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A CONCISE ESSAY ON THE HISTORY OF STATE AND LAW DEVELOPMENT IN THE REPUBLIC OF KAZAKHSTAN

*Zaure Ayupova**

During the many centuries of their historical development and leading up to the current status of a sovereign independent state within the international community, the Kazakh people followed a complicated and original path from the beginning of their ancient history. Since the 4th century B.C., partially developed tribal states of the Kangyles and Usures played a significant role in Central Asia. These tribal states had close relations with China, the Huns, and with many people who inhabited Central Asia, southern Siberia, and the lands near the Ural Mountains. Economically, the state was based on extensive nomadic farming. The people's culture and language linked them to a branch of Turkish speaking people.

The first Kazakh state system, as understood today, was formed in the 6th century A.D., and was within the Turkish Kaganate, stretching across lands from the Altai Mountains in the east to the Caspian Sea in the west, and from Semireche up to Siberia. The West Turkish Kaganate left a long-lasting imprint in the area including Semireche and the whole of modern central and western Kazakhstan. Most of the Turkish people continued tribal organization and a nomadic way of life, but in Semireche, even at this point, a settled way of life reigned. There were already large areas of irrigated and cultivated lands occupied with gardening and vineyards. Scores of towns and settlements were established where the people were engaged in commerce and handicrafts. Semireche, with the silk road, also came to be adorned. Thus, it is not surprising that it was in Semireche that centers of a state system appeared, such as public power and territorial organization and management. (These attributes are described as distinctive signs of a state system by the American scholar Louise Morgan in her work *An Ancient Society*.)¹ Indeed, at the head of the Turkish Kaganate was a Khan (with nearly unlimited despotic power)

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1. Source on file with author.

who was supported by his servants, servicemen, officials, and military leaders. At the same time, even in this developed part of the West Kaganate, the tribal system had yet to be overcome completely.

The Usur union began to disintegrate in the fifth and sixth centuries A.D. after successive invasions by the Altai Turks. Much of the population remained in the area, but came first under the rule of the Western Turkish Kaganates (formed from southern Kazakhstan and Semireche). The next rule was under their successor, the Turgesh Kaganate, with its center at Sash near the present-day Tashkent (in Uzbekistan). These Kaganates were complex and stratified societies consisting of aristocrats, urban traders, oasis farmers, pastoral nomads, and a professional warrior class sufficiently skilled to prevent the Arab armies from crossing the Syr Darya River until 739 A.D.²

In the following centuries, the Kaganate was invaded many times, was in vassal dependence on neighboring China and was incorporated into the Karakhanid state (11th century until the beginning of the 13th century). Despite the partial Islamization of the Kazakhs in direct contact, the majority of Kazakhstan's tribal people continued their nomadic lifestyle, raising cattle on the vast steppe.

The Kazakh ethnotype was formed by peoples in more than 100 tribal divisions and nationalities belonging to various ethnic, anthropological, and racial types. Within the modern Kazakh ethnotype, the mongoloid element accounts for about 70%. Among the 3,000 peoples of the world as identified by ethnographers, Kazakhs take 70th place (with more than 12 million people) with reference to the Turan race.³

At the beginning of the 13th century, Kazakhstan, along with many other countries, was invaded by Mongols, whose actions destroyed the cultivated areas and laid waste to culture and civilization. Kazakhstan was incorporated as two Mongolian states, the White Orda in the east, and the Golden Orda in the west. The beginning of the 14th century saw the breakup of the Chagatai Khanate and the establishment of rival branches of the family in Mawarannahr and the newly formed Mughulistan (which included the Ili region, Semireche, and Eastern Turkestan). The violent rivalry among these last two powers and the White Orda made the third quarter of the 14th century a time of great economic upheaval; trade connections were broken and the agricultural oasis cities (especially Mawarannahr) entered a period of decline. As the economic and political stagnation of the region continued, Timur made repeated forays into both the Kazakh Steppe and northwestern Mughulistan in the 1370s and 1380s. In 1395, he defeated Takhtamish at Sarai Berke, mark-

2. See MARTHA BRILL OLCOTT, *THE KAZAKHS* 5 (2d ed. 1995).

3. See *REPUBLIC OF KAZAKHSTAN: FIVE YEARS OF INDEPENDENT DEVELOPMENT* 8 (1996).

ing the end of Mongol rule in Central Asia. Both the Golden Horde and White Horde quickly disbanded⁴

The peoples and tribes inhabiting Kazakhstan were attacked and assimilated by the Mongols for the most part, but nonetheless kept their Turkish language, customs, and traditions. Semireche came to be included in the Uzbek Khanate and was ruled by khans and sultans known as Chingisids, who descended from Chingiz Khan (successors and descendants of his sons Chagatai and Jochi). For the first time there appeared names of tribes inhabiting Kazakhstan: Kazakhs and Uzbeks among them. Soon numerous Kazakh nomadic tribes definitively separated from settled Uzbek Khanates, who cultivated lands in 1354. The Kazakh nomadic tribes also formed their own Kazakh Khanate of Janibek and Kirai, and were impacted by a powerful Mogulistan that occupied the area of present-day Xin Jiang in China. The official Soviet history of Kazakhstan considers Janibek as the first Kazakh khan, and upon his death in 1480, Kirai's son Buyunduk was elected successor (reigned 1480-1511). Other sources maintain that Kirai was the first elected khan, ruling until his death in 1488, when he was succeeded by Buyunduk.⁵

At the end of the 15th century and for most of the 16th century, the Kazakhs were primarily a political union. The Kazakh Khanate and the Kazakh people were synonymous, as people formed by the union of previously disparate clans and tribes of Turkish descent. They converged in the steppe lands around the Chu River and the Betpak-Dala Desert, where a political void existed and where, as pastoral nomads, they found new and unused pasturelands, a rarity in the late 15th century. Once they occupied the land, these nomads sought to maintain control of it; the Kazakh union, founded by Janibek and Kirai, offered potential for both continued control and future expansion. Tribal unity implied increased military potential, with more warriors to mount a common defense against outside invaders.⁶

In the 17th century under the rule of Khan Kesym, the Kazakh Khanate achieved political independence. The national name Kazakh means "free" in the sense of independence from other states, and freely moving in the vast steppes of Dashti-Qipchak. Thus from the very beginning of its own Kazakh Khanate, the idea of freedom and independence became the national idea of the Kazakh people.

The independent Kazakh Khanate was based on nomadic cattle breeding and farming. It had a stable economy and ongoing political and cultural relations with its neighbors. The region supplied neighboring China, the Central Asia Khanates, and Russia with products of animal

4. *See supra* note 2, at 7.

5. GAVIN HAMBLY, *CENTRAL ASIA* 142 (1969).

6. *See supra* note 1, at 10.

husbandry such as cattle, skins, wool and fat in exchange for wheat, textiles, tools and arms. In the Khanate, Jochi's descendants had dominant positions. Only the descendants could become khans or sultans. Representatives of the Kazakh tribal aristocracy (*bii*) could occupy the positions of tribal and aul chiefs (equivalent to aldermen). Economic, social, and political relations were regulated by common law (or *adat*), whose rules (*ereje*) were retained only in oral tradition, and passed from generation to generation, gradually becoming perfected. The *bii* were the experts of the law, who from time to time convened to clarify the rules. At the end of the 18th century under the guidance of Khan Tauke the law was standardized under the seven most notable experts, who came to be known as *Zliety Zharg* or "The Seven Rules."⁷ In Russian sources they were called the "Tauke-Khan Laws (or Acts)" but no matter what they were called they represented a type of standardized Code of Kazakh Common Law which had great importance in Kazakh legal life.

The principles of *adat* were applied somewhat unequally, in that khans, sultans, tribal chiefs and the wealthy *bii* class enjoyed rather well-protected and privileged lives when compared to the rest of the population. Despite their unequal and dependent roles, Kazakh women, during and after the period of Islamization, had much freer social, public and legal existence than women in other Muslim societies. They did not wear the face veil (*chadra*), and the first wife (*baibishe*) was the head of the family, whose every request and order was catered to by the rest of the family.⁸

At the end of the 17th and at the beginning of the 18th centuries, the Kazakh Khanate was under attack by Jungar-Oirot invaders, who took advantage of the weakening division of Kazakh peoples into three large federations, each called a *zhuz*. The Kazakh hordes were, in fact, federations or unions of tribes that typically did not share a common ancestry.⁹

In spite of the heroic resistance and some military successes attained as the result of a temporary unification of the various *zhuz* under the three great *bii* leaders, Tole Bii, Kazybek Bii and Aiteke Bii in 1723, Kazakhstan still remain besieged and had to turn to Russia for military assistance. It received this assistance in return for its eventual (in the 1730s) incorporation into the Russian Empire.¹⁰ The interests of the Tsar and his government in Kazakhstan and Central Asia primarily revolved around extending the size and reach of the Empire, and consolidating its own

7. Source on file with author.

8. See generally S. KLIASHOUNYI & T. SULTANOV, *KAZAKHSTAN: THE CHRONICLE OF THREE MILLENNIA* (1992).

See *supra* note 2, at 11.

10. B.B. IRMUCHANOV, *KAZAKHSTAN: HISTORICAL AND PUBLIC VIEWS* 76 (1996).

power at the expense of those peoples conquered.¹¹

A new phase in the history of the Kazakh people begins with their incorporation into the Russian Empire. Until the 1820s the Little Zhuz and Middle Zhuz retained their independence while acknowledging dependence on Russia. However, the Elder Zhuz was finally formally annexed to Russia as the result of invasions against the Kokand and Khiva Khanates. The first conditions agreed to by the Middle and Little Zhuzes as they joined the Empire were:

- (1) to recognize the the sovereignty of the Zhuzes;
- (2) to allow passage of Russian merchant caravans;
- (3) to return Russian prisoners and deserters;
- (4) to pay annual per capita taxes;
- (5) to have relations with other countries only with Russia's express consent; and
- (6) the khans were force to send sons or other close relations to St. Petersburg as *ainanats* (hostages).

Thus the khans, sultans and biis of these Zhuzes were allowed to maintain their rule and powers.

The tsarist government, through the Ministry of Foreign Affairs and with the consent of the Military Department, appointed a vice-regent who resided in Orenburg and exercised power and control in assuring the conditions of the above agreement. At the same time, the Russian military organized the Ural Cossack Army to patrol the border with the Zhuzes. Naturally, the tsar's vice-regent often interfered with the internal affairs of the Zhuzes, and continuously exercised oppression of the khans and local rulers. Nevertheless, these Zhuzes tried to maintain internal independence until the 1820s. The legal status of these two regions within the Russian Empire resembled that of protectorates, which some Kazakh scholars dispute.¹²

In the 1820s, Russia carried out pivotal reforms in the Zhuzes in order to establish a semi-colonial regime. The khans' powers were nullified, their successors now receiving titles of Russian nobility. The captive Amanats received a very directed and secular Russian military education and were rewarded with lavish salaries. Furthermore, The Little Zhuz was divided into regions for territorial administration with the governors appointed by the vice-regent in Orenburg. The Middle Zhuz was divided into areas called *okrug* and headed by sultans elected by the local aristocracy and approved by Russian vice-regents. The Bigger (Elder) Zhuz had been conquered early on and was the subject of Russian military rule until the reforms of the 1860s.

11. See *supra* note 3, at 16-17.

12. S. Kuisainov, *The State of Kazakhs: Adat and Shariat*, KAZAKHSTANSKAYA PRAVDA, Oct. 30, 1996.

The Kazakh Khanate was a relatively short-lived and generally unsuccessful political institution. The Kazakh state was unable and ill-equipped to maintain a strong military presence in the steppe. The Kazakhs, though descendants of an indigenous warrior culture, were primarily pastoralist and more concerned with grazing than fighting. Their military organization, predicated on temporary periods of service, was no match for the Kalmyk forces.¹³

In the 1860s, Russia introduced a number of progressive reforms with the abolition of serfdom being most notable. Others included: universal military service; land and financial reforms; and improvements in citizens' legal status. At the end of the 1860s a dual natured reform program, having progressive and colonial aspects, was introduced in Kazakhstan. Russia then divided Kazakhstan into three governorships:

The first was Turkestan, with its center in Tashkent, which included Semireche and all of Central Asia. The Steppes governorship, with its center in Orenburg, included a major portion of the Middle Zhuz; and the Siberian governorship, with its center in Omsk, included the territories of North and East Kazakhstan.

The governor's generals were appointed in Saint Petersburg, and all exercised administrative and military power. The general governorships were divided into *oblasts* (large administrative territories), headed by military governors. In Kazakh territories, the governors wielded military and civilian power, while in Russia itself the governors had no such military power. Oblasts were divided into *uezd* (districts, a term which has not been used since the mid 1920s), governed by *uezd* heads. The hierarchy governing in Kazakhstan had a clearly military/administrative character. The government apparatus consisted of representatives of Russia and all local nationalities. It was aimed at providing order in the Steppe: levying taxes; fighting crime; and providing for an economy.

Thus, the reforms begun in the 1820s in the Little and Middle Hordes put an end to the ascendancy of the khans, while leaving the sultans and "white bone" (ur-Kazakh) aristocracy in control of the new civil authority. Neither the sultans themselves, nor the administrative apparatus that had been introduced, were capable of administering the Kazakh population. Rather than being the period of stability and order that the officials in St. Petersburg had envisioned, the four decades following the introduction of the Speransky reforms were a time of increased disorder and disarray in the steppe.¹⁴ Maksheev, a contemporary Russian observer in the steppe, concluded about the reforms of the period: "All the profound measures did not subjugate the Kirghiz (the term at that time for Kazakh) but only increased their anger. With the sultan administrators as with

13. See *supra* note 1, at 27.

14. *Id.* at 62.

Abul Khayr one hundred years before, the Kirghiz fought between themselves, launched barymtas (punitive raids in which livestock was captured, launched against the auls of clan rivals) and attacked settlements along the line.”¹⁵

In Central Russia, just as in Metropole, the breach of law, bribery, corruption and tyranny were a widespread phenomena. Thus in Kazakhstan, these problems were common. It was conditionally positive keeping- in Kazakhstan the local self-monument more organized than it was before the reforms. In *volost* (the designation for a small rural district used in the pre-Revolutionary period and during the early years of Soviet rule) and tribal subdivisions *volost* biis were elected. In some degree this was positive for the judicial court reforms in Kazakhstan. Together with general imperial courts and court departments in Kazakhstan, tere were biis courts. Kazakh biis courts could consider at the trial the most usual civil and criminal issues but not significant breaches of law and conflicts.¹⁶

This system of management in Kazakhstan, as a part of the Russian Empire, was kept with some changes until the 1917 revolutions of February and October. Its rather complicated legal system consisted of: Adat, the common law of Kazakhs, as well as Shariat or Muslim law; and Russian Imperial law.

For the local populations of Kazakhstan, adat was the main source, of course. It better corresponded with the nomadic and semi-nomadic way of life. Norms of Shariat law were used mainly for regulation of some family relations, considering serious penalty for crimes against Islamic rules—for apostasy, as an example.

Russian Imperial law had two kinds of norms. The first is civil law through which Kazakhstan was included into the general economic life of the Empire. Naturally, the law of ownership, the obligatory (pled-ed) law of Russia did not differ from the analogues of European states and played a positive role in Kazakhstan and

Criminal law and Administrative law played positive roles as more humane and civilized than that of adat and Shariat. Simultaneously, the other part of Imperial law judicially exercised a more serious regime of management and stricter responsibility for crimes than in internal governorships in Russia. It was evidently exercised during the revolutionary events in 1905-1907, and particularly during the people's uprising in 1916 (Amangeldy Imanov).

Besides losing its independent status while under Russian dominion,

15. MAKSHEEV, *ISTORICHESKII OBZOR TURKESTANA: NASTUPATELNAGO DVIZHENIIA V NEGO RUSSKIKH*, ST. PETERSBURG 114 (1890).

16. M. ABSATTANOV, *KAZAKH ETHNOS: AT THE CROSSROADS OF HISTORY* 4-5, 13-14 (1995).

Kazakhstan was forced to cede stewardship to Russia of its most fertile lands. The floodplains in the Alatau and Altai Mountains, and other enormous areas, were to be worked by Russian and Ukrainian migrants from the central regions of the Russian Empire. This resulted in poor conditions for cattle breeding by the nomadic Kazakhs. In addition, a non-equal and unequal trade relationships developed between Russian merchants and Kazakhs. The tyranny and typical lawlessness of Russian and local officials has already been mentioned, as well as their political and religious oppression of the native population.

At the same time, the joining of Kazakhstan with Russia had positive aspects. Many towns were established as centers for the handicraft industry, trade, administration and for developing Russian and Kazakh culture. Many members of the aristocracy were educated in Russian secular and military schools, Many Kazakhs learned the Russian language, which opened up cultural and further educational possibilities. The tsarist government encouraged the construction of mosques and arranged for mullahs from Kazan and other Islamic centers to carry out the spread of Islam in Kazakhstan.

No wonder that during the second half of the 19th century, from the midst of the Kazakh people, came prominent representatives of scientific, social, political, and artistic life. Some of these representatives have received national and also world recognition. They are enlighteners of the Kazakh people. Examples include: Chokan Valikhanov, the founder of modern education in Kazakhstan; Ybrai Altynsarin; and the great poet and thinker, Abai Kunanbaev. Many other Kazakhs who graduated from Russian secondary schools and institutes of higher education have become notable citizens, public figures, and great statesmen.

Many works of Eastern, European, and Russian literature were translated into the Kazakh language, and thus the first Kazakh language newspapers were published. However, the Kazakhs continued to experience their formal and legal inequality in the Russian Empire. It was well known in tsarist Russia, that social, professional and legally fixed inequality existed among the Kazakhs. Kazakhs had no nobility, nearly no mercantile or industrial class and no urban lower middle class. Further, since they were Muslims, Kazakhs were excluded from the privileges accorded only the Orthodox. Moreover, they had no representation among local elected officials and establishments, or the state Duma. Colonialism, weighs heavy, and Russian colonialism was no exception. Lawlessness, poverty and national humiliation of enslaved people was the general rule. For the Kazakh people, tsarism meant not only violent deprivation of primordial fertile grounds, but also the deprivation of an opportunity to employ their historical, primordial name "Kazakh." Historically, it is noted that the Russian administration misapplied the term

"Kirghiz-Kaisak," as evidenced through the records of imperial Russia."¹⁷

Only the October Revolution brought some relief in legal conditions for the Kazakhs and other aboriginal groups in the Russian Empire. The Soviets acquired tsarist territories and perpetuated the administrative structures therein. However, decisions of national problems were postponed until the establishing congress (Uchreditelnoe sobranie) was called. Continuing the unpopular war against Germany and its allies would delay decisions on national agrarian problems, worsen the food situation, as well as undermine the authority and power of the army and the central provisional government and its local bases. This would ultimately set the stage for the 1917 October Revolution under the leadership of the Bolsheviks (Communists) headed by V.I. Lenin. All the power in this great country was now in the hands of Soviets of workers, peasants and soldiers' deputies. All the country, including Kazakhstan, entered a new stage of historical development.

The Great Decrees of October adopted at the 2nd Congress of Soviets 25-26 1917 were entitled "About Peace," "About Land," and also "About Nationalization of Factories, Railways, and Communications."¹⁸ There were also declarations about equality of nations and their right to self-determination, on abolishing rank and its privileges, about gender equality, and the separation of church and state. For their victory against international armies they paid in millions of lives, destruction of the economy, hunger, and continued poverty.

Kazakhstan, along with the rest of the country, was the scene of fierce military struggles. In 1918, the southern region of Kazakhstan was joined to the Turkestan republic with its center in Tashkent. In 1919, a Provisional Committee was formed in Orenburg to manage the area of Kazakhstan in the ongoing Civil War, and to provide for the people's needs. Here, and other places, the population was largely Russian. Yet there were Kazakh supporters of the Bolsheviks such as Ryskulov and Seifullin, as well as more democratic national elements. There also existed a reactionary third group, which held to its pan-Turkic and Islamic positions.

By summer 1920, the Civil War was over in Kazakhstan. On August 20, 1920, the Central Committee and the Soviet of People's Commissars of the RSFSR adopted a decree called "About the Formation of the Autonomous Kirghiz (i.e., Kazakh) SSR."¹⁹ In September-October, 1920, the first SSR-level Congress of Soviets was held. Only workers, peasants, Red Army soldiers and representatives of Kazakh workers took part in the election of deputies to this congress. Barred from inclusion were

17. See *supra* note 2, at 17.

18. Source on file with author.

19. Source on file with author.

those who used hired labor, officials of the previous state apparatus, clergy and members of all other parties. This congress declared the formation of the azakh Soviet Autonomous Socialist Republic within Russia. It approved the Central Powers Decrees and vowed to fight the exploitation of any man by another in the construction of a socialist society. Also formed were the Central Executive Committee, the Parliament and its Presidium, the Soviet of People's Commissars, *i.e.*, the Government, charged with the goal of Sovietizing the vastness of Kazakhstan. Changes to this structure came only with the new USSR Constitution of 1936, followed by a 1937 Constitution of Kazakhstan, which was now accorded the status of a Union Republic (SSR) separate from the RSFSR.²⁰

In 1924-1925, on the initiative of the Central Committee of the VKP(B) (Communist Party) and the USSR government, a national-territorial demarcation was exercised on Kazakhstan and the Central Asia Republics. Indeed, for the first time in modern history Kazakhstan now comprised all its historic territory. Thus, Kazakhstan formed its own soviet socialist state system, not complete of course, but still part of the Russian Federation.

According to the census of 1926, Kazakhstan had a population which included more than six million Kazakhs. During the first decades of Soviet power in Kazakhstan, a new economic policy was exercised. Kazakhs were given back the lands which had earlier been given to Russian migrants. The economy quickly reconstituted, illiteracy was reduced, secondary schools and higher education centers flourished, new theaters, clubs, museums, and reading halls were opened. Thousands of Kazakhs were sent to study in Moscow, Leningrad, Kiev, Novosibirsk, Saratov, and Sverdlovsk to be trained for specialized trades and higher education. In nearly all oblast centers, pedagogical centers opened to train teachers for national schools in Russian and Kazakh.

Administrators were encouraged to learn Kazakh, receiving a 15% salary bonus if they did so, but this policy was not a success. The positive aspect of Soviet rule in Kazakhstan was darkened from the beginning by the persecution of clergy from all faiths. Clergy were sent, along with some of the intelligentsia, to Siberia or the Soviet Far East for their "national and non-proletarian points of view." The Bolshevik party and governmental forms were simply superimposed on existing local social and political hierarchies; traditional authorities merely assumed new titles and the Kazakh intelligentsia was only visibly represented in the territorial bureaucracy.²¹

By the end of the 1920s the monopoly on Soviet power was firmly in

20. Z. Stankevich, *The Logic of Development and Will of the People*, NEZAVISIMAYA GAZETA, July 7, 1994.

21. See *supra* note 2, at 158.

Stalin's hands. NEP (New Economic Policy) was abolished, and the forced industrialization and collectivization of the nation began. Indeed, many industrial success resulted in Kazakhstan: the Karaganda coal basin, Balkhash copper works, integrated plants, many defense and civil establishments, and the TurkSib Railroad connecting Siberia with Central Asia. At this same time, forced collectivization brought terrible hardships upon the Kazakhs: hundreds of thousands of wealthy biis, kulaks, and laborers alike were exiled to Siberia and the Far East to prison camps in which nearly all perished. Stalin was still not satisfied with the complex nature and slow pace of collectivization in Kazakhstan, between 1931 and 1933 he orchestrated a famine which killed 2 million Kazakhs and drove another million to neighboring China and Mongolia. The correlation of national structure sharply changed in the republic. Construction of new mines, plants, factories, power stations, and railroads demanded a huge work force of laborers, engineers, and technicians. Russia, Ukraine, and Belorussia, as well as other republics, were tapped as a source for labor, which was supplied in the form of thousands of exiles, kulaks, migrants, and criminals.

During World War II many thousands—even millions—of people were evacuated to Kazakhstan from the western part of the USSR, a pattern which continued into the 1950s. By the 1960s Kazakhs constituted only about 32% of their republic's population. The policy of Russification was by now well established. Kazakh language and culture had both suffered: first, the Arabic alphabet variant used for Kazakh was replaced by a new Latin substitute (distinct from others in use in Central Asia), and finally by a stylized version of the Cyrillic (Russian) alphabet. Teaching of Kazakh in Russian schools ceased.²²

This period saw the creation of many institutions, including Kazakh State University, the medical institutes, women's pedagogical institutes, industrial, law, and many other institutes, as well as hundreds of specialized and secondary technical schools. The Kazakh Department of the All Union Academy of Sciences was established in 1945 along with the Kazakh Academy of Sciences with its many scientific institutions and research laboratories.

In Kazakhstan the National Opera and Ballet Theatre opened, along with others. A symphony orchestra was organized and named for Kazakh traditional musician, Kurmangazy. Other orchestras, the Union of Writers, and similar societies for composers, artists, athletes were established. The great needs of science and technology in the republic was answered by Kazakhs who went to study in Russia for advanced degrees.

Though Kazakhstan contributed in many ways to victory in World War II, those details are outside the scope of this essay.

22. GABRIEL ALMOND & SIDNEY VERBA, *THE CIVIC CULTURE* 3 (1965).

Kazakhstan held its Union Republic status within the Soviet Union continuously until 1991. Its historical continuity with its own past broke down severely during Soviet dominion, and, over the seven decades preceding independence, was subject to destructive forces sometimes bordering on genocide. Not only were the Kazakh people abused, but the land bears a record of decline and degradation: a place which seemed eternal for a thousand years is now suffering from severe ecological problems.²³

After unmasking the cult of Stalin at the Y-Xth Congress of the CPSU, and from further revelations in the late 1960s, the USSR entered a stage of stagnation. This period was characterized by increasing economic contradictions and hardships, worsening well-being of the people, spreading corruption and bribery, and demoralization in the Soviet. The economy suffered, crime increased, and the nation experienced a general spiritual and moral degradation. The republics experienced a growing sense of national self-identity, fueled by this complex mix of failures and grievances.

Some attempts to reorganize government with the Soviet system were unsuccessful in themselves, or were curbed by the Brezhnev regime. Hundreds of competent individuals within the intelligentsia were placed in psychiatric hospitals, or were simply forced to flee the country.

The results of Gorbachev's reconstruction (*perestroika*) are known all over the world. At first, the aim was to retain the socialist system while recognizing human rights and freedoms, abolishing censorship, declaring *glasnost* (openness), and allowing for a multi-party system. The old system could not solve the social, economic, and political contradictions, and the crises of the Soviet Socialist system brought about a situation of deadlock. The first signs of real crisis were the December 1996 events in Kazakhstan, along with national movements in Georgia and the Baltic states, as well as the clashes between Azerbaijan and Armenia.

Beginning in 1990 all the Union Republics declared their sovereignty and independence. The coup of August 1991 finally undermined all attempts of the central government to preserve the confederation of the republics.

In December 1991, in Belovezhskaja, Pusha three leaders, Shushkevich, Yeltsin, and Kravchuk, agreed to a declaration abolishing the Soviet Union, and formed the Confederation of Independent States. The CIS was legally established when the leaders of eleven nations adopted the declaration. From this time the sovereignty of Kazakhstan was recognized by nearly all the nations of the world. With the new Constitution of 1993, the nation and its leader, President Nazarbaev, achieved further universal recognition. During the last year of the USSR's existence,

23. See *supra* note 3, at 25.

Nazarbaev was distinguished by "interested personal participation and weighed position at all stages of preparation of the allied contract, his constructive ability in progress of new ogaryov process, public and private intermediary in a section of crisis situations arising in this connection with the relations between Gorbachev and Yeltsin."²⁴

The Constitution was accepted by the Supreme Kenges, which itself was a holdover from pre-independence times. As a legal document it attempted to reflect new realities and had an inevitable dual character. On the one hand, it promoted further realization of market and democratic transformations, while on the other, it caused disputes and instability of authority. In particular, it failed to define the powers of the legislative and executive branches.

In the larger picture acceptance of the 1993 Constitution formed the third stage of developing statehood in the new republic. This stage was marked by basic key events including: the acceptance of the program of the second stage of privatization during 1993-1995, the anti-crisis program of the government, and the realization of concrete steps in maintenance of the economy of Kazakhstan.

The introduction on November 12, 1993 of Kazakhstan's first national currency, the *tenge*, marked the withdrawal of the republic from the so-called ruble zone and its true economic independence from the aggregate states of the former Soviet Union.

The new structure of the Supreme Kenges, elected in March 1994, was comprised of more professionals and gradually followed a constructive course. They discussed Plany, the fundamental laws, but imperfections in the Code brought this body to a political impasse resulting in its dissolution and ultimately a new constitution.

The new constitution was accepted by referendum on August 30, 1995. It established a strong presidential form of government, and extended the sitting president's term until December 2000. At the present time we can confidently state that the critical point in the formation of Kazakhstan's statehood is now behind us. The nation has established sovereignty, has attained recognition by the international community, and is a member in number of worldwide organizations.

The Constitution of Kazakhstan created a strong presidential republic and distributed powers between three branches of authority. Thus, steady and successive institutions of strong state authority have been created, and that has allowed the stabilization of all internal political processes.²⁵

The 1995 Constitution, solving the character of statehood, says that "the Republic of Kazakhstan approves itself as a democratic, secular, legal and social state, higher values of which are the person, his life, rights

24. See *supra* note 20.

25. N.A. NAZARBAEV, ON THE THRESHOLD OF THE XXI CENTURY 138 (1996).

and freedom," (Art. 1, pt. 1). The new Basic Law of the independent state determines the limit of the constitution and ensures steady development. Kazakhstan, as a state, is characterized as "unitary" and "integral," (Art. 2, pts. 1 and 2). Of primary importance is the fact that Kazakhstan contains no other independent states or entities within its borders. Also, fundamental to the concept of unitary state is uniform citizenship, legislation, and a system of state authority. "We can say that, over the course of a year, and due to the new Basic Law, the fundamental bases of new statehood have been established, and a uniform state authority, capable of adjusting and directing public development, has been generated."²⁶

The state authority in the Republic of Kazakhstan is divided into legislative, executive, and judicial branches, which cooperate among themselves with a system of costs and counterbalances. The new parliament has two chambers, consisting of the Mazhilis and the Senate. Executive authority is carried out by a system of executive agencies. The head of state establishes internal and external policy. Government implements these policy directives. Judicial authority is subordinated to the Constitution and the law. The Constitutional Council is allocated from the general judicial system, the circle of powers of prosecutor's office, courts and others vary. When the supreme arbitrator in the state is the President, the Constitutional Council serves as an optimizing body on maintenance of the constitutional legality.

Five years of Kazakhstan's history as a sovereign state shows that the third approach is a priority in the country. Within its framework, two main directions can be noted. First, there is state governing of ethnic processes. The 1995 Constitution stated such democratic principles as a civic approach to defining of people in the preamble.²⁷ The principle of uniform and equal citizenship, independent of paragraphs 10 and 14, is a ban on national discrimination. All the principles, taken together, form the basis of national equal rights, giving no place for injury and claims of people against one another.

A second direction of the de-statization of interethnic relations is the emancipation of the creative potential of ethnic groups. A supporter of this trend in national policy, Russian ethnologist, M.N. Guboglo notes, "a new form of ethnic self-determination principally differs from the previous situation in that it shifts stress from the collective level of national rights to a personal level. The role of legacy model, undoubtedly demanding serious conceptual elaboration and propaganda measures, grows

26. N.A. Nazarbaev, *The Message of the President of the Republic of Kazakhstan to the People of Kazakhstan*, KAZAKHSTATZSKAYA PRAVDA, Oct. 8, 1996.

27. "We, the people of Kazakhstan, united by a common historical fate, creating statehood on primarily Kazakh land, realizing themselves to be placid civic society, loyal to ideas of freedom, equality and consent...."

respectively.”²⁸

The transformation and modernization of Kazakhstan’s society, occurring before our eyes, is not a single action, but rather a long process of changes, unfolding and yielding a clearer vision of the modern, independent Republic of Kazakhstan.

28. M.N. GUBOGLO. THE TACTIC AND STRATEAY OF THE NATIONAL AUTONOMIZATION AND DEAUTONOMIZATION OF POST-COMMUNIST RUSSIA, 48 (1995).

