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Universidad del Zulia
Facultad Experimental de Ciencias
Departamento de Ciencias Humanas
Maracaibo - Venezuela

Problems Of Restriction On Civil Rights And Human Freedoms In The Legislation And Law Enforcement Practices Of Kazakh-Stan

Leila Zhanuzakova

**Turan University, Satpaeva Street, 16a, Almaty, Kazakhstan,
050013**

Alua Altinbekkyzy

**Turan University, Satpaeva Street, 16a, Almaty, Kazakhstan,
050013**

Karlygash Jumabayeva

**Turan University, Satpaeva Street, 16a, Almaty, Kazakhstan,
050013**

Gabiden Zhailin

**Turan University, Satpaeva Street, 16a, Almaty, Kazakhstan,
050013**

Aigul Usserova

**Turan University, Satpaeva Street, 16a, Almaty, Kazakhstan,
050013**

Abstrac

The article is concerned with issues related to the restriction on civil rights and human freedoms in the Republic of Kazakhstan. After studying crucial international documents in the field of human rights, scientific works of Western, Russian and Kazakh scholars, the authors of the article determined the functional content of restrictions on the rights and freedoms of individuals, their close and inseparable connection with the mechanism of human rights protection and the limits of individual freedom in society. The authors have thoroughly analyzed the Constitution and the existing legislation of Kazakhstan, which establish restrictions on the exercise of rights and freedoms. Considering the negative law enforcement practice of courts and law enforcement agencies, the legislative norms securing grounds and procedures for the implementation of restrictions on rights and freedoms have been subjected to critical analysis. Based on the conducted research, the authors have developed recommendations for improving the mechanism of restricting human rights and freedoms and ensuring their effective protection.

Keywords:

Constitution, legal assistance, human rights and freedoms, personal data, responsibility, declaration, legislation, law-enforcement practice.

PROBLEMAS DE RESTRICCIÓN DE DERECHOS CIVILES Y LIBERTADES HUMANAS EN LAS PRÁCTICAS DE LEGISLACIÓN Y APLICACIÓN DE LA LEY DE KAZAKH-STAN

Resumen

El artículo se refiere a cuestiones relacionadas con la restricción de los derechos civiles y las libertades humanas en la República de Kazajstán. Después de estudiar documentos internacionales cruciales en el campo de los derechos humanos, trabajos científicos de académicos occidentales, rusos y kazajos, los autores del artículo determinaron el contenido funcional de las restricciones a los derechos y libertades de las personas, su conexión estrecha e inseparable con el mecanismo de protección de los derechos humanos y los límites de la libertad individual en la sociedad. Los autores han analizado a fondo la Constitución y la legislación vigente de Kazajstán, que establece restricciones al ejercicio de los derechos y libertades. Teniendo en cuenta la práctica negativa de la aplicación de la ley de los tribunales y las agencias de aplicación de la ley, las normas legislativas que aseguran los motivos y procedimientos para la implementación de restricciones a los derechos y libertades han sido objeto de análisis críticos. Sobre la base de la investigación realizada, los autores han desarrollado recomendaciones para mejorar el mecanismo de restricción de los derechos humanos y las libertades y garantizar su protección efectiva.

Palabras clave:

Constitución, asistencia jurídica, derechos humanos y libertades, datos personales, responsabilidad, declaración, legislación, práctica policial.

Introduction

Human rights are the key value of modern society and are among the main problems of philo-sophical and legal science. Since the 1950s, legislators have adopted a number of international and regional documents aimed at protecting human rights, including the Universal Declaration of Human Rights of December 10, 1948, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and optional protocols, which constitute the International Bill of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Charter of Fundamental Rights of the European Union. To monitor their implementation, the UN Human Rights Committee, the European Court of Human Rights and other bodies were establis

hed.

The modern constitutional legislation of democratic countries actively implements standards in the field of human rights provided by international law.

The international doctrine of human rights and international law recognizes that the international community is interested in the protection of fundamental human rights and is responsible for them. This recognition means that much attention is paid to the way states treat their citizens (1).

Since the declaration of its independence in 1991, Kazakhstan has consistently followed this path enshrining in its Constitution generally accepting "natural" or "civil" human rights guaranteed to all persons in its territory.

Despite unconditional progress in this area, some civil rights are still systematically violated. It is explained not only by a difficult situation in the socio-economic sphere but also by shortcomings of the national legislation, direct human rights violations by courts, law enforcement agencies and other authorities. An unstable international situation also aggravates these processes.

In this regard, there is an objective dilemma of ensuring the proper balance between the existing mechanisms for the implementation and protection of human rights and their permissible limitations determined by the state. The recognition of inalienable human rights does not mean their absolute nature or complete independence from any circumstances. In case of challenging situations resulting from acts of terrorism and extremism, military aggression, etc., the state is required to take active and effective actions to protect the constitutional order, civil rights and human freedoms.

The existing restriction on human rights and freedoms in modern conditions is closely related to their protection and represents a legal complex that includes both domestic and international means. In this regard, the relevance of this problem is out of the question.

Methods

The methodological basis of the article was a complex of modern scientific methods used for the cognition of social processes. It is mainly the method of materialist dialectics, which gave rise to the historical method. Throughout the study, general scientific methods were used: analysis and synthesis, systematic and functional methods. The use of special legal methods (formal legal and comparative legal) was of particular importance for drawing substantiated conclusions.

While writing the article, we considered works of Western, Kazakh and Russian scholars devoted to the restriction on individual rights. In particular, we paid

attention to the issues of protection and permissible restriction on human rights, as well as activities of international and European bodies in this area considered in the works by M.A. Jacob, E. Bates, D. Chalmers, J. Weiler, E. Lambert, E. Daes, R. Pati and other researchers (2-5).

In the post-Soviet science of constitutional law, these issues were covered by the following Russian and Kazakh scientists: S.A. Avakyan, M.A. Krasnov, V.A. Lebedev, E.A. Lukasheva, V.E. Chirkin, B.S. Ebzeev, M.T. Baimakhanov, G.S. Sapargaliev, etc.

We conducted a critical analysis of the Kazakh legislation and law enforcement practices in the field of human rights.

Results

Throughout the study, we have obtained the following results.

1. It is necessary to expand the Code of the Republic of Kazakhstan "On Marriage (Matri-mony) and the Family" and specify such a reason for restricting the rights of parents as the abuse of their parental rights. Otherwise, it can be arbitrarily interpreted and applied by guardianship authorities and courts, which violates parental rights to raise their children and children's rights to live and be brought up in their family.
2. To increase the level of personal security, legislators should enshrine a list of publicly available personal data in the existing law and explain children and young people the in-expediency of sharing personal data and other information about themselves and their relatives on social networks.
3. The proclamation of human life as the highest value and the right to life as an inalienable right in the Constitution of the Republic of Kazakhstan, the accession of Kazakhstan to the International Covenant on Civil and Political Rights, the actual non-use of the death penalty raise the issue of removing the death penalty from the list of punishments.
4. To reduce the excessive repressiveness of the Kazakh criminal legislation, pursue a policy of its further humanization, reduce the current prison population, decrease corruption offenses and protect the rights of convicted persons, it is necessary to secure and apply alternative non-custodial penalties in all categories of economic and other crimes that do not pose a threat to society. To protect the rights of suspects and defendants and eliminate corruption, it is necessary to define clear guarantees and procedures for applying bail and other preventive measures instead of holding the above-mentioned people in custody. As a result, it is possible to reduce discretionary powers of the judge, prosecutor or investigator.
5. To ensure citizens' access to qualified legal assistance, we consider it important to enshrine in the existing law the obligatory participation of each

lawyer in the provision of free legal aid and establish criteria for the remuneration of lawyers.

6. To improve the mechanism of restricting the freedom of movement, it is necessary to remove the connection between social guarantees and benefits and the place of one's registration and provide the above-mentioned guarantees according to one's individual identification number. One should analyze how restrictions on the freedom of movement influence the implementation of other constitutional rights to alter public policies in this regard.

Discussion

First of all, the problem of restricting human rights is the problem of determining the limits of human freedom in society. No freedom can be absolute, it is always limited by the appropriate framework, which is determined by moral values of society, the rights and freedoms of individuals enshrined in the constitution and laws of Kazakhstan. In this case, a specific social community and state as a whole can properly function. As V.A. Lebedev noted, only combining the individual's interests and the interests of society and state it is possible to ensure the true freedom of personality (6). In legal literature, the term "restriction" is usually considered as the scope of regulation and limits of the existing rights in the form of restricted permissions, imposed prohibitions, duties, liabilities, exemptions from the circle of one's powers, etc. (7-9).

At the same time, some authors emphasize that restrictions on rights and freedoms cannot be fully identified with the limited exercise of rights and freedoms. Limits are certain boundaries, the failure to comply with which testifies to the improper exercise of rights and freedoms, i.e. about their violation. If such limits determine the conditions for realizing rights and do not aim to narrow its scope, then the restriction on these rights is an intervention and narrows the scope of the above-mentioned right. The determination of restrictions on basic rights and conditions for their execution is an objective need for the normal functioning of society and personal freedom (10-12).

The Constitution of the Republic of Kazakhstan recognized and guaranteed natural rights and freedoms, their absolute and inalienable character, proclaimed that they determine the content and application of laws and other regulatory legal acts (13). At the same time, it established the possibility of restricting fundamental rights and freedoms.

Constitutional restrictions on civil rights and personal freedoms are the boundaries enshrined in the state's constitution, within which legal entities (officials and government bodies) can use their rights and freedoms, fulfill duties, exercise the powers assigned to them. They serve as indicators that determine the degree of

freedom and security of some individual, identify the relationship between the rule of law and the arbitrariness prevailing in any given society.

Article 39 of the Constitution allows restrictions on civil rights and personal freedoms. This norm conditions the following situation.

Restrictions on constitutional human rights and freedoms can be imposed only by law. Their introduction through by-laws is the basis for declaring the relevant legal act unconstitutional. However, such violations are quite common in the law-making practice of state bodies.

Constitutional norms establish the goals of restrictions on constitutional rights, i.e. the protection of the constitutional system, public order, human rights and freedoms, public health and morality. Thereby, they secure an exhaustive list of values, whose protection enables restrictions on human rights and freedoms. Restrictions on rights and freedoms are permissible only to the extent necessary to achieve the above-mentioned goals. Thus, legislators defined the requirement of proportional restrictions as a guarantee against excessive or unjustified restrictions on rights and freedoms in all spheres of public relations (14). In this regard, we can talk about implementing the principle of proportionality alongside the introduction of restrictions established by international law.

The article under consideration completely restricts any actions that can violate interethnic consent. It constitutes the principle of public consent enshrined in the Constitution as the fundamental principle of the Republic of Kazakhstan, which is a multinational state. The violation of interethnic consent can have grave consequences. Civil wars and armed conflicts that arose on this basis in the countries of Europe, the Middle East and the former USSR caused numerous human casualties, human suffering, the destruction of material and cultural values. Therefore, interethnic consent is a fragile phenomenon that should be protected.

Article 39 of the Constitution establishes cases when restrictions on constitutional rights are unacceptable, in particular, for political reasons. Kazakhstan recognizes ideological and political diversity, which ensures the free expression of political views and activities of political parties and other public associations.

The above-mentioned article of the Constitution defines a list of rights and freedoms that are not subject to the limitation in any case. They are as follows: the banned rendition of a Kazakh citizen, the right to one's legal personality and protection of their rights and freedom by all means not contrary to the existing law, including justifiable defense, judicial protection, qualified legal assistance, the principle of legal equality and non-discrimination, the right to

life and pardon, personal freedom, to determine and indicate or not to indicate one's national, party or religious identity, to use one's native language and culture, to freely choose the language of communication, upbringing, education and creativity, property and its inheritance, personal security and freedom of conscience (Articles 11, 13-17, 19, 22, 26).

The following question arises: why are these rights and freedoms not subject to restrictions?

The state protects its citizens in any situation. Therefore, the extradition of Kazakh citizens to a foreign state is possible only in cases when there is an international agreement on mutual extradition.

One of the so-called "protective rights" or guarantees aimed to protect other constitutional rights and freedoms is the right to justifiable defense. The justifiable defense is the legitimate protection of a person, the rights of the defender and other persons, as well as legally protected interests of society and state from socially dangerous encroachment, including by causing harm to the offending person. There is criminal liability for exceeding the limits of justifiable defense. However, people are held liable only for cases of intentional harm (Article 32 of the Criminal Code of the Republic of Kazakhstan) (15).

The institute of justifiable defense is also enshrined in the Code of the Republic of Kazakhstan "On Administrative Offenses" (Article 35 of the Administrative Code) (16).

Every person has the right to judicial protection: not only the one whose rights were violated but also offenders. The right to judicial protection against any unlawful decisions and actions of state bodies, organizations, officials and other persons, the inadmissibility of changing the personal jurisdiction provided by law are reflected not only in the Constitution, but also in the current legislation (Article 12 of the Criminal Procedure Code of the Republic of Kazakhstan) (17).

The right to competent legal assistance generally implies the assistance of a lawyer. Legal assistance is provided free of charge in cases stipulated by law. It can be provided within the framework of the administrative, civil and criminal proceedings. Kazakhstan adopted a special Law "On Lawyer's Activity and Legal Aid" (18) regulating the forms of legal assistance guaranteed by the state and provided for free, the grounds and the circle of persons to whom it is provided.

The principle of legal equality is not subject to any restriction since it implies equal rights and obligations of a person and a citizen, equality before the law and court, equal protection by the court and other state bodies, non-discrimination for any reason. This fundamental principle is reflected in many international documents in the sphere of human rights and is recognized by

most countries.

The right to life is the most important right, without which all other rights and freedoms are unthinkable. Homicide is a heinous crime, for which a person is punished with imprisonment or the death penalty. In fact, the death penalty is also homicide but it is an exceptional punishment applied only by a court decision. Kazakhstan imposed an indefinite moratorium on the use of the death penalty and has not applied it for many years. The President of Kazakhstan granted a pardon and saved the life of a person who repented of a crime. Due to the imposed moratorium, a pardon for a person sentenced to imprisonment for a long term or for life can only reduce the duration of the above-mentioned sentence and replace the unserved part of the punishment with a milder punishment.

The prohibition to restrict the right to personal freedom concerns law-abiding persons. In the case of an administrative or criminal offense, the person's freedom can be limited and one can even be deprived of. In this regard, we understand the person's freedom in the context of protecting the right from an unlawful arrest or detention.

This right can be considered in a broader sense. The concept of "personal freedom" means the freedom of every law-abiding individual to think what they want, freely express their views and go wherever they need without the interference of any other individual. This freedom should be balanced by the recognition and respect for the rights and freedoms of others and the requirements of morality, public order and the general welfare in a democratic society (19).

The moral, mental and physical inviolability of a person cannot be restricted. It is forbidden to insult the dignity of a person, humiliate them, torture or use violence. The evidence obtained by law enforcement agencies in the process of inquiry and investigation through such violations is not accepted by the court as the evidence of the defendant's guilt.

The principle of tolerance (public consent) proclaimed by the Constitution means a tolerant attitude to people from different ethnic and social groups having different political and religious views. The prohibition of restricting the right to determine and indicate or not indicate their national, political and religious affiliation, to use their native language and culture, to freely choose the language of communication, education, upbringing and creativity lets them preserve their national identity, language and culture. During the years of Stalin's terror, entire nations were subjected to forced resettlement (the Chechens, the Crimean Tatars, the Koreans, the Volga Germans) to Kazakhstan and remote areas of Siberia. Non-members of the Communist Party of the

Soviet Union or the All-Union Leninist Young Communist League could not hold senior positions in government bodies and organizations.

According to Article 12 of the Constitution, the exercise of civil rights and personal freedoms must not violate the rights of other people, encroach on the constitutional order and public morality. This restriction aims to protect the constitutional foundations of the state, norms of public morality, the rights and freedoms of others. It is closely connected with the individual's duty to follow the Constitution and legislation, respect the rights, freedoms, honor and dignity of others, as well as state symbols of the Republic of Kazakhstan.

The Constitution establishes restrictions on the exercise of individual rights and freedoms. Thus, Clause 2 of Article 16 permits the restriction of the person's freedom by a court decision in case of arrest and detention, as well as without court authorization in case of detention for a period not exceeding 72 hours. The detention of a suspect is a measure of procedural coercion used by criminal prosecution bodies to prevent crime and decide whether to apply a preventive measure in the form of detention. The Criminal Procedure Code of the Republic of Kazakhstan regulates the grounds and procedure for apprehending a person and applying preventive measures. All preventive measures restrict human freedom. Detention is the most severe of them and is reflected at the constitutional level.

Restrictions on the freedom of movement and free choice of residence are specified by law. Citizens need a special permit to access territories with high-security facilities and border territories.

Clause 2 of Article 18 of the Constitution provides the possibility of restricting the right to privacy of personal deposits and savings, correspondence, telephone conversations, postal, telegraph and other communications in the case and manner prescribed by law. The order of imposing such restrictions is established by Chapter 30 of the Criminal Procedure Code of the Republic of Kazakhstan. These actions are referred to as "covert investigation procedures" and should be approved by the prosecutor.

The current legislation establishes restrictions not only on the disclosure of these covert procedures but also other information protected by law.

According to Article 144 of the Civil Code, citizens have the right to protect the secrets of their diaries, notes, reports, intimate life, adoption, birth, as well as medical and legal secrets. The publication of diaries, notes, reports and other documents is possible only with the consent of their author, while letters can be published with the consent of their author and addressee. Information containing business or trade secrets is protected if this information has real or potential commercial value, is unknown by third parties, there is no free legal

access to it and the information owner takes measures to protect its confidentiality (Article 126) (20). This information is the person's intellectual property. The dissemination of the person's personal data is also restricted. The Republic of Kazakhstan adopted the Law "On Personal Data and Their Protection" (21). The above-mentioned data include information relating to a specific subject or a subject determined on their basis, recorded on electronic, paper or other tangible media. There is no exhaustive list of personal data in this law. Basic and special lists of personal data are established by by-laws issued by the government and other state bodies. They usually include one's surname, name and patronymic, gender, date and place of birth, citizenship, nationality, individual identification number, marital status, address information about the place of residence, identity document data, contact phone number, email address, signature, headshot, etc.

Personal data are divided into public and classified. Sources of publicly available data include bibliographic reference books, telephone and address books, publicly accessible electronic information resources and mass media. At the same time, the amount of information that reference and address books provide can vary. Subjects of personal data can be against the inclusion of some information in address and reference books.

Despite the legislative measures undertaken to protect personal data, the problem of their protection in cyberspace is still acute. Nowadays, citizens shop online, pay utility costs, taxes and fines via the Internet. Although the state, banks and other structures do everything possible to create secure servers, there is still some risk that payment card data and information from identity documents can be stolen. There are facts that the personal data of citizens were used by bank employees, hackers and others to steal money from bank accounts, get loans and make real estate deals. Citizens often provoke the commission of crimes by posting their personal information on social networks, thoughtlessly sending copies of their documents via e-mail or unprotected mobile channels.

Article 28 of the Code of the Republic of Kazakhstan "On the Health of the People and the Health Care System" aims to ensure the protection of personal data of patients and medical confidentiality (22).

The limits on the restriction of personal and family privacy, protection of adoption secrets are enshrined in the Code of the Republic of Kazakhstan "On Marriage (Matrimony) and the Family" (Articles 53, 102) (23).

The Constitution prohibits restricting freedom of conscience. The freedom of conscience is the right to freely profess any religion (except for prohibited religious movements), conduct religious worship or be an atheist. In the USSR,

believers were discriminated and often forced to hide their attitude towards faith and God. The exercise of the right to the freedom of conscience should not condition or restrict universal human and civil rights and obligations to the state. In this regard, the Law of the Republic of Kazakhstan "On Religious Activities and Religious Associations" does not allow activities of religious associations connected with violence against people, harm to their health, damage to morality, violation of human rights and freedoms, citizens' encourage to refuse to perform constitutional duties, etc. (24).

The natural right and duty of parents are to care for their children and educate them. The Code of the Republic of Kazakhstan "On Marriage (Matrimony) and the Family" regulates the restriction on the rights of parents (Articles 71, 72, 75, 79). Thus, parents are not entitled to cause any harm to the physical and mental health of their children and their moral development. Ways of upbringing a child should exclude neglect, cruel, rude or degrading treatment, insult or exploitation. The most severe restriction for parents is the deprivation of parental rights.

Such a reason as the abuse of parental rights is vague and can be interpreted by guardianship, custody authorities and courts too broadly and arbitrarily, and, therefore, violate the rights of parents and children.

It is forbidden to restrict the right to property and its inheritance in relation to law-abiding citizens. The Constitution allows the deprivation of property by a court decision, including the expropriation of property for state needs in exceptional cases provided by law in the conditions of equal reimbursement. Rules protecting proprietary rights and establishing grounds for its restriction are enshrined in the Civil Code (Articles 252-255).

The analysis of restrictions on the individual's rights and freedoms demonstrates that this sphere is not perfect. The mechanism of restriction on rights and freedoms requires improvement.

As stated above, the right to life as a fundamental human right is not restricted. Article 15 notes that it is impossible to deprive a person of life arbitrarily. The state can do this by using the death penalty. It is not just about restriction, but the deprivation of one's right to life. However, the Republic of Kazakhstan imposed a moratorium on the use of the death penalty, this measure of punishment is not excluded from the existing legislation unlike in many other countries. What prevents its cancelation? There are closed prison facilities for the containment of persons sentenced to life imprisonment. Public opinion is gradually inclining to abolish the death penalty.

The restriction of freedom and imprisonment are effective tools of the state

sapplied to offenders. The legislation clearly prescribes all procedures relating to the detention, arrest and containment of a person, the enforcement of punishments related to deprivation or restriction of freedom. In practice, there are numerous violations of the legislation.

According to Clause 1 of Article 147 of the Criminal Procedure Code, detention as a preventive measure is applied only with the approval of the judge and only in relation to the suspect, the accused or the defendant, whose crime can be punished with imprisonment for minimum five years. In exceptional cases, this preventive measure can be applied to the person suspected or accused of committing a crime for which the law provides imprisonment for less than five years in the cases provided in this article. In practice, these rules are constantly violated. People who committed economic and other non-violent crimes for the first time are often placed in detention even if they give no reason to believe they will hide from the investigation or the court or continue their criminal activities.

In addition, the "Habeas Corpus Act" procedure originated in the English law and enshrined in modern legislation of democratic countries is used in the law enforcement of Kazakhstan partially and formally. According to this procedure, any arrested or detained person has the right to demand their transfer to the court for validating the legality of their arrest or detention. Detainees who are arrested while deciding whether to impose a warrant on detention are not delivered to the court, which limits their rights. The court usually supports the prosecution and rarely refuses to give a sanction. The use of preventive measures not related to the arrest of a person has been the subject of bargaining between the suspect and the prosecutor or the judge. After all, serious crimes implying a punishment for more than five years enable the use of bail. However, this preventive measure has become a "feeder" for the law enforcement system. Prosecutors and investigative judges charge huge sums for applying pledge or other alternative preventive measures using them for their own enrichment.

Over the past few years, the Republic of Kazakhstan has consistently taken the path of humanizing its criminal law. However, many crimes, especially in the economic sphere, not involving a danger to life, health, safety, with qualifying signs, entail the deprivation of freedom as the only alternative measure of punishment. For example, it is constituent elements of theft, embezzlement, fraud, etc. Indeed, such crimes cause major damage to the property owner or actions are performed by an organized group. The long-term deprivation of freedom provided by these articles is unprofitable to the state and victims. The convict has no opportunity to work and repay the damage. Small earnings that

the convict can receive by working in a colony (even then with available work) can be hardly regarded as the reimbursement. During the period of detention, they lose many social skills. After getting out of jail, it is very difficult for such people to find a job, except for low paid jobs.

In general, numerous restrictions on the rights of persons kept in remand prisons and correctional colonies are an everyday practice of these institutions. Incarceration conditions of suspected, accused and convicted people are far from international standards. In reality, standards of the Kazakh legislation are not fulfilled. At the same time, there is an everyday practice of creating normal conditions for persons in custody for the remuneration of employees of special institutions.

The mechanism of ensuring the right to qualified legal assistance requires improvement. It is severely limited by high rates of attorney's services. Free legal assistance is often assigned to young and inexperienced lawyers. When experienced lawyers provide free legal assistance, they lack material interest and do not take effective actions to protect human rights. Services of highly qualified lawyers are the privilege of wealthy people.

The right to free movements is among fundamental human rights. However, the Kazakh legislation contains a number of restrictions on the freedom of movement. One of them is the institution of compulsory registration at the place of residence originated from the Soviet passport system and registration regime. At the same time, problems of social security, the exercise of voting rights, the right to leave Kazakhstan and other issues depend on the institution of registration. According to A.S. Shormanbaev, consequences of such restrictions cannot be considered proportionate to the hypothetical danger to public order despite their establishment by law (25).

The Code of the Republic of Kazakhstan "On Administrative Offenses" provides administrative liability for the lack of registration at the place of residence or temporary stay (Article 492), as well as homeowners for allowing individuals to live at their premises without registration (Article 493).

Conclusion

Summing up, we should note that despite Kazakhstan's achievements in the field of human rights and their protection there are still serious problems in ensuring them at the legislative level and at the level of law enforcement. There are grave violations of civil rights and freedoms, including the exaggeration of the restriction on such rights. The legal awareness and legal culture of the Kazakh population remain low in terms of law compliance, respect for the

rights and freedoms of others and knowledge of one's own rights and skills to protect them.

Restrictions on rights and freedoms are enshrined in the Constitution and laws of the Republic of Kazakhstan. Their introduction through by-laws is prohibited. The Constitution contains a list of rights and freedoms that are not subject to restriction in any cases. Laws set the limits and goals of restrictions of rights and freedoms, i.e. clear grounds and procedures for the imposed restrictions, deadlines, during which the restriction of certain rights is permissible. Restrictions are imposed by decisions of authorized bodies, and the most important of them (deprivation of liberty, deprivation of property, etc.) are permissible only by a court decision.

Restrictions on constitutional rights and freedoms imposed by the state should be exceptional and solve the following tasks: the insurance of the state's internal and external security, personal security of citizens, maintenance of law and order, creation of favorable conditions for economic activity and protection of all property forms, consideration of the minimum state standards indicating the standard of living and socio-cultural development of citizens.

The key to resolving the issue of human rights restrictions is the expansion of the state's re-sponsibility for issuing non-legal laws, as well as state authorities and their officials for illegal actions (or inaction) during the implementation of regulatory legal acts.

We believe that the issues addressed in the article, conclusions and suggestions substantiated as the study result will expand the reader's understanding of human rights in Kazakhstan, the existing restrictions on rights and freedoms. The study will also be useful in conducting further scientific research and teaching special courses in human rights in higher education institutions, as well as in improving the legislation and law enforcement practice of state bodies.

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