

ANNOTATION
of the dissertation on theme: «Cultural rights and freedoms in the
Republic of Kazakhstan and the modern world (theoretical-legal study)»
for the degree of Doctor of philosophy (PhD) in the
specialty 6D030100-Jurisprudence
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General characteristics of the dissertation work. The dissertation work is devoted to research of theoretical and practical problems of legal regulation of cultural rights and freedoms of man and citizen, enshrined in the Constitution and legislation of the Republic of Kazakhstan and foreign countries, documents of UN, UNESCO, the Council of Europe and other international acts. This work is a comprehensive study of the problems of implementation of cultural rights and freedoms in the Republic of Kazakhstan and the modern world.

Relevance of dissertation research. Since the declaration of state sovereignty and independence, the Republic of Kazakhstan has attached great importance to ensuring human and civil rights, recognized as the main value in the modern world, including great attention to the implementation of cultural rights of man and citizen. Nowadays, given the increasing role of an individual in the sphere of culture, it is important to study the role of the state in the development and improvement of human cultural rights and freedoms. The Republic of Kazakhstan is undergoing spiritual modernization, which is accompanied by a reassessment of cultural values, a change of reference points and adaptation of civilizational achievements to the national culture. At the present stage of development, our country has identified the prospect of preserving national identity, protection of sacred values and development of cultural and educational environment as the main reference point, while ensuring human and citizen's rights in the cultural sphere. The priority task of the state and society is the establishment of democratic values based on the recognition and respect for human rights and freedoms.

Within the framework of the "Rukhani zhangyru" program, developed on the initiative of the First President of the Republic of Kazakhstan, based on the revival of historical and cultural traditions, promotion of cultural heritage, preservation of national art and customs, the national cultural policy is being harmonized with global values, through the development of cultural rights and freedoms of man and citizen.

In the Constitution of the Republic of Kazakhstan, cultural rights are legally enshrined in the Constitution of the Republic of Kazakhstan in the section devoted to human and citizen's rights and freedoms. Cultural rights are enshrined in clause 2 of Article 19 and clause 1 of Article 20 of the Constitution of Kazakhstan, passed on August 30, 1995. The legal regulation of cultural relations is specified in the Law of the Republic of Kazakhstan "On Culture", adopted on December 15, 2006, which defines cultural rights as the rights and obligations of citizens in the field of culture.

In today's world, the definitions of the concepts of "cultural rights" and "citizens' rights in the field of culture" contained in scientific studies of domestic

and foreign authors, as well as those enshrined in legislation, reveal similarities. However, it is appropriate to use the concept of "cultural rights" to disclose the legal nature of this phenomenon completely.

Cultural human rights are the basic category of the system of human rights, enshrined in the international legal acts, standing on the same level of importance with other human rights. International law emphasizes the importance and supremacy of all human rights, and therefore cultural rights cannot be considered a secondary category compared to other groups of human rights and freedoms, since diminishing the importance of cultural human rights can lead to the practice of ignoring other human rights.

International experience in the consolidation of cultural rights ensures human rights and freedoms in the field of culture by securing them through laws of a constitutional nature. The comparative legal analysis of the constitutional and legal norms establishing cultural rights in the countries of Europe and Asia, presented in the dissertation, contributed to the further improvement of cultural rights in the Republic of Kazakhstan, considering the experience of foreign countries.

Previously domestic legal science did not conduct a comprehensive study of the issues of legal regulation of cultural rights and freedoms of man and citizen. Previously the essence of cultural rights and the functional purpose of these rights were not sufficiently disclosed. This dissertation research is devoted to the disclosure of the essence, signs and normative-legal fixation of cultural rights in legislation and international acts, as well as peculiarities of their provision and realization. Summarizing the above, it is necessary to recognize the importance of the study of cultural human rights, their normative enshrining and settlement, as well as the study of the trends of improvement of mechanisms of implementation and ways to ensure cultural human rights.

Purpose and objectives of the research. The purpose of the dissertation work is a scientific comprehension of the legal nature of cultural human rights in the Republic of Kazakhstan and the modern world, through a comprehensive study of the mechanism of legal regulation, ways of ensuring cultural rights and freedoms.

Achievement of the goal of the dissertation work implies solution of the following tasks:

- to reveal the content of human cultural rights and freedoms of man as an individual and collective right, to identify various scientific approaches to the definition of the human cultural right in legal sciences and to determine their place and interrelation in the system of other human rights;
- analyze the evolution and main stages in the development of cultural human rights;
- to conduct a comprehensive analysis of the system of human cultural rights and freedoms;
- to study the international legal acts regulating the cultural rights of man and citizen in the world and consider the possibility of their implementation in the national legislation of the Republic of Kazakhstan
- To perform a comparative legal analysis of the constitutional norms enshrined in cultural human rights and freedoms in the Republic of Kazakhstan

and other foreign countries. To study foreign experience of realization of cultural human rights (Spain, Poland, Turkey, Japan, China and Russia) in order to improve the constitutional and legal norms of the national legal system;

- To work out recommendations and suggestions on improvement of legal fixation of cultural human rights in the Republic of Kazakhstan.

Object and subject of research. The object of the study is public relations regulated by law in the sphere of implementation of cultural rights of a person and citizen in the Republic of Kazakhstan and in the modern world. The subject of research is the normative-legal consolidation of human cultural rights in the national law and international acts, the concept, essence, classification and procedure of realization of human cultural rights and freedoms in the Republic of Kazakhstan and the modern world.

Theoretical bases of the research. The study studied the works of Kazakhstan and foreign scientists, in particular: S.K. Amandykova, K.K. Aytkhozhin, A.H. Abashidze, S.J. Aidarbayev, J.D. Busurmanov, M.T. Baymahanov, N.S. Bondar, M.V. Baglay, R.M. Bukenbaev, N.V. Volkova, A.S. Ibraeva, S.A. Simonov, V.A. Kartashkin, M.S. Kemali, Y.A. Lukasheva, M.N. Marchenko, A.N. Morozova, S.N. Molchanov, D.Z. Mutagirov, D.I. Nurumova, L.A. Okunkova, Y.M. Pavlenko, L. Prott, C.S. Sartayev, G.S. Sapargaliev, K.M. Sarsembayev, A.B. Seifullina, K. Singh, A.M. Solntsev, R. Stavenhagen, A.V. Turlaev, A.S. Tumanova, Y. I. Kharitonova, I.V. Shishenina, H.A. Nashirbaeva, H. Niec.

Methodological framework of research. General scientific, special and private scientific methods of cognition were used in solving the set tasks. The research was carried out on the basis of dialectical method, by analysis and synthesis, induction and deduction, comparison and description and other general scientific methods of knowledge, as well as with the help of systemic legal, historical and legal, comparative legal, formal legal, statistical, comparative and other special and private legal methods of research.

Scientific novelty of the dissertation research. The investigation and legal consolidation of cultural rights and freedoms in the Republic of Kazakhstan and the modern world allows us to consider the juridical nature, legal regulation and ways of ensuring cultural rights in a new way. It is worth mentioning that the investigation of the given topic in Kazakhstani legal science, dissertational and other monographic studies was not sufficient in recent years. The scientific development of this topic has not yet received ample development. In this way, it is currently relevant to study the theoretical and practical problems of legal regulation of human rights in the field of culture.

The dissertation work develops and justifies recommendations for improving the institute of cultural rights and freedoms in the Republic of Kazakhstan and the modern world. In this dissertation, during the research of normative material, the legislative proposals were made. The need of forming a new approach to the conceptual apparatus, the essence and significance of cultural human rights was justified.

Main features submitted to the defense:

1. In the domestic legal literature and the current legislation of the Republic of Kazakhstan there is no official definition of the concept of "cultural human rights". In this regard, the author's definition is proposed: "Cultural rights of a person are individual and collective opportunities of a person in the sphere of spiritual development, based on moral standards and generally recognized civilizational values, consisting of moral categories, contributing to the creation of a spiritual environment, humanization of society, mutual respect of people, and free access to cultural heritage".

2. The formation and development of cultural rights and freedoms of a person is the foundation of further democratization of political and social institutions of modern Kazakhstani society. Cultural human rights are the cognitive and communicative basis for all generations of human rights.

3. The following classification of cultural human rights, which is carried out according to different directions, is proposed:

- functional direction (the right of access to cultural values; the right to use cultural institutions; the right to take advantage of scientific and technological progress and apply its achievements in practice; the right of everyone to engage in physical culture and sports).

- ideological direction (the right to participate in cultural life; the right to use one's native language and culture; the right to education);

- axiological direction (freedom of religion; freedom of education; freedom of creativity).

4. Based on the world experience of constitutional regulation, it is proposed to supplement paragraph 3 of article 19 of the Constitution of the Republic of Kazakhstan with the following content: "Everyone shall have the right to participate in the cultural life and have access to cultural values. The state shall create conditions for development of culture, scientific and technical research for the public good".

5. The international standards in the field of culture are not taken into account completely in the content of the Law of the Republic of Kazakhstan "On Culture", in connection with that changes and additions are made. The Article 1 of the Law "On culture" to supplement the subparagraph 20 in the following edition: "The right to take part in cultural life - special activity of the person, society and the state regulated by the law on creation, preservation, transfer and protection from generation to generation of the material and spiritual values guaranteed by the state, necessary for maintenance and development of culture".

Point 1 of Article 11 of the Law of the Republic of Kazakhstan "On Culture" should be amended as follows: "Rights of natural persons" and the rights of natural persons in the field of culture should be added in the appropriate sub-paragraphs. The text of paragraph 1 should be changed to sub-paragraph 1 in the same wording. In the text of article 1, paragraph 1, add the following sub-paragraphs: sub-paragraph 2: "Everyone has the right to participate in cultural life and to use cultural institutions, to have access to cultural values"; sub-paragraph 3: "Every person and citizen has the right to freely choose their cultural identity»; sub-item 4: "Everyone has the right to use virtual space (free virtual access to education,

reading books, archives and cultural centers) and to improve media literacy (including television, film, radio and audio recordings, printing, Internet and any other digital information)"; sub-item 5: "Everyone has the right to preserve, develop and revive their native culture, traditions and customs"; sub-item 6: "The right to protect all cultural values of a person of their past, present and future»; sub-item 7: "The right of parents and educational organizations to provide priority for the education of children with cultural values".

6. The project "National Strategy of Development of Cultural Rights and Freedoms of Man and Citizen in the Republic of Kazakhstan" appears as a political and legal document providing the development and realization of cultural rights and freedoms. The strategy is an instrument of the state cultural policy, covering the spheres of state and public life on education in the sphere of culture, all types of cultural activity, interethnic cultural relations, digital culture, cultural and creative industries, creation of legal framework, appropriate management in the sphere of culture, support of cultural infrastructure, and formation of mechanisms of financing of culture.

Theoretical and practical significance of the research. The results of the dissertation research can be used in lawmaking and law enforcement activities of state bodies, including the activities of the Ministry of Culture and Sports of the Republic of Kazakhstan, the Ministry of Education and Science of the Republic of Kazakhstan, the Assembly of People of Kazakhstan and other state bodies, as well as civil society institutions whose activities are aimed at protecting human rights. The provisions and results of the dissertation research can be used in the course of protection of cultural human rights, as well as become the basis for further scientific research in this area.

Approbation of the results of the research. The dissertation work was discussed at the meeting of the department of constitutional and international law of Karaganda University named after Academician Y.A. Buketov. The main provisions of the dissertation are stated at theoretical, scientific-practical conferences and seminars, in the materials of international conferences in Kazakhstan and abroad. On the dissertation research theme the author published 19 articles, including 4 articles in the journals recommended by the Education and Science Committee of the MES RK, 2 articles in the journals included in the Scopus database, 2 articles at international conferences abroad, 8 articles at international conferences in the Republic of Kazakhstan, 3 articles in scientific journals.

The volume and structure of the work. The structure of the work is determined by the research topic, the object of research, the goals and objectives, and consists of the contents, abbreviations and designations, an introduction, three chapters with eight subchapters, a conclusion and a list of references.