

# STATE AND LEGAL FRAMEWORK FOR THE SOCIAL STATE FORMATION AND DEVELOPMENT

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## ABSTRACT

*The purpose of this article is a comparative analysis of the state and legal foundations of the formation and development of a social state in the Republic of Kazakhstan. For this, the author used general theoretical and specific scientific methods of investigation. As a result of the research, the authors affirm that it is impossible to achieve absolute social justice by a social state. At the same time, the task of the social state is the distribution of resources and benefits in such a way as to equalize the possible natural imbalance of economic benefits among different strata of the population through which to provide decent living conditions for each citizen and support the development of a market economy, in particular, by improving and expanding the production spheres, overcoming unemployment, increasing labour activity of citizens. Based on the analysis carried out by the authors, it was drawn the conclusion that the essence of the modern social state should not be manifested in the provision of targeted social benefits, subsidies and various social payments that in any case will not allow a person to live with dignity, but in creating the necessary conditions for the success of the state and all its members.*

**Keywords:** Human Rights, Social State, Social Assistance, Social Rights.

## INTRODUCTION

The state and legal foundations' problems of the formation and development of the social state traditionally belong to one of the key in the right science of different states, including Kazakhstan. However, there is some uncertainty and controversy in approaches to understanding the essence of the problems of the social state in scientific publications. Because of the lack of a unified scientific approach to this problem, there are numerous disputes about the nature of the modern social state and the prospects for its transformation. The practical importance of the article lies in the possibility of using the results obtained to improve social legislation in law enforcement activities. The contribution to the world science is the study and substantiation of the essence of the modern social state, which should not be manifested in the provision of targeted social benefits, subsidies and various social payments, which, in any case, will not allow a person to live with dignity, but in creating the necessary conditions for the success of the state and all its members.

Recognition of the state as social is the main task of each country. It is with the goal of getting the title of "social state" that the country has to go a long way at the stage of its existence,

where the institution of society works and the citizens' interests are the highest value of the state. The social state implements social regulation, which is connected with maintaining public discipline, organizing and developing public relations, minimizing social inequality and ensuring social rights and freedoms of citizens. First, let us consider the main points of view of other authors on the problems of the state and legal foundations for the formation and development of a social state (Kapitonov et al., 2017).

The article compares the state and legal foundations of a social state formation and development in the Republic of Kazakhstan. The author considers the results of this study to be justified from the theoretical and practical point of view.

## METHODS

In the course of the research, the author used both general theoretical and specific scientific methods of cognition. The evolution of legislation, as well as individual problems of the state and legal foundations of the formation and development of a social state, is viewed as part of the objective process conditioned by the development and change of social relations. Studies rely on the historical method, the formal dogmatic method, the method of concrete legal research, the method of logical analysis and other methods and techniques. The author used statistical data and sociological research data, which relate to the issues of the state and legal foundations of formation and development of the social state of Kazakhstan and foreign countries. The sociological method was used in studying the problems of the state and legal foundations of the formation and development of the social state of Kazakhstan and foreign countries, since it allows us to assess the adequacy of legislation. A comparative-legal method was also used. In combination with other methods, it has allowed to solve the problems posed by the author in assessing the state and legal foundations' problems for the formation and development of the social state of Kazakhstan and foreign countries (Bondaletova, 2013).

## RESULTS AND DISCUSSION

According to the theory of Lorenz von Stein, a social state must have a number of characteristics. One of them is the recognition and consolidation by the state of its duties to citizens. Another is the ability of the state to perform social functions, which is provided by power. The need for the use of power is conditioned by the fact that the fulfilment of social obligations can be associated with state coercion, for example, when it comes to redistributing income for the implementation of social programs. At the same time, the social state itself is interested in fulfilling its responsibilities. The will to self-preservation forces the state to use all possible ways to resolve contradictions that are dangerous for its integrity (Oleynikova, 2014).

According to Anisimov, a social state is a legal democratic state that proclaims the highest value of a person and creates conditions for a worthy life, free development and self-realization of a person's creative (labour) potential. The notion of a decent life implies material security at the level of standards that meet the needs of modern societies, access to cultural values, the guarantee of personal security rights, free development of a person-their physical, mental and moral perfection (Anisimov, 2009).

An unchanging imperative of an effective social state is the orientation of all its institutions to such goals and tasks that are not simply declared in messages, political doctrines and programs, but actually provide the maximum possible satisfaction of material and spiritual

needs of society members. Focusing on such goals, a social state determines its priorities, enacts social standards and appropriately defines the powers of ministries, services, agencies, administrations and departments (Okhotskiy & Bogucharskaya, 2012).

The development of a social state has two key tasks: Insurance against the risk of long-term loss of income and the smoothing of property inequality in society. Obviously, unemployment is one of the most common causes of poverty. An unemployed person steps on that slippery road of extreme need and social despair, which undermines the positive development potential for oneself and for society. The same applies to material inequality, which is a consequence of a disproportion in the social income distribution. Its concentration on one pole of society generates social anger at the bottom of the social pyramid, which inevitably leads to socio-political instability (Simoyanov, 2014).

Among the most important features of the social state, Kutuzov counts:

- A large economic potential, which contributes to the development of measures for the redistribution of income, without restricting the situation of individual owners at the same time
- The state has such interrelated goals as the establishment of social justice in the society, the establishment of common good, equal starting opportunities for the individual's self-realization, etc.
- The existence of a civil society in whose hands the state acts as a certain instrument and regulator of carrying out socially oriented policies (Kutuzov, 2014).

As noted by Bondareva, the principle of a social state has been the object of researchers' close attention in recent years and is recognized in many countries as one of the fundamental principles of a modern civilized state along with its legal, democratic, market and secular character. The importance of a social state principle is so great that in many countries it has been established not just as a constitutional one (directly fixed or arising from a number of constitutional provisions) but also as one of the fundamental principles of state policy. The most essential elements and features of a modern social state are:

- A high level of economic development of the state, allowing to redistribute the population's incomes, without prejudice to the cardinal interests of the owners;
- Socially oriented structure of the economy, diversity and equity of ownership;
- Social policy of the state with priority status of social projects;
- Serves as a tool for carrying out socially-oriented policies;
- The existence of a public consensus on basic social issues;
- Social security and equal starting conditions for the self-realization of the individual;
- Developed social legislation (Bondareva, 2012).

The following understanding is most acceptable for Kazakhstan: A social state is a state whose duty is to create worthy human conditions for life, to implement the rights and freedoms embodied in the Constitution and other legislative acts of the Republic of Kazakhstan,

embodying the interests and needs of citizens and guided by the principles of humanism and mutual responsibility (Bazarbayeva, 2007).

Social rights are guaranteed to the citizen from birth and cannot be alienated under any circumstances. By the Universal Declaration of Human Rights and the European Social Charter, social rights are recognized as the highest value. Therefore, any social democratic state must recognize and ensure the social rights of citizens on an equal basis with other rights. The state should provide citizens with equal opportunities for self-realization. In addition to securing the social rights of citizens at the national level, the states that signed the International Covenant on Economic, Social and Cultural Rights pledged to ensure a permanent improvement in the living conditions of their population and citizens who are unable to provide themselves with sufficient economic standards on their own, are to be provided with state support (Hasanov, 2017).

Despite Kazakhstan's desire to be a social state, as well as a significant contribution to the development of social welfare during the years of independence, the country still stands in the way of the social society's formation. In particular, Kazakhstan needs to work on improving the domestic legislation, which defines the social rights of citizens, as well as to join the numerous existing international acts, the provisions of which are the consolidation of human rights and freedoms, decent living conditions for the population and the protection of rights.

The message to the people of Kazakhstan of the President of the Republic of Kazakhstan, Nazarbayev, of October 1997 is of particular historical significance. The Country Development Strategy for the period until 2030 was set out in it. It was in this document that the long-term goals of Kazakhstan's development were formulated for the first time, including the further development of social policy. The adoption of the Strategy was dictated by the need for a qualitative and rapid leap in the development of the state, the requirement to accelerate the processes for the country's transition to market relations and the construction of a social state.

Kazakhstan's strategy until 2050 defines new principles on which the country's social policy is based. In particular, the country recognizes the imbalance of social security, especially in the territory of individual regions of the country. The minimum level of security according to which a citizen can live (food, clothing, etc.) is also recognized.

Matsonashvili's (1999) classification is widespread, according to which there are three models of social states:

- **The Swedish Universalist Model:** Political doctrine of the "people's home", a combination of a high level of taxation with a high degree of social wealth's redistribution; a wide network of state insurance and social services existing at the expense of taxpayers;
- **The British Universalist Model:** Minimum state obligations that are not payments, but social services, combined with a developed system of corporate social insurance;
- **The German Model:** A highly developed corporate-conservative model of social insurance financed by insurance premiums and combined with social transfers to vulnerable, needy segments of the population.

Germany is recognized as the first country in Europe, which began to introduce social policy in the country. At the end of the XIX century, large-scale laws were adopted in this country that introduced civil society, its protection, the priority of human values, the provision of decent living conditions, social programs for the unprotected strata of the population. Since then,

Germany has set an example for many countries that have embarked on the path of introducing a social state.

To date, the UK is consistent with the notion of a social state more than all other countries. At the same time, this country began to build itself as this almost from scratch, at the time. Former British Prime Minister David Cameron, who held office during 2010-2016 years, defended the policy of "big society". His vision of Britain as a social state was based on strengthening the role of the individual in society. The main ideas of the conservative were the establishment of personal, corporate and professional responsibility in a society where everyone's problems are being tried, not ignored by the state. The UK has made significant progress in implementing social policies over the past decades. Today, the state power works in such a way that all sections of the country's population are engaged in the social life of the country and influence the conduct of public policy in one way or another. In this connection, the British model of the welfare state is now recognized in the theory of law.

In turn, France's experience in implementing social policy also ranks first among the developed countries. France today offers a high level of social protection. Given that the beginning of social policy is taken from the work of trade unions, struggling for the state's recognition of social insurance and material assistance to the unprotected strata of the population. The policy of the First Chancellor of the German Empire, Otto von Bismarck, deserves special attention during the development period of the social state of France. His role in the creation of social citizenship was the beginning of a new state formation. Social contributions and social insurance for employees have been introduced since that time. Employers became the main source of funding for the social protection system. The country has suffered a new wave of social changes with the state and political figure Nicolas Sarkozy coming to power, who served as President of the French Republic in 2007-2012. His policy was based on the quickest possible reduction of public debt and the fight against the country's budget deficit. Sarkozy made a blow to the working climate of the country; in particular, decent wages were paid for the work done and services performed in order to overcome unemployment. The policy was aimed at strengthening the role of labour in society and the idea of a social contract was disseminated. In addition, was revised the legal regulation of labour. In this way, France has set out on the course of recognizing it as a welfare state, in particular, the welfare of working citizens.

Taking into account the Swedish experience in the implementation of social policy, it is worth noting that this policy is mainly based on the implementation of social insurance, in particular, general, from accidents, as well as in case of unemployment. While in Sweden and in most European countries today there is considerable tax pressure, both on the business sector and on every citizen. This burden is especially felt when there are large social payments from the state budget in the country and the number of working and paying social contributions is not large enough to block the payments of the already unemployed part of the country's population. Therefore, this factor today also strongly influences the general atmosphere of the social life of citizens.

European welfare states are under pressure of social policy and social services' reform. The specific problem of European welfare states is the consequences of their success in this aspect, since existing systems of support for the population change its needs, the development of such systems changes their own dynamics and they eventually become more and more expensive. Therefore, the welfare state needs constant political management and control over the fulfilment of its tasks and objectives in the context of changing conditions.

According to Kochetkov and Kochetkova, the institutions of the social state should be filled with new content, not be dismantled, but first of all-democratize, that is, liberate from power of money and bureaucracy, help citizens lose the status of "client" and acquire the status of "free agent". It was this opportunity that arose from the post-industrial revolution and globalization that is completing the transition from the labour economy to the knowledge economy on a global scale (Kochetkov & Kochetkova, 2009).

## CONCLUSION

The analysis showed that, despite the many years of achievements of many states for the title of "social state", today there is still no single model for the construction and existence of such a state. This, of course, is associated with the autonomy of each state, the existence of its individual vision of the social state's creation. Despite such a vision, such factors as the level of the country's economy, the political regime, the level of development of socio-economic relations, the level of the country's legal policy, the existence of certain norms and traditions of the population play an unconditional role in the formation of a social state. The study also showed that in the context of a global transformation of social and economic relations, a specific model of the social state operates in Kazakhstan. So, Kazakhstan, in fact, only set upon the path of forming such a state, where today it is determined that Kazakhstan is a social state at the level of the Constitution. At the same time there is an increase in individual responsibility for own well-being, not state one, in Kazakhstan. It exists in parallel with the patronage of the state in relation to its citizens. In fact, today in Kazakhstan there is a mixed model of the social state, which only indicates the beginning of the country's work to obtain the title of the social one.

The results of the research, stated in the article, refer to social law and aimed at its improvement both from the theoretical and practical point of view. And these results can also be used to improve the social legislation, making changes to it.

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