affairs agencies of the Republic of Kazakhstan, as well as within the limits prescribed by law, cross-sectoral coordination of public order and public safety in the Republic of Kazakhstan, participating in developing and implementing state policy in the field of law enforcement, and also carrying out the formation of the state policy in the field of prevention and liquidation of emergency situations of natural and man-made disasters, civil defense, inter-sectoral coordination in the field of fire safety, operation and further development of the state system of emergency management, organization of prevention and suppression of fires. The Ministry carries out its activities in accordance with the Constitution of the Republic of Kazakhstan, the laws of the Republic of Kazakhstan, acts of the President and the Government of the Republic of Kazakhstan, other normative legal acts, as well as international treaty and other obligations of the Republic of Kazakhstan.[4]

Also on the orders of the Order of the Government of 27 August 2013 reorganized Committee of administrative police MIA, which entered the Committee of traffic police, What has developed and approved the structure of the combined unit - Management of administrative police, organized the work of a single combatant units of the road patrol service of the method "universal policeman. "Now the crew of Administrative Police is composed of two people. One of them - a former employee of traffic police, the second - the patrol.

Structure of MIA RK:

The Committees

The High Command (Committee) of the National Guard of the Republic of Kazakhstan

Committee of administrative police

Committee of criminal police

Committee on Narcotics and Drug Control

Committee of Emergency Situations

Committee of criminal-executive system

Investigative Committee

Departments

Department of the State Language and Information

Department personnel work

Department of Migration Police

Department of Operational Planning

Security Department

Department of Technical Services

Operative Forensic Department

Headquarters (department)

Legal Department[5].

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**The implementation of children`s rights in Republic of Kazakhstan**

The current situation and the situation in the field of child largely depends on the effective implementation of public policies for children. The achievement of quality indicators is determined by how to build effective work management, the presence of the monitoring system, the interaction with the public, NGOs, other state and local executive authorities.

December 14, 2012. President of the Republic of Kazakhstan adopted a new program document of strategic direction. Priority is given to human development, social modernization, highlighted the theme of child protection.

The Message of the President of the Republic of Kazakhstan - Leader of the Nation Nursultan Nazarbayev to the people of Kazakhstan "Strategy" Kazakhstan-2050 ": a new policy established state" marked important areas for improvement in the area of ​​maternal and child health. In particular, the President was in favor of the promotion of family values, the need to encourage the adoption of orphans and building family-type homes. The President also focuses on the negative trend of recent years - divorces among young people: "It is necessary to educate the youth in the spirit of family values, the harmfulness of divorce." The policy document is given attention to single mothers: "The state should support single mothers." Besides, they touched upon the non-payment of child support and increased penalties for failure to comply with these responsibilities fathers. Therefore, the Government of the Republic of Kazakhstan was instructed to toughen penalties for crimes against the 78 mothers and children, as well as violations of the law in this area, down to the smallest. In his speech, the President announced his political position in relation to children. Its efforts will focus on protecting the rights of children: "Children - the most vulnerable and the most unprotected part of our society, and they should not be disfranchised. As the leader of the nation, I will demand the protection of the rights of every child. "In "Strategy-2050" notes that in 2020 the coverage of children by pre-school organizations will reach 100%. It draws attention to the slogan "Vsѐ best - to children", which should be adopted by the representatives of the scientific and expert community, parents and all those who care about the future of the country. Head says about education as an important investment in the future. At the same time, a major factor in raising should act better education and functional literacy of children. President nominated the following instructions to the Government of RK:

- of a qualitative change in the legislation in the sphere of protection of motherhood and childhood, as well as in the field of marriage and family;

- to toughen penalties for crimes against motherhood and childhood, as well as violations of the law in this area, down to the smallest;

- to reform the system of incentives to support the birth rate and large families through the development of a set of measures, including the tangible and intangible incentives such as preferential taxation, health and social services, providing new opportunities in the labor market, and similar measures [1].

Thus, initiated by the Head of State "Strategy Kazahstana - 2050" defines the focus of improving policies of public institutions and society in the long run. In 2013. Nursultan Nazarbayev at a meeting with representatives of women's community established a new holiday "Family Day", which is celebrated every second Sunday of September. [2] This suggests that the new emphasis in government policy in relation to the family. It should be noted that many experts and representatives of non-governmental organizations to focus on the importance of support for the promotion of family values ​​socialization Kazakh youth. It should be noted as the major gaps in the legislation and the lack of enforcement of existing regulations and the absence of sufficiently authorized state body. Creation of the Ministry of Education and Science Committee for the special protection of children, in our opinion, significant problems coordinating the protection of the rights and interests of children, including children left without parental care, not fundamentally solved.

Kazakhstan has created and formed the institutional and legislative framework of state policy in relation to children. 79 According to the Law on the Rights of the Child on August 8, 2002 N 345 ​​public policy objectives of the Republic of Kazakhstan on behalf of children is defined: the rights and legitimate interests of children, preventing discrimination against them; consolidation of the fundamental guarantees of rights and legitimate interests of children and the restoration of their rights in cases of violations; the formation of the legal framework guarantees the rights of children, the establishment of appropriate bodies and organizations for the protection of the rights and legitimate interests of the child; promotion of physical, intellectual, spiritual and moral development of children, education for their patriotism, citizenship and peace, as well as the implementation of the child's personality in the public interest, the traditions of the peoples of the state, the achievements of national and world culture; focus the work on the formation of a minor legal awareness and legal culture. State policy for children is a priority area of ​​activity of state bodies and is based on: legislative support of the rights of the child; State support for families in order to provide full education of children, to protect their rights, to prepare them for a full life in society; establishing and respecting the state minimum social standards aimed at improving the lives of children from a regional perspective; responsibility of officials for violation of citizens' rights and legitimate interests of the child, causing him harm; State support for public associations and other organizations carrying out the functions of protecting the rights and legitimate interests of the child. [3]. Authorized body in the implementation of the state policy is the Committee for the Protection of Children's Rights MES, as well as interested public and local agencies: Commissioner for Human Rights under the President of RK, General Prosecutor's Office, Ministry of Foreign Affairs of RK, MIA of RK, juvenile courts, the Office for the Protection of Children's Rights regions. In addition, you can add non-state actors: UNICEF, NGOs, experts and parent community. The legislative basis of the state policy is based on the Constitution of the Republic of Kazakhstan, the laws "On the Rights of the Child in the Republic of Kazakhstan", "On Education", the Code on marriage (matrimony) and family, "On Social, Medical and Educational Support for Children with Disabilities", the Labour Code the Republic of Kazakhstan Code of the Republic of Kazakhstan "On people's health and the health care system" and so forth. normative-legal acts in which the public policies for children recognized as a priority area of ​​public authorities. Also of note to mention international legal instruments ratified by Kazakhstan Convention on the Civil Aspects of International Child Abduction, the Hague Conference on Private International Law; The UN Convention on the Rights of the Child; 80 United Nations Convention against Transnational Organized Crime; Convention for the Protection of Children and Cooperation in Respect of Intercountry Adoption; ILO Convention N 138 on the minimum age for admission to employment; ILO Convention N 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; International Convention on the Elimination of All Forms of Racial Discrimination; The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Elimination of All Forms of Discrimination against Women. The important role in realization of the state policy on children have non-governmental organization. There are many forms of mutual cooperation, but as already noted above developed a so-called mechanism of the state social order between the state and NGOs. According to the website of the Committee for the Protection of the rights of children are about 211 NGOs, to some extent involved in the social development of children at the national and that is especially important at the regional level. Also carried out a long-term partnership with the UN Children's Fund (UNICEF) in 1992. Fund is the delivery of vaccines, financial assistance, capacity building of society and the introduction of advanced social technologies in the best interests of children and families in the program signed between the Government of the Republic of Kazakhstan and UNICEF for 2010-2014. Joint activities aimed at addressing the challenges in achieving the Millennium Development Goals, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and other international conventions and agreements concerning children. In February 1992, the UN Children's Fund and World Health Organization organized the first mission in the newly independent republic to assess the situation of Kazakh children. [4] This mission marked the beginning of UNICEF in Kazakhstan, the first draft of which was the immunization of children against measles and polio. Since the beginning of its operations in Kazakhstan in 1992, UNICEF has been working in the field of children's rights, access to health, education and social development. For 20 years UNICEF in Kazakhstan UNICEF mandate changed from the delivery of vaccines, medicines and other material assistance to strengthen the capacity of the society and the introduction of advanced social technologies in the best interests of children and families. In the area of ​​Justice for Children and Juvenile Justice, UNICEF is developing a common approach to dealing with children in contact with the law and encourages countries to apply UN guidelines on justice for children. UNICEF helps to strengthen the rule of law, expanding the legal rights of children, women and families in social exclusion, as well as support for civil society, improving their access to the justice system, which should reduce the likelihood of violations of the rights of vulnerable groups and help to break the vicious circle of poverty, violence and operation. Juvenile justice in Kazakhstan has been actively developed since 2000. Direct involvement in the promotion of juvenile justice for children made by the Ministry of Internal Affairs in cooperation with other government agencies, non-governmental and international organizations, including UNICEF. [5] In 2000, with support from UNICEF conducted a situational analysis of the juvenile justice system. Then the leading role passed to 84 the Institute "Open Society", which started to implement a major project for 2001-2006. As a result of this project it was drawn up a comprehensive set of recommendations, many of which were taken into account in the preparation of the Concept of development of the juvenile justice system, approved by the President of the Republic of Kazakhstan in August 2008.

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**The history of development civil society**

Legal state law protects interests all the people, the interests of social groups and represent the freedomlegal state law protects interests all the people, the interests of social groups and represent the will of the people. It is known in legal state of each article, each point of law has the advantage.

The concept of civil society "was introduced by John. Locke, Adam Smith to reflect the historical development of society, its transition from the wild natural state to the civilized.This concept is analyzed by many great minds of social thought from Aristotle, Hegel, Marx to modern authors XXI century. Under the civil society they understand society at a certain stage of its development, including voluntarily formed not state structures in the economic, socio-political and spiritual spheres of society.

John. Locke formulated the basic principles civilized relationships in society:

* personal interests stand above the interests of society and the state; Freedom - the highest value; foundation of freedom of the individual, a guarantee of its political independence - private property;
* freedom means non-interference someone to the privacy of the individual;
* individuals conclude among themselves social contract, ie. e. create a civil society; it forms a protective structure between the individual and the state.

Thus, according to Locke, civil society - people voluntarily united in various groups and self-governing institutions, fenced from direct intervention by the law of the state. Legal State intended to adjust these civil relations. If civil society is ensures the right (the right to life, liberty, the pursuit of happiness, and so on. D.), The state - citizen's rights (political rights, t. E. The right to participate in the management of society). In either case, it is a person's right to self-realization.  
Civil society is the "aggregate of non-governmental organizations and institutions that manifest interests and will of citizens."[[1]](http://en.wikipedia.org/wiki/Civil_society" \l "cite_note-diccom-1) Civil society includes the family and the private sphere, referred to as the "third sector" of society , distinct from government and business.[[2]](http://en.wikipedia.org/wiki/Civil_society" \l "cite_note-CSI-2) Dictionary.com's 21st Century Lexicon defines civil society as 1) the aggregate of non-governmental organizations and institutions that manifest interests and will of citizens or 2) individuals and organizations in a society which are independent of the government.[[1]](http://en.wikipedia.org/wiki/Civil_society" \l "cite_note-diccom-1)Sometimes the term *civil society* is used in the more general sense of "the elements such as freedom of speech, an independent judiciary, etc, that make up a democratic society". Especially in the discussions among thinkers of Eastern and Central Europe, civil society is seen also as a concept of civic values. One widely known representative of this concept is the Polish former dissident Adam Michnik. Most authorities have in mind the realm of public participation in voluntary associations, trade unions and the like,[[4]](http://en.wikipedia.org/wiki/Civil_society" \l "cite_note-4) but it is not necessary to belong to all of these to be a part of civil society. The  Thirty Years ['](http://en.wikipedia.org/wiki/Thirty_Years'_War)War and the subsequent Treaty of Westphalia heralded the birth of the sovereign states system. The Treaty endorsed states as territorially-based political units having sovereignty. As a result, the monarchs were able to exert domestic control by emasculating the feudal lords and to stop relying on the latter for armed troops. Henceforth, monarchs could form national armies and deploy a professional bureaucracy and fiscal departments, which enabled them to maintain direct control and supreme authority over their subjects. In order to meet administrative expenditures, monarchs controlled the economy. This gave birth to absolutism. Until the mid-eighteenth century, absolutism was the hallmark of Europe.[[5]](http://en.wikipedia.org/wiki/Civil_society" \l "cite_note-Knut80-29)The absolutist concept of the state was disputed in the Enlightenment period. As a natural consequence of Renaissance, Humanism, and the scientific revolution, the Enlightenment thinkers raised fundamental questions such as "What legitimacy does heredity confer?", "Why are governments instituted?", "Why should some human beings have more basic rights than others?", and so on. These questions led them to make certain assumptions about the nature of the human mind, the sources of political and moral authority, the reasons behind absolutism, and how to move beyond absolutism. The Enlightenment thinkers believed in the inherent goodness of the human mind. They opposed the alliance between the state and the Church as the enemy of human progress and well-being because the coercive apparatus of the state curbed individual liberty and the Church legitimated monarchs by positing the theory of divine origin. Therefore, both were deemed to be against the will of the people.Strongly influenced by the atrocities of Thirty Years' War, the political philosophers of the time held that social relations should be ordered in a different way from natural law conditions. Some of their attempts led to the emergence of social contract theory that contested social relations existing in accordance with human nature. They held that human nature can be understood by analyzing objective realities and natural law conditions. Thus they endorsed that the nature of human beings should be encompassed by the contours of state and established positive laws. Thomas Hobbes underlined the need of a powerful state to maintain civility in society. For Hobbes, human beings are motivated by self-interests .Moreover, these self-interests are often contradictory in nature. Therefore, in state of nature, there was a condition of a war of all against all. In such a situation, life was "solitary, poor, nasty, brutish and short" . Upon realizing the danger of anarchy, human beings became aware of the need of a mechanism to protect them. As far as Hobbes was concerned, rationality and self-interests persuaded human beings to combine in agreement, to surrender sovereignty to a common power. Hobbes called this common power, state, Leviathan. John Locke had a similar concept to Hobbes about the political condition in England. It was the period of the Glorious Revolution, marked by the struggle between the divine right of the Crown and the political rights of Parliament. This influenced Locke to forge a social contract theory of a limited state and a powerful society. In Locke’s view, human beings led also an unpeaceful life in the state of nature. However, it could be maintained at the sub-optimal level in the absence of a sufficient system. From that major concern, people gathered together to sign a contract and constituted a common public authority. Nevertheless, Locke held that the consolidation of political power can be turned into autocracy, if it is not brought under reliable restrictions . Therefore, Locke set forth two treaties on government with reciprocal obligations. In the first treaty, people submit themselves to the common public authority. This authority has the power to enact and maintain laws. The second treaty contains the limitations of authority, i. e., the state has no power to threaten the basic rights of human beings. As far as Locke was concerned, the basic rights of human beings are the preservation of life, liberty and property. Moreover, he held that the state must operate within the bounds of civil and natural laws. Both Hobbes and Locke had set forth a system, in which peaceful coexistence among human beings could be ensured through social pacts or contracts. They considered civil society as a community that maintained civil life, the realm where civic virtues and rights were derived from natural laws. However, they did not hold that civil society was a separate realm from the state. Rather, they underlined the co-existence of the state and civil society. The systematic approaches of Hobbes and Locke (in their analysis of social relations) were largely influenced by the experiences in their period. Their attempts to explain human nature, natural laws, the social contract and the formation of government had challenged the divine right theory. In contrast to divine right, Hobbes and Locke claimed that humans can design their political order. This idea had a great impact on the thinkers in the Enlightenment period. The Enlightenment thinkers argued that human beings are rational and can shape their destiny. Hence, no need of an absolute authority to control them. Both Jean – Jacques Rousseau, a critic of civil society, and Immanuel Kant argued that people are peace lovers and that wars are the creation of absolute. As far as Kant was concerned, this system was effective to guard against the domination of a single interest and check the tyranny of the majority

Modern history G. W. Hegel completely changed the meaning of civil society, giving rise to a modern  liberalunderstanding of it as a form of   marketsociety as opposed to institutions of modern nation stat. Civil society is the realm of economic relationships as it exists in the modern industrial capitalist society, for it had emerged at the particular period of capitalism and served its interests: individual rights and private property. Hegel, civil society manifested contradictory forces. Being the realm of capitalist interests, there is a possibility of conflicts and inequalities within it (ex: mental and physical aptitude, talents and financial circumstances). He argued that these inequalities influence the choices that members are able to make in relation to the type of work they will do. The diverse positions in Civil Society fall into three estates: the substantial estate (agriculture), the formal estate (trade and industry), and the universal estate (civil society). A man is able to choose his estate, though his choice is limited by the aforementioned inequalities. However, Hegel argues that these inequalities enable all estates in Civil Society to be filled, which leads to a more efficient system on the whole. Karl Marx followed Hegelian way of using concept of civil society. For Marx, civil society was the base where productive forces and social relations were taking place, whereas political society was the superstructure.[[3]](http://en.wikipedia.org/wiki/Civil_society" \l "cite_note-zaleski-11) Agreeing with the link between capitalism and civil society, Marx held that the latter represents the interests of the bourgeoisie. Therefore, the state as superstructure also represents the interests of the dominant class; under capitalism, it maintains the domination of the bourgeoisie. Hence, Marx rejected the positive role of state put forth by Hegel. Marx argued that the state cannot be a neutral problem solver. Rather, he depicted the state as the defender of the interests of the bourgeoisie. He considered the state to be the executive arm of the bourgeoisie, which would wither away once the working class took democratic control of society. The above view about civil society was criticized by Antonio Gramsci. Departing somehow from Marx, Gramsci did not consider civil society as coterminous with the socio-economic base of the state. Rather, Gramsci located civil society in the political superstructure. He viewed civil society as the vehicle for bourgeois hegemony, when it just represents a particular class. He underlined the crucial role of civil society as the contributor of the cultural and ideological capital required for the survival of the hegemony of capitalism. Rather than posing it as a problem, as in earlier Marxist conceptions, Gramsci viewed civil society as the site for problem-solving. Misunderstanding Gramsci, the New Left assigned civil society a key role in defending people against the state and the market and in asserting the democratic will to influence the state. At the same time, Neo-liberal thinkers consider civil society as a site for struggle to subvert Communist and authoritarian regimes. Thus, the term civil society occupies an important place in the political discourses of the New Left and Neo-liberals.

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**Features of the unification of criminal law**

In modern conditions are determining the processes of globalization and integration. Globalization increasingly influences the world development as a whole, to a certain extent unifying various spheres of life and activity. This primarily relates to international trade, economic, financial institutions - to create common rules of conduct in the field. Their work has an impact on national law, forcing harmonizes and unifies it in accordance with international agreements.

According to many lawyers, the legal regulation of the processes of combating crime in a globalizing world presents a multi-level (ideally hierarchical) system, which includes global, international law, regional international law and domestic law. This phenomenon is quite natural and justified. It brought to life an objective need for the development and implementation of uniform safety standards and at the same time reflects the interrelated but largely contradictory processes of universalization and the regionalization of the world which, in turn, impose their own imprint on the global system of legal regulation.

The effectiveness of such a complex system depends not only on the quality of legal regulations and their adequacy to the fight against crime, but also to a large extent on the balance, coordination, consistency forming the system elements. Given this, it becomes crucial to solve the harmonization and unification of the criminal law of the world.

In developing the model, the universalization of criminal law in the context of globalization must first identify certain assumptions or principles. As such, in our view, special attention should be paid the following theses[[21]](#footnote-21):

* three-pillar structure of modern crime (international, transnational, intrastate ordinary), correlating with an object infringement, the commission mechanism and criminogenic factors, requires a differentiated approach to addressing its criminal law prevention;
* universalization (harmonization and unification) of the criminal law of the various countries of the world is the objective need of legal development; the evasion of it is contrary not only to the planetary challenges of the fight against crime, but also the national interests of individual states;
* the key issue to balance national and global interests (international jurisdiction and state sovereignty) must be solved on the basis of the recognition of the primacy is global interests as a prerequisite for the preservation of peace, stability and sustainable development;
* universalization and regionalization are not mutually exclusive or alternative processes of world development, is developing in parallel, complementary trends, which is extremely important when creating a global system of criminal law regulation;
* of the existing methods for the universalization of legal regulation: the reception, unification, harmonization - it is the last two would better serve the needs of globalization of criminal law, because it eliminates "blind" borrowing and provide a combination of universal norms with the peculiarities of national legal systems; the application of the reception only permitted in strictly limited terms;
* complete unification of criminal law in the various countries of the world objectively unattainable not necessary; at the international level unification - it is more the pursuit of uniformity, a conscious need for it, and what the result of the use of specific techniques; the result here is more likely as a desirable, due to the scale and complexity of the relationship, the national legal characteristics, differences in the structure of the system and the rights of individual states etc.

Unification (translated from the Latin - to make single) law - is the creation of the same, uniform, that is, uniform rules in domestic law of different States. As part of the right to the exclusive jurisdiction of the interior of the state and there is no supra-national "legislative" authority to make binding "laws" for the domestic law of states, the only way to create uniform rules is the cooperation of states. In this regard, we should remember about the concept of another legal institution - the implementation of the rights that its content is quite close to unification. In other words, the implementation of the right to a process of introducing into domestic legislation and by regulations the content of international law, as well as their implementation in the legal system of a particular State. In the broadest sense can be understood as the implementation of the execution of international obligations at the level of domestic relations, while in the case of unification it is a voluntary decision by the state advisory nature of the proposals - or the international community. For example, the proposed model legislation of the CIS Interparliamentary Assembly. Some of civilized states to ratify the international implementation immediately become part of national law[[22]](#footnote-22).

We also consider it necessary to consider the concept of another legal institution that is similar in content to the unification.

Harmonization of the rules - a process aimed at bringing the rights of different countries on the elimination or reduction of differences. It is clear that the harmonization and unification - related processes. Unification, involves the introduction into national law of the different states of the same law, leading to the convergence of national legal systems, to blur the distinction between them. But harmonization - a broader concept, since convergence is performed outside of unification. Therefore it is necessary to distinguish between the harmonization of law in the broadest sense of the word, when it also includes the unification and harmonization of law in the narrow sense, other than unification.

It scarcely needs proof that unification - the most important means of improving the legislation. This process has a number of positive aspects.

First, the unification leads to a reduction in the number of existing regulations, which greatly simplifies the legislation.

Second, unification contributes to the correct application of the law because it is easier to apply a uniform rule, rather than a set of rules previously adopted.

Thirdly, the unification of the law (especially civil) promotes even closer economic and other communication between the parties of the Union State.

A feature of the agreements on the harmonization of criminal law is that they are primarily a coordinating character. Such agreements are not intended to qualify the criminalization of acts of international or national judicial authorities. Their main task - to contribute to the rapprochement of criminal law by formulating the most capacious models of crime. These models should form the basis of national implementation. Any trades unification of criminal law is optional. There is no international legal norms oblige to conclude such agreements. Finally, none of them does not apply to a very important question about the kinds and extent of punishment.

The primary means of universalization of criminal law at the regional level could be the unification of the legislation, which is manifested in the creation of common regulations; the development of a unified system and structure of regulations; expanding the range of common rules; providing meaningful uniqueness of the legal regulations and harmonizing the legal terminology; develop exemplary regulations, etc. It is possible unification of the two mechanisms: informal borrowing (for example, in a situation where the representatives of law-making and law enforcement agencies shall cooperate in the preparation of regulations and the development of model legislation) and legal obligations, which are characterized by production at the supranational level of international legal instruments that are binding countries participating in nature. Again, regional rulemaking will be effective only if its minimum requirements are borrowed or implemented in the national legal sources. The fight against transnational crimes, by and large, does not require the creation of supranational judicial bodies. Persons who have committed them, fall under the jurisdiction of a particular State (taking into account the principles of the criminal law in space and number of people), which also administers justice. Much more important are issues of international (regional) police, penitentiary cooperation and reliable mechanism of extradition. With regard to the universalization of the criminal law to combat transnational crime at the global level, it also seems to be very significant. It is important, perhaps, is not so much the unification of how much harmonization of legislation: the establishment of common principles, approaches, common institutions, the framework of requirements that will be developed, filled with specific content at the level of regional lawmaking.

The method of implementation of the results of unification of the law include: a) reception standards, which is to take the state to unilaterally legislation, and b) the conclusion of international agreements, which are aimed at achieving the unification or harmonization of law (bringing legislation into line with international principles of law)[[23]](#footnote-23).

There are basic principles of unification:

* consistency of legal regulation, that is, they should not contradict each other, and complement (requires a certain hierarchy between the rules);
* simultaneous adoption;
* the sequence of steps;
* the priority of the universally recognized norms and principles of international law over national legislation.

The mechanism of harmonization and unification of criminal law in the context of globalization, as mentioned, is only a theoretical model. It is obvious that, in practice, the universalization of criminal law occurs much more difficult and controversial, primarily because of political disputes between states and the lack of clear vision and outcomes of globalization. However, the objective difficulties do not remove the task of developing mechanisms of universalization of the model law. Any attempt to establish a mechanism for the harmonization and unification of the criminal law will be largely the character of the ideal model, the sample, which can or should strive for. Yet the construction of such a model is justified by virtue of the fact that it is able to guide political and legal development.

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