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эффективности государственного управления, вхождению Казахстана в ВТО и занятию своего места в числе 50 наиболее развитых государств мира.

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POLITICAL OPPORTUNITY STRUCTURE APPROACH AND POLITICAL REPRESENTATION OF ETHNIC GROUPS IN KAZAKHSTAN

Zhanarstanova Maral Bakhytzhonovna

zhanarstanova@gmail.com

PhD student, Department of Political Science,

L.N. Gumilyov Eurasian National university

Astana, Kazakhstan

Supervisor – Nechayeva E.L.

Political Opportunity Structure approach (POS) was mainly used by different scholars (Kitschelt, 1986; Koopman, 1993&1995; Kriesi et al, 1995; Tilly, 1995) to analyze particular social movements in terms of the context in which a movement emerges. The problem of this method is in its “all-encompassing” nature that “soaks up virtually every aspect of the social movement environment” (1). However, this approach seems to be one of the best in analyzing available opportunities and constraints of a political and institutional environment, which determine if a certain group (for instance ethnic group) can take strategic action or not (2).

Ethnic groups’ representation can take various and diverse forms. The analysis of the political representation of different ethnic groups in Kazakhstan will be done by examining some components of POS - the electoral system, the citizenship regime and the political party.

The first indicator, *electoral system*, is regulated in Kazakhstan by the Constitution and the Law “On Elections in the Republic of Kazakhstan” (further: the Election Law). There are three components of electoral system (Rae, 1969) – district magnitude, which refers to the number of seats per district; electoral formula that “manages the translation of votes into seats” (Farrell, 2001:6); and ballot structure which “indicate how citizens can cast their ballot: for individual candidates, for party lists or the combination of the two” (Ringa, 2010: 140).

The electoral formula allows us to allocate majoritarian, proportional and mixed electoral systems. So, what electoral system does Kazakhstan have? According to Article 51 of the Constitution, the Majilis (lower Chamber of Parliament) shall consist of 107 deputies, 98 of which shall be elected by “the universal, equal and direct right under secret ballot”. However, the rest 9 deputies shall be appointed by the Assembly of People of Kazakhstan. At the same time, the elections of the deputies of the Kazakhstani Senate “shall be carried out on the basis of indirect right under secret ballot” (Article 51 sub-section 2 of the Constitution).

In elections of the President, deputies of the Senate, as well as 9 members of the lower Chamber of the Parliament vote-counting system shall be applied, where the candidate is considered to be elected if he/she has collected more than fifty percent of votes of voters, while “the Mazhilis deputies of political parties shall be elected for the *single national electoral district* based on party lists.” (3)

This is important for our subject because depending on the type of electoral system in a state, the level of political representation of ethnic groups and other underrepresented groups (for instance, women) varies significantly. Thus, it is known that such groups are more successful under proportional representation with list systems and a large multimember district magnitude (4). However, Kazakhstan represents a mixed type of electoral system, where some representatives are elected, following majoritarian rules, while others are elected by proportional (PR) party list procedure. In this respect, it is possible to conclude that electoral system in Kazakhstan is not the best one for ethnic groups' representation, but, at the same time, minorities are better represented in mixed systems than in majoritarian, so there are opportunities in the republic for better representation concerning electoral system component.

On the other hand, the actual picture was not so good. PR system (used for election of Majilis deputies) was expected to facilitate the implementation of the pluralism principle, to contribute to the representation of more parties in the Parliament and to lead to greater centralization of the electoral process, but in the 2007 elections all the seats in Parliament won a single party – Nur Otan, which officially received more than 88 per cent of the vote in the elections. That is why, in order to avoid the unicameral parliament in future, the Election Law was amended in 2007, under which if 7 percent barrier, needed to the party in parliament, was overcome only by one party, then the distribution of seats may be given to the party with the next largest number of voters that took part in the voting (Article 97-1, subparagraph 2).

However, it is not enough to talk only about the electoral system in order to see opportunities of ethnic groups for representation. That is why we move to the second indicator, which is *the citizenship regime*. It consists of two dimensions: a political and a cultural one. The first, political dimension encompasses the extent that a person can achieve a full and equal citizenship and whether he is enabled to vote or not (2).

The process of obtaining citizenship in Kazakhstan is regulated by the Constitution and the Law “On Citizenship of the Republic of Kazakhstan” (further: the Citizenship Law).

According to the Citizenship Law, the citizenship is acquired by birth of individual in the territory of the state and through naturalization (Article 16). Moreover, regardless of the basis, by which it was acquired, the citizenship is uniform and equal (Article 10 of the Constitution).

This means that “favoring a civic rather than an ethnic model of national community is the course upon which Kazakhstan’s leaders have chosen to establish interethnic stability in the society” (5).

The next characteristic of political dimension, as it was already mentioned, is the right to vote. In this regard, Kazakhstan has also applied the principle of equality. According to the Election Law, citizens have the right to participate in voting at elections, irrespective of his/her birth origin, race, nationality, language, relation to religion, belief and faith, etc. (Article 4).

The second dimension of citizenship regime is cultural, which represents the ability of ethnic minorities to have their own culture, interests and language, as well as the public authorities' activities in stimulating and accommodating such cultural differences. Therefore, there are two types of citizenship regimes: multicultural and assimilationist, where Kazakhstan represents the former, as the country creates conditions for the development of customs, traditions, and languages of different nations living on its territory. So, Article 14 of the Constitution states, that

“no one shall be subject to any discrimination for reasons of origin, social, property status, occupation, sex, race, nationality, language, attitude towards religion, convictions, place of residence or any other circumstances.” (6)

Besides this, “everyone shall have the right to use his native language and culture, to freely choose the language of communication, education, instruction and creative activities” (Article 19 of the Constitution).

However, the language issue is more complex than might appear at first glance. Historical events that led to the demographic dominance of the Russian-speaking population in Kazakhstan turned Kazakhs into the most linguistically and culturally Russified of all Central Asian ethnic groups (7). In this context, definition of state language turned into an arena of the clash of different

interests. For the brief explanation of this situation, it is possible to use the ‘three parties’ of Rogers Brubaker’s theory.

The first party is represented by Kazakhstan itself as a new nation-state, where dominant elites fought for the Kazakh language to be the sole state language. The second party is “substantial, self-conscious and organized national minorities”, whose leaders demand the acceptance of Russian as state language with Kazakh. And, the third part is “the external national “homelands” of the minorities, whose elites closely monitor the situation of their coethnics in the new states”, that in our case is the neighboring Russia, the power elites in which would prevent complete replacement of the Russian language by Kazakh, and who would “vigorously protest alleged violations of coethnics’ rights, and assert the right, even the obligation, to defend their interests.” (8, c.64-65).

That is why, the Kazakhstani authorities tried to find a third way, a kind of compromise solution - the demands of ethnic Kazaks were limited but, at the same time, the demands of Russians were not satisfied as well. Therefore, according to Article 7 of the Constitution, the Kazakh is the state language of the country; but “in state institutions and local self-administrative bodies the Russian language shall be officially used on equal grounds along with the Kazak language”; and “the state shall promote conditions for the study and development of the languages of the people of Kazakhstan”.

All this illustrates the active participation of the state in maintaining equality among the multinational population, protection of the rights of every citizen, regardless of race, religion or ethnic origin, as well as creating equal conditions for all individuals, at least de jure.

However, as Floor Eelbode noted, multicultural type of citizenship, where is simplified procedure for obtaining citizenship, and equal rights to vote, does not guarantee better representation of ethnic groups in the political sphere. It happens because “too multicultural countries are not good for the political representation of ethnic minorities. If ethnic minorities receive too many rights, it is possible that they will isolate themselves which makes political integration more difficult or which will increase the risk on conflicts.” (2)

The last, but not least indicator of POS model investigated here is *the political party*. It should be noted at first that there is no consensus among scientists on the issue of ethnic parties. For example, Donald Horowitz has made a strong argument against ethnic parties by maintaining that ethnic parties tend to divide a divided society even further. As they often represent strictly group interests, they are unable to concern themselves with issues of national importance and their behavior is dangerous for the good government of the country (9).

The same opinion has Stephen Wolf, who has called for the de-ethnicization of politics and has argued that it could be mandated through the electoral systems and party legislation (9).

Kazakhstan is an example in which ethnic based parties are not allowed. According to Article 5 of the Kazakhstani Constitution, “formation and functioning of public associations pursuing the goals or actions directed toward ... inciting social, racial, national, religious, class and tribal enmity ... shall be prohibited. Activities of religious parties shall not be permitted in the Republic.” This position is also emphasized in the Law “On Political Parties of the Republic of Kazakhstan”, according to which the formation of political parties on the grounds of professional, racial, national, ethnic and religious affiliation of citizens is not allowed (10, Art. 5, p. 8). Moreover, according to this Law, in the name of a political party is also not allowed an indication of national, ethnic, religious, regional, community and gender characteristics (Article 7).

There is also ‘positive action strategies’ that are used by different countries in order to increase representation of women and minorities in political life. These strategies include the use of legal gender quotas applied by law to all political parties and of reserved seats for minorities (and women) in electoral law (4, c.96-103). The latter “guarantees a minimum number” of underrepresented groups, by reserving seats that are only open to women or ethnic minority candidates (4, c.96), while legal gender quotas specify the minimum degree of proportional composition of parliamentary candidates or elected representatives within each party (4, c.97). There are no such quotas in Kazakhstani legislation, as it would discriminate other national groups (namely, titular nation), but the political representation of ethnic groups in Kazakhstan is carried out

through the Assembly of People of Kazakhstan, which was established by the President in 1995. The main goal of the Assembly is to represent the interests of the country's various minorities. Besides this, as Nathan Paul Jones noticed, "Among the Assembly's tasks are the provision of minority representation in state and local government, the support of national cultural centers mandated to preserve and revive ethnic minority cultures, and the establishment of facilities and forums, such as cultural festivals and Houses of Friendship, for the exercise and performance of ethnic culture" (5).

The Official Report of International Convention on the Elimination of all Forms of Racial Discrimination points out the main functions of the Assembly: revival and promotion of ethnic cultures, languages and traditions; it fosters national and ethnic patriotism; it strengthens inter-ethnic unity and harmony through the monitoring of ethnic relations, and it makes recommendations and proposals for State policy to develop friendly relations between the nationalities living in Kazakhstan (12).

In 2007 the Constitution had been amended, by virtue of which, the Assembly has the constitutional status. It consists of 26% Kazakhs, 15% Russians, 6.5% each of Koreans, Germans, and Tatars, with other minorities less represented (13). Among those nation groups nine individuals are elected by the Assembly as deputies of the Majilis. This system is intended to provide a more equitable ethnic distribution in Parliament and to empower ethnic minorities that may otherwise not have the ability to elect or nominate members of their ethnic group. Still, both houses remain predominantly Kazakh; only 10 of 47 senators are non-Kazakh, while only 24 of the 107 members of the Majilis are non-Kazakh (14).

Therefore, the Assembly is a unique body, representing the interests of various ethnic groups. We can confidently say that despite the absence of ethnic parties in Kazakhstan, the authorities are attempting to make conditions for representation of interests of different minority groups in the political sphere.

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НЕКОТОРЫЕ АСПЕКТЫ ПОЛИТИКО-ПРАВОВОГО РЕГУЛИРОВАНИЯ ПРАВ ЭТНИЧЕСКИХ ГРУПП НА МЕЖДУНАРОДНОМ УРОВНЕ

Жанарстанова Марал Бахытжановна

zhanarstanova@gmail.com

Докторант PhD, кафедра политологии,

Евразийский национальный университет им. Л.Н. Гумилева

Астана, Казахстан

Научный руководитель – Нечаева Е.Л.

Современные государства мира в большинстве своем этнически не однородны. Это, в свою очередь, влияет на национальную политику государств. Демократическое устройство призвано создавать равные условия для всех граждан, не зависимо от этнической, религиозной или иной принадлежности. Данные права должны быть законодательно закреплены в конституциях и иных нормативно-правовых актах любой страны, которые, в свою очередь, должны соответствовать и не противоречить международному праву. Существует огромное множество международных нормативно-правовых актов (деклараций, конвенций, пактов, соглашений, рекомендаций и т.д.), затрагивающих права и свободы граждан, а также политические права этнических групп. В силу этого, разделим весь массив международных документов на две группы, первая из которых закрепляет основные неотъемлемые права и свободы человека, в том числе провозглашает принцип равенства и недопущения дискриминации, в то время, как вторая группа актов защищает права этнических, религиозных, и других групп (меньшинств).

В данной статье намеренно не делается различия между такими понятиями как «национальное меньшинство» и «этническая группа», которые воспринимаются здесь как тождественные, ибо это предмет других исследований.

Кроме того, необходимо отметить, что в статье приведены и проанализированы не все международные нормативно-правовые документы в данной области, а лишь те, что являются, по мнению автора, наиболее важными и относящимися в политической реальности и юридическому законодательству Республики Казахстан.

Первая группа международных нормативно-правовых документов, как уже выше отмечалось, затрагивает гражданские и политические права всех граждан, а также запрет дискриминации по любым основаниям. Важным документом, на который опираются практически все международные декларации и конвенции по правам человека, а также конституции большинства стран мира, является Всеобщая декларация прав человека, принятая Генеральной Ассамблеей ООН в декабре 1948 года. Декларация закрепляет неотъемлемые права и свободы «...без какого бы то ни было различия, как-то в отношении расы, цвета кожи, пола, языка, религии, политических или иных убеждений, национального или социального происхождения, имущественного, сословного или иного положения» (1). Всеобщая Декларация Прав Человека является своеобразной основой, закрепляющей базовые ценности. Многие принципы Декларации дублируются и в других международных документах.

Международная конвенция о ликвидации всех форм расовой дискриминации (1965) также привержена основополагающим гражданским принципам, провозглашенным