

# LEGISLATION AND HIGHER EDUCATIONAL POLICY IN KAZAKHSTAN SINCE INDEPENDENCE: PROBLEMS, PERSPECTIVES AND PROSPECTS

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## ABSTRACT

*This paper will explore and analyses the policy and legislation process of Kazakhstan's higher education policy. The first section of this paper discusses on the theoretical and key concept of policy and legislation stages focusing on three stages which are formulation, implementation and evaluation. The second section will discuss briefly on higher education policy in Kazakhstan. Further, this will include an analysis of the three main stages of policy and legislative cycle and how the three stages do are entangle to one another. This paper concludes that special attention should be paid to the impact of the post-independence legacy on academic rights and freedoms in Kazakhstan, where comparative research is also very much needed in order to find a way to improve the situation based on a real assessment of the current state of affairs.*

**Keywords:** Academic Freedom, University Autonomy, Academic Rights, Bologna Process.

## INTRODUCTION

### Theoretical Framework

According to many academics, the development of policy making evolves through multiple phases, starting with setting the agenda (Easton, 1953). The following stages involves policy initiation (Jenkins, 1978), also referred to as “*decide to decide*” (Hogwood & Gunn, 1984), followed by formulation of the policy, its implementation, and, eventually, its evaluation. Even though the policy cycle framework has proved itself useful in the last decades, various academics nowadays tend to criticize it extensively (Sabatier, 1991), most often in relation to it is impossible to determine exact boundaries between individual stages (Burch and Wood, 1990). In general, academics describe the process of policy making as one comprising three stages: (1) formulation of the policy proposals (this can occur via political channels coming from government agencies, state legislatures, policy-planning organizations, various interest groups, etc.); (2) implementation of the public policy (this is achieved through active participation of public bureaucracies and expenditure of accessible public funding); (3) evaluation of the public policy (various actors, such as government institutions, external consultants, interest groups, the mass media, and the public evaluate the policy either formally, or informally) (Geurts, 2011).

In the formulation stage, the government outlines the possible policy options related to a particular problem identified in the stage of agenda. If a public issue becomes a part of government's agenda, it is expected that those responsible for policy-making determine a set of measures to address it (Howlett et al., 2009). According to Easton (1953), the policy formulation begins with setting the agenda. Howlett et al. (2009) provided the following division of the process of agenda-setting: identification of a problem, or recognition of its importance; determination of an appropriate solution; identification of sources (support from politicians, opportunities) which aid making the final agenda-setting decision. Once the policy options are approved, they are given to the decision-makers, who, through revision of alternative solutions to the policy issues, select an appropriate means of addressing the issue to achieve the policy goals and objectives. The measures proposed to address the issue can in some cases also be the result of the process of setting the agenda, as it often happens that the issue is raised together with a possible solution. At the same time, it is possible that some restrictions only become known in the following stage and are therefore not included in the design (Majone & Wildavsky, 1979). In order to provide appropriate solutions, the government thus needs to identify and analyse all options at its disposal. Hogwood and Gunn (1984) suggested that the process of formulating the policy must involve decision making of the following kinds:

*“Deciding to decide, deciding how to decide, issue definition, forecasting, setting objectives and priorities, options analysis, policy implementation, monitoring, and control, evaluation and review, policy maintenance, succession and termination”.*

Implementation of a policy is one of the most important stages of its development. Hill & Hupe (2002) stated that its shape and form differ based on individual features of a culture of institution. This notion is especially important nowadays, as the “government” processes have gradually shifted to “governance” processes. In order for implementation to start, a decision must be made regarding taking a particular action. Therefore, the implementation stage is one at which the policy options evolve into real acts (Howlett et al., 2009). Mazmanian & Sabatier (1983) defined policy implementation as accomplishing a policy decision that is often being a part of a statute, yet at the same time can be manifested as a significant executive order or a decision of the court of law. The process begins with the decision of central authority-politicians, bureaucrats, or other entities that are considered most capable of achieving the anticipated outcome. According to O’Toole (2003), policy implementation can be defined as the intermediate stage between the government's decision to take an action (or stop an action) and the effects that decision ultimately have throughout related spheres. Within the policy cycle, the implementation stage involves the actions government takes to enact policies (Howlett et al., 2009). Matland (1995) stated that to successfully implement a policy, the following requirements must be met: adherence to statutes' guidelines and objectives, attainment of designated success indicators, and positive changes in the political environment of program. Similarly, Giacchino & Kakabadse (2003) defined several important factors which decide whether the implementation of a public policy will be successful, namely:

*“The decisions taken to locate political responsibility for initiative, presence of strong project management or team dynamics, and level of commitment shown to policy initiatives”.*

Moreover, two important factors crucially affect the success or failure of a policy-local capacity and commitment. Motivation and will (motivation, respectively) indicate how

accurately the implementer assessed the importance of a policy or a particular solution's appropriateness. Both these aspects are subjected to influence of factors which are independent on the stability of the policy climate: competition between central authorities, competition between priorities and pressures, and a variety of other socio-politic factors, which affect the commitment of the implementation. Therefore, as individual commitment and conditions within the institutions have such great impact, the influence of external features of a policy on the result is only limited, especially at lower institutional levels (Matland, 1995). Based on the above mentioned, it is possible to conceptualize implementation as a process, result, and a consequence. It comprises a set of decisions and operations taken to enact a particular decision of an authority. One of the essential features of the process of implementation is the prompt and adequate performance of designated tasks that the intent of certain legislation requires. Another definition may be formulated based on the results or the level of compliance with the desired objectives. Perhaps the most abstract approach states that as a result of implementation; a measurable development has occurred in an issue which the program, law, or a judicial decision was designed to address.

Policy evaluation is the last stage of policy cycles concerned with what happens after the policy taken into effect. This stage can be considered as a very crucial stage because this is when government would want to consider whether a policy should be continued, reforms or terminated (Howlett et al., 2009). Policy failure is inevitable in any policy stages and not only depends in evaluation stages. Failure may occur right at the beginning in agenda setting process. In this context, ambitious government might make a decision that can lead to failure at any policy cycle. This explains that policy cycle are interdependent of each other to achieve a policy objectives policy might not works out in a linear process, but rather requires it to entangle to one stages to another stages. A lack of monitoring by decision maker over the policy implementer is one of the reasons for policy failure. Howlett et al. (2009) highlighted that failure on the government part by not learning from their past mistakes may lead to policy failure in the future. As the environment changes, policy makers must adapt if they want a policy are to succeed. Errors in policy implementation can be successfully avoided through policy learning and helps to move policy implementation closely to the desired objectives.

## METHODOLOGY

In this paper, the concept of policy formulation, implementation and evaluation was applied as main theoretical and methodological framework for analysis Kazakhstan's higher education policy. The purpose of policy-making is to support problem solving, or at least to mitigate the problem's effects. At the policy evaluation stage, the desired results of a policy become the main point of interest. Evaluation has an important position within the policy-making cycle-it is the stage at which policy outcomes are gathered, examined, and interpreted. In other words, the instruments a policy utilized to attain the objectives of the public sector are examined and, in case of failure, the policy and the approach to the issue are subsequently reconceptualised (Howlett et al., 2009). Berk & Rossi (1999) stated that, as a research methodology, evaluation attempts "*to systematically investigate the effectiveness of social interventions... in ways that improve social conditions*". Scholars have often emphasized organization and empirical basis as the key aspects of evaluation (Howlett et al., 2009). The objectives of a policy are in some cases uncertain. Therefore, Palumbo & Nachmias (1983) stated that instead of seeking the objective

truth, evaluation should try to identify the interests of stakeholders which were benefited and those which were not. Similarly, Guba & Lincoln (1989) stated that identification of all stakeholders whose interests are at stake due to the evaluation is the initial phase of the fourth generation evaluation. Their model suggested three stakeholder categories: agents, beneficiaries, and victims. However, the results interpretation of those performing the evaluation may vary, as no criteria exist to determine the proper evaluation methodology (Browne & Wildavsky, 1979). The last mentioned factor is one of the most important weaknesses of this phase. The objective of evaluation should be the provision of data which can contribute to improvement of the process of implementation and the future use of the knowledge gained from errors (Browne & Wildavsky, 1979). It is important to mention that evaluation can also have negative effects - if it comes to incorrect conclusions, it can terminate good policies, or in the worst case, even become an incentive of negative public opinion (Browne & Wildavsky, 1979). Through evaluation, actions of implementers can be monitored. Such control helps reduce the risks resulting from the implementers' capability of redefining policies to a form which undermines the originally intended implementation methodologies and procedures. In the policy cycle, evaluation has a role which exceeds the scale of scientific evaluation studies. It occurs as a natural and vital element of political debate and process. Scientific evaluations therefore differ from administrative ones, which are commenced and supervised by the public administration, and political evaluation, which is conducted by various actors from the political sphere. Administrative implementation actors determine temporary and definitive rules which are vital for directing the process of implementation. The role of evaluation is to guarantee that they are adhered to. It is required in all phases of implementation. In order to ensure the, policy complies with the, objectives, goals, and aims determined at the formulation stage.

## RESULT AND DISCUSSION

### Higher Education Sector

The basis of the state policy in the field of higher education in Kazakhstan is the Constitution of the Republic of Kazakhstan. In accordance with paragraph 2, Article 30 of the Constitution "*All citizens shall have the right to receive free general secondary, technical and vocational education, and on a competitive basis a free post-secondary, higher and post-higher education provided that the education at these levels is received for the first time*". Higher education is recognized as one of the top priorities in a number of strategic documents: the Strategic Development Plan of Kazakhstan till 2020, the Development Strategy of Kazakhstan till 2050, Law of the Republic of Kazakhstan "*On Education*" as of July 27, 2007; Law of the Republic of Kazakhstan "*On Science*" as of February 18, 2011; Strategic Development Plan of the Republic of Kazakhstan up to 2020; The State Program for the Development of Education of the Republic of Kazakhstan for 2016-2019; Strategic plan of the Ministry of Education and Science of the Republic of Kazakhstan for 2011-2015; Action plan for 2011-2015 on the realization of the State Program for the Development of Education of the Republic of Kazakhstan for 2011-2020 (Issakhov et al., 2018; Nogaibayev et al., 2019). Other policy documents of strategic nature include the Plan of the Nation "*100 Concrete Steps: a Modern State for All*" within five institutional reforms, the new economic policy "*Nurly Zhol-the path to the future*", a nationwide patriotic idea Mangilik El, etc. (Smagulova et al., 2018; Saiymova et al., 2018). The Ministry of Education and Science is responsible for implementing a unified state

policy in the field of education, and enforces the constitutional rights of citizens in the field of education. It carries out inter-sectorial coordination and provides coordination and methodological guidance of activities of local executive bodies in the field of education. It oversees the development and implementation of international programmers in the field of education and science. Higher education institutions (HEI) are free to take decisions in the organization of the educational process, the selection and the appointment of teaching and administrative staff, and the implementation of scientific, financial and economic activities within the framework defined by the law. Universities set their own structure, the number and order of admissions of fee paying students within the related standard rules of admissions to universities.

The main types of higher education institutions in the Republic of Kazakhstan are the national research universities, the national higher education institutions, the research universities, the universities, the academies, the institutes and their equivalents (conservatory, higher school, and higher college). Depending on their status, the institutions can determine requirements for admission, implement self-developed education programmers, use their own rules and regulations in educational, scientific and methodological activities, and issue their own diplomas of education. In Kazakhstan at the beginning of 2019, 70 private universities were operating. 54 are completely private, i.e., funded primarily by tuition fees, whereas 16 universities are joint stock companies (universities, which were previously public and have gone corporate). In these HEIs a part of the shares is owned by the state, another part by companies, organizations, foundations or individuals. Per legislation, public and private institutions are equal. However, in comparison to public institutions, private universities have greater operational and financial autonomy, for instance they are free to establish pay rates for the faculty staff. Unlike public HEIs, private institutions can be the owners of their land and buildings. Monitoring showed low quality of education and employment of the graduates of most of the private universities, as well as a low level in scientific research. To improve this situation, the number of private universities was reduced, and economic incentives for the private sector were developed for their involvement in research and innovation activities. Based on international experience, corporate governance principles were introduced. A gradual transition towards the autonomy of universities was implemented. In the national universities, Supervisory Boards and Boards of Trustees were created and endowment funds were formed. These reforms are designed to ensure the transparency of university management, their accountability to the society and to attract investments in higher education in accordance with the foreign practices.

As for qualitative content of higher education in Kazakhstan, the State Programmer for the Development of Education and Science for 2011-2020 aims to further accelerate the modernization of the Kazakh education and science as the main factor of welfare of Kazakhstan's society. In this context, the system of higher education should address a number of issues: 1. ensuring the preparation of highly qualified and competitive staff. 2. Upgrading the content of higher and postgraduate education in the context of global trends. 3. Creating conditions for the commercialization of results in research and technology. 4. Strengthening spiritual and moral values of the national patriotic lead idea "*Mangilik El*" and a culture of healthy lifestyle among young people. 5. Improving the management and monitoring of the development of higher and postgraduate education. Some of these issues have been already solved. In fact, a three-level model that includes higher (Bachelor) and postgraduate (Master and Doctorate) education programmers was introduced based on a credit system measuring the acquired knowledge. Full

transition to a new structure took place in 2010 and its major changes were incorporated into the State Programmer of Education Development 2011-2020 and the amendments to the Law on Education (2015). Graduates of Kazakhstani universities can obtain the European Diploma Supplement recognized by all the participating countries of the Bologna process. Most universities of the country use the Kazakh credit transfer system compatible with the ECTS (European Credit Transfer System). To support Bologna Process, teaching and learning of modules in English at Kazakhstan's HEI have been established. It is commonly referred to as National Plan "100 Steps" is one of the policy programmers under Kazakhstan's education strategy for 2016-2019 and Kazakhstan Education Roadmap 2015-2020. This programmer was introduced in 2015 as sub-program of industrial and innovative development to reduces oil income dependency (Karatajev and Clarke, 2014; Karatajev et al., 2016) and mange sustainable economic and resource development (Karatajev et al., 2017; Koshim et al., 2018; Medetov et al., 2018; Rivotti et al., 2019).

### **Policy Formulation**

The main function of bureaucrats is to implement policies, programme and projects instructed by the executive. Bureaucrats play an important role during policy implementation and can shape the implementation of the policy. As according to Lipsky (1969), street level bureaucrats have the ability to use their discretion in policy action. According to Lipsky (1969), street level bureaucrats can be defined as public employee who engage in face-to-face encounters with citizens and associated the street level bureaucrats as a representative of the government to the people. Those public employees that belong to the street level bureaucrats include teachers, police officers, social workers, health workers and others. Bureaucrats have the power to influence the policy to fit in with their view but still maintain the practicality. These groups often feel frustrated because they are facing on-going conflict between responding to the citizen needs and the need to properly implement the policy. Tummers and Bekkers (2012) highlighted the point to show how street level bureaucrats implement the policy within their discretionary power. He claims that street level bureaucrats have to work with limited resources and usually have limited amount of time in making decision. Furthermore, in reality to implement policy, rules to implement it do not always fit to any specific situation of those that involved citizens. Thus, they have to create some coping mechanisms in order to simplify the nature of their job and sometimes need to develop new routines in order to do their job well. As according to another study done by Tummers (2011), allowing public employee to expressed some freedom on how to implement a public policy will increase their willingness and commitment to implement a policy programme. Tummers (2011) also noted that ability to exercise a certain amount of discretion in policy implementation increase the meaningfulness of policy outcome to the clients.

Mentioned by Poocharoen (2013), bureaucrats can be a useful source of information in determining the effectiveness of a policy. As a policy implementer, street level bureaucrats are directly in contact where their engage a face to face communication with citizen stands in a good position to collect useful data and information for policy evaluation. Poocharoen (2013) also highlighted how street level bureaucrats can influence a policy process. Street level bureaucrat's discretion can help policies to be more adaptive and enhance government ability to respond to individual cases. Street level bureaucrats can also change the course of the policy entirely. This implies the power of the bureaucrats as an active policy agent. For instance, in the Kazakhstan's

education policy, government fails to monitor adequately on the performance of the teacher and the teacher as a main policy implementer where their voice was simply ignored. According to National Education Monitoring report produced by Information Analytical Center of Kazakhstan (2018), many teachers perceived they needed more training in preparing themselves to speak and deliver teaching in English, to conduct questions and answer sessions and guide students to use English in class itself. Based on the study conducted by OECD (2017), low proficiency in English is not only a challenge for the teacher to teach in foreign language, but the student lack of proficiency in the language is a bigger challenge. Teacher need to teach dual language due to student find it hard to understand in English especially with all of the science terms that they are not familiar with. In rural areas, where there is a lack of English exposure, teachers need to teach in only Kazakh or Russian language because the mastery of English among rural student is poor. Thus, when student sit for examination instead of answering in English they were answering in Kazakh or Russian language. This is a greater concern since for national examination student are required to answer in English and when they do not, it affected their grades. Besides that, use of CD-ROM and other multimedia courseware was deemed unsuitable for the student who's struggled with low proficiency because they could not understand the language used and at the end they could not understand anything.

### **Policy Implementation and Evaluation**

According to Browne and Widavsky (1983) in order for evaluation to be effective for an implementation, collecting a useful, objective, systematic and empirical data is necessary. Implementation can be effective when policy implementers consumes on those information and learnt the lessons in what they do right or wrong and to guide as future policy action. As Browne and Wildaksy (1983) posited that:

*“The evaluator collects and analyses data to provide information about programme results. The implementers consume this information, using it to check on past decisions and guide future actions. Thus, implementation is about learning from evaluation. It is their production and consumption of information that implementers and evaluators engage in complementary relationships”.*

According to Pulzl and Treib (2007), separation can happen by outlined a six ingredients necessary for successful policy implementation: (1) policy implementation is based on a clear and consistent objectives; (2) a sound theory of causal linkages between public policy and attaining programme objectives; (3) process of implementation is structures systematically; (4) strong support and commitment from policy implementer; (5) supports from interest groups and sovereign; (6) no detrimental changes in the socioeconomic framework conditions. They pointed out it is importance for policy maker to come out with a structured programme design and at the same time acknowledge that perfect hierarchical control in implementation is indeed hard and any other unfavorable conditions could cause failure in policy implementation.

Based on the criteria proposed, Kazakhstan's education policy unable to achieve its objectives due to lack of supports from the teacher from the very beginning. The teachers claim that they are being force to teach both science and mathematics in English. During the time this policy come into effect, many teacher claims that they are not ready due to the lack of skills in teaching both subject in English. Besides that, the current batch of teachers has been educated and trained in a Kazakh or Russian medium of instruction in both subjects. Low proficiency

among the teacher in the English language makes them unable to convey the concept effectively to the students. Thus, students will find hard to understand the concept. Based on the study done by Information Analytical Center of Kazakhstan (2018), found that only up to 5 to 10% teachers teach subjects in English entirely. This indicates that, teacher were not entirely ready to implement the policy. Besides that, the presences of an interest group that oppose the implementation of the policy exacerbate the situation. Initially, when the minister of education announced about the teaching and learning policy in English, this interest group leading by prominence Kazakhstani laureate had heavily criticized the policy (Nazarbayev University Graduate School of Education, 2014). They claim that adoption of English language in the subject is a threat to the national language and diminished the spirit of nationalism. Further, the use of English clearly violated the constitution that has clearly stated the position of the Kazakh language as the primary main of instruction. The pressure group strongly against the programme claiming that use of English will reduce the dominance of Kazakh over English and weakened the student ability to Master Kazakh language. They worried that Kazakh language would be forgotten and eventually make Kazakhstan lose their identity.

According to OEAD report, teaching and learning policy in English in overall is a good policy but problem in poor implementation that caused the policy to be reverted. He highlighted that in order for teaching and learning policy in English to succeed a direct involvement of schools principals is crucial to get useful information on the policy feedback, increased the resources for training of teachers and teaching module and effective monitoring from the ministries. The teaching and learning policy in English would not lead to termination if government listen and pay attention to the voice of the teacher when it was being implemented for the first and the second year of the policy. The government ignored the voice from the teachers claiming that they are not ready for the change of medium of instructions and demand for more years of training in order to comprehend subjects effectively in English language. Policy formulations and implementation need each other for desired policy objectives to be achieved. For the teaching and learning policy in English to succeed, the entire teaching profession and executive must come together and cooperate and not working as a discrete parts waiting to be put together before it's too late. Howlett & Rayner (2007) pointed out that out that in public policy implementation there are obstacles that cannot be forecast by policy makers. It was claimed that, policy maker is also human being and are bounded by their cognitive ability to gather perfect information and to have perfect resources. Environment change and so does other factors that might arise to impede the successful implementation of a policy. The presence of this limit explains why it is impossible for policy maker to produce a policy that can cover every possibility that might happen in the future. However, Lindblom (1979) argued that it is very rare for policy makers to change policy radically. This explains what is a term as incrementalism policy making by which policy maker often refers back to past policy and shape the future based on the lesson learnt from past policy. Based on the Lindblom (1979) argument on incrementalism explains why it is hard to separate policy stages into discrete stages.

## CONCLUSION

The process of educational reform in the country is based on strategic documents. The main driver is the executive power: the Government of the Republic of Kazakhstan and the authorized body in the field of education, the Ministry of Education and Science of RK.



Legislative and executive bodies are involved in making decisions on the reforms in education. The approval of the State Programme of Education Development is carried out by the Decree of the President of the Republic of Kazakhstan. The Strategic Plan is approved by Decree of the Government. The main driving force in this process is the Ministry for Education and Science, which initiates the development of all the above-mentioned strategic documents in the field of education and defines the main strategic goals and priorities for the development in education. In terms of policy making process in higher education in Kazakhstan, theoretically, policy stages cannot be separated and each function in a discrete stages. But in practice, it works vice versa. Policy is formulated as in they are being implemented as well. It is almost impossible for the policy to be implemented without considering the evaluation. Evaluation should be done on on-going basis. Thus when results from evaluation indicates that must be done in order to keep the policy works. There goes the role of policy formulation, policy maker need to consider all of the factors that shows what might hinder a policy to be fails, what makes it cannot achieved it target. At this point, policy maker need to come out with other possible alternatives to consider. Implement it again and evaluate again until a policy objectives could be achieved. In theory, policy cycle looks very systematic, needs to go with stages by stages. But in reality, public policy is rather messy accumulated with wicked issues and other external factors that might not presence during the formulation stage and emerge during implementation stage. Wicked issues like education policy, environmental policy, housing policy and poverty are almost impossible to get it achieve the ends through a series of separated stages. All in all, policy process cannot be separated from each other, policy are formulated and reformulated. Policy stages are interdependent and there are no dominance stages in policy making.

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