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**The people of Kazakhstan as one of the subjects of lawmaking**

The article deals with the legislative activity of the people of Kazakhstan through direct implementation or through their representatives. The Constitution of the Republic of Kazakhstan provides 3 ways of lawmaking: Parliament of Kazakhstan, the President of the Republic of Kazakhstan and the people of the Republic of Kazakhstan. The people of Kazakhstan is the central subject of legislation. All methods of legislation are carried out with the participation of the people. All methods of legislation are carried out with the participation of the people. It comes from the constitutional provisions enshrining the people of Kazakhstan as the sole source of state power. According to the Constitution of Kazakhstan people exercise power directly, as well as delegate the execution of their power to state institutions.

**Key words:** power, people, right, subjects, legislation.

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**ҚР халқы  
заң шығармашылығын  
субъект ретінде**

Мақалада Қазақстан халқының заң шығару қызметін жүзеге асыруы мәселелері қарастырылған. ҚР халқы заң шығармашылығын тікелей – республикалық референдумда және жанама түрде, яғни өз өкілдері арқылы жүзеге асырады. Қазақстанда заң шығарудың үш жолы бекітілген: ҚР Парламентінің заң шығармашылығы, ҚР Президентінің және ҚР халқының заң шығармашылығы. Заң шығарудың алдыңғы екі жолы халықтың заң шығаруды жанама түрде жүзеге асыруының нысаны болып табылады. Демек, заң шығармашылығының қай жолы болмасын халықтың қатысуымен жүзеге асырылады. Ол халықтың мемлекеттік биліктің бірден-бір бастауы болып табылатындығы туралы конституциялық мәртебесінен туындайды. Конституцияға сәйкес Қазақстан халқы – мемлекеттік биліктің бірден-бір бастауы. Халық билікті тікелей жүзеге асырады, сондай-ақ өзіне тән билікті жүзеге асыруды белгілі бір субъектілерге береді

**Түйін сөздер:** билік, халық, құқық, субъект, заң шығармашылығы.

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**Народ Казахстана как субъект  
законотворчества**

В статье рассматриваются вопросы законодательной деятельности народа Казахстана. Казахстанский народ осуществляет законотворчество прямо и через своих представителей – косвенным путем. В Республике Казахстан предусмотрено 3 способа законотворчества: законотворчество Парламента РК, законотворчество Президента РК и законотворчество народа РК. Первые два способа осуществляются с участием народа. Народ Казахстана является основным субъектом законотворчества. Это является следствием конституционного положения, закрепляющего народ Казахстана как единственный источник государственной власти. Народ осуществляет власть непосредственно, а также делегирует осуществление своей власти государственным органам.

**Ключевые слова:** власть, народ, право, субъект, законотворчество.

## **THE PEOPLE OF KAZAKHSTAN AS ONE OF THE SUBJECTS OF LAWMAKING**

There are several methods of lawmaking in Kazakhstan: lawmaking of Parliament, the lawmaking of the President of the Republic of Kazakhstan in the delegation of legislative powers, the legislature of the people of Kazakhstan. All methods of lawmaking whatever are carried out with the participation of the people. The people of Kazakhstan are the central subject of lawmaking. It comes from the constitutional provision enshrining the people of Kazakhstan as the only source of state power. In accordance with the Constitution of the Republic of Kazakhstan of 1995, people are the only source of state power. The people exercise power directly and also delegate the execution of their power to state bodies [1, article 3].

As subjects of legislative activity, the President of the Republic of Kazakhstan and the Parliament (deputies) are representatives, elected by the people. They are elected by popular elections. They are associated with the Institute of «popular representation» with the fact that they are elected by the people of Kazakhstan. Also they make promises and speak on behalf of the people in elected offices, and accordingly they receive from a moral point of view orders from them.

The President of the Republic of Kazakhstan and the Parliament of the Republic in accordance with the Constitution has the right to speak on behalf of the people. As stated in article 3 of the Constitution of the Republic of Kazakhstan of 1995 Parliament of the Republic has the right to speak on behalf of the people within their constitutional powers. At the mission on behalf of the people the President has no such limitation; this means that the President is the only entity who acts on behalf of the people without any restrictions. One of the forms of representation and exercise of power on behalf of the people and the President and the Parliament is the exercise of legislative activity.

The Parliament is the main institution of popular representation. In accordance with paragraph 1 of article 49 of the Constitution of the Republic of Kazakhstan the Parliament of the Republic of Kazakhstan is the Supreme representative body, performing legislative activities. The Parliament formed by the people by direct and indirect elections, advocates on behalf of the people, represents the unity of people of Kazakhstan and is the main form of exercise of

power by the citizens of the Republic of Kazakhstan. This body is considered an expression of the will and interests of the people of the Republic, i.e. all citizens in the state

The main purpose of Parliament is a legal execution of the will of the people in the law. The main purpose of the Parliament determines directions of its activities. Accordingly, the main direction of the activity of the Parliament is knowledge, research and designs in the laws the interests of all sectors of society, ensuring through the deputies direct and permanent connection of the people with the state power.

The Parliament expresses the will of the people, by adopting laws and other acts. That is the gist of the Institute of public representation. As a member of Parliament for the deputy the most important thing is to express the will of the whole people, contributing to meeting the immediate interests of citizens [2].

The lawmaking of the Parliament of Kazakhstan is an indirect method of lawmaking of the people that exercise through their representatives. Today the Parliament is not the only body which carries out legislative activity in the Republic. According to the Constitution the President also can exercise legislative activity. In accordance with Section 3) Article 53 of the Constitution of the Republic of Kazakhstan Parliament at a joint session of the Chambers the two thirds of the total number of deputies of each Chamber at the initiative of the President has the right to delegate legislative authority for a period not exceeding one year. Institute of delegating legislative power in Kazakhstan was first enshrined in the Constitution of the Republic of Kazakhstan in 1995 and is an additional form of the legislative activity of the people indirectly.

In accordance with the third article, the President may act on behalf of the people and the state. Accordingly, he exercises his powers on behalf of the people and the state. The right to speak and exercise authority on behalf of the state emanates from the President's status as its head, its highest official person, who determining the main directions of domestic and foreign policies and representing Kazakhstan within the country and in international relations. The exercising of power by the President of the Republic of Kazakhstan on behalf of the people due to the fact that the President is elected by citizens on the basis of universal, equal and direct suffrage. Implementation of power by the President of Kazakhstan, on behalf of the people can be explained by the fact that the President is elected by the citizens of the Republic on the basis of universal,

equal and direct suffrage. President of the Republic of Kazakhstan, elected at general elections shall take office from the moment of swearing to the people the solemn oath to faithfully serve the people of Kazakhstan.

The people of Kazakhstan elect the future President through direct, voluntary election and delegate to him the exercise of its power. The powers of the President enshrined in the Constitution and constitutional laws, are the means of exercising power derived from the people. One of them is the adoption of laws by the President. Implementation the President of the Republic, the relevant authority reveals a «double» of national representation. It becomes possible on the basis of «dual» delegation of authority. The President, who receives his authority from the people, receives the powers of making laws from another institution of people's representation – the Parliament, i.e. the power of the people goes from Parliament to the President.

The implementation of the President the legislative activities on the basis of the delegation doubles his responsibility to the people. Because the legislative activity of the President on the basis of delegating to him legislative powers by Parliament reflects the process when his powers based on the will of the people, further confirms and amplifies the other channel of purchase of power – the confidence of Parliament and delegate its legislative power to the President.

Institute of lawmaking of the President doubles the responsibility of the Parliament, which is formed from representatives of the people. This body, which is formed by the will of the people, on the basis of the confidence of the people has delegated power that is received from the people, to a different entity. Accordingly, the Parliament has an implicit responsibility to the people, moral responsibility for the result of the exercise of legislative activity by the President.

In different countries, where applicable the institute of delegation of legislative powers, the right to make laws is delegated to the Government and not only to the President, as in the Republic of Kazakhstan. The election of a President by the people through direct suffrage means that he is the only sovereign representative of the people. Thus, the exercise of power derived from the people by the President of Kazakhstan, corresponds to the essence of the Institute of «popular representation», and also increases public representation.

As noted above, the people indirectly act as the legislative entity, when adopting the laws by the President and the Parliament. The people of

Kazakhstan have enacted legislation directly through a Republican referendum. Despite the fact that in the world the adoption of laws on a national referendum is used very seldom, it's a way of making laws by the people is an important, significant institution, a real reflection of the democratic character of any state.

According to the famous soviet scientist V. F. Kotok, the referendum is one of the main forms of direct democracy [3, P. 185]. A referendum is a form of exercising the state power by the people directly; the highest form of expression their will, immediate final decision of the people of any question of public life.

In the history of independent Kazakhstan there were twice adopted a law about the referendum. According to the decree of the President of the Republic of Kazakhstan from March 25, 1995, which has the force of constitutional law «About Republican referendum» «referendum is a nationwide vote on draft laws and decisions on the most important issues of state life of the Republic of Kazakhstan» [4, article 1] Constitutional law of the Republic of Kazakhstan «About Republican referendum» of 2 November 1995 amended the definition of referendum by defining «national referendum as the referendum on the draft Constitution, constitutional laws, laws and decisions on other most important issues of state life of the Republic of Kazakhstan» [5, article 1].

In section 2 of article 1 of the Constitution of the Republic of Kazakhstan fixed the most important issues of the state life, including voting at the Republican referendum as one of the fundamental principles of the Republic. In another provision of the Constitution (article 3) a referendum is defined as a form of direct exercise of people power. The constitutional law «About Republican referendum», developing and refining the constitutional provisions which gave rights to citizens of the Republic refers the initiative to call a referendum. Consolidation of citizens of the Republic of the relevant law is one of the moments of democratization of the state. Securing the right to apply the initiative to a referendum shows how increased the role and place of the people in society and the actual participation of every citizen in the affairs of the state.

It was noted above that the citizens of the Republic can be the initiators of a referendum as a method of lawmaking, i.e., they have the right to appeal with the initiative to hold a referendum on a

particular bill. Such an initiative activity of citizens of the Republic of Kazakhstan indirectly can be the beginning and the lawmaking of the Parliament. In other words, the President can make a decision about the necessity of making changes and additions to the Constitution, constitutional law, law or other decision on the question offered as the subject of the referendum, without holding it. In this case the bill is submitted to Parliament. If the President decides to send the bill introduced on the initiative of the people to Parliament, then the bill is put to a national referendum. In this case, the citizens of the Republic indirectly are the initiators of adoption of law in Parliament.

In the history of independent Kazakhstan national referendum was held twice. For the first time the referendum was held to extend the powers of the President of the Republic. The second referendum was carried out legislative activity of the people of Kazakhstan. That is, August 30, 1995 the people of Kazakhstan on the republican referendum adopted the basic law of the state, which recognized the basis of the organization and activity of the republic, which determined the place and role of man in society – the Constitution of the Republic of Kazakhstan. In this main document, which was the result of direct lawmaking of the people was reflected the will and purpose of the people of the Republic.

A referendum on the adoption of the law – this is a nationwide vote on the bill. The adoption of the law on the referendum is direct expression of the people and not its representatives. In a real democratic state, which recognizes the people's decision and the people (person) is recognized as the highest value, the will of the people is always a priority and stands above the interests of the state. Therefore, laws adopted by referendum are binding on the entire territory of the Republic of Kazakhstan and does not require any confirmation by the acts of the President or state authorities of the Republic. And the inconsistency between the decision adopted by the referendum, and the Constitution, constitutional laws, laws and other normative legal acts of the Republic eliminated by bringing the Constitution, constitutional laws, laws and other regulatory legal acts in compliance with the decision taken by referendum.

The people of Kazakhstan is the sole source of state power, when they accept the Constitution and the laws directly or through their representatives, participates in legislative activities of the Republic.

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