

The history of Kazakhstan in the legislative sources of the Russian Empire in the 18th-the early 20th century

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Abstract. On the basis of the legislative acts of the Russian Empire, the article shows the colonialist essence of the policy pursued by the tsarist government in Kazakhstan. Besides, the article reveals the role and importance of legislative documents for studying socio-economic and socio-political history of the country. The author analyzed many legislative acts reflecting the colonialist policy of the Russian Empire concerning peoples who lived on the territory of modern Kazakhstan in the 18-19th centuries. These acts are studied in chronological sequence. They are connected with certain sphere of public relations. The author studied the system of colonial legislation, used by the Russian Empire on annexed territories, in terms of historicism, objectivity and other scientific principles of historical knowledge. The article contains findings and propositions of leading specialists. They formulated basic principles for source study. Moreover, the article contains noteworthy theoretical findings of the author himself. The author demonstrated the complex approach to studying legislative acts, used a good combination of scientific research methods aimed at collecting, analyzing, systematizing and generalizing information.

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Introduction

The legislative acts adopted by the tsarist government in the 18th and the early 19th century are very precious sources for studying the socio-economic and socio-political history of Kazakhstan. The legislation of this period was aimed at the consolidation and expansion of tsarist autocracy in Kazakhstan and gradual transforming it into the outlying district of the Russian Empire. Adopted laws formed a legal base for the policy to be implemented and consolidated in the territory. It is impossible to study the policy of tsarist regime and the changes in political, economic and legal position of the Kazakh people without the wide use of legislative sources. The systematization, classification and analysis of tsarist laws make it possible to study the history of the country. In the opinion of M. Speranskiy, history “cannot be clear and reliable without laws, as they depict the internal life of the state and show how its moral and political forces formed and changed” [1, pp: 156].

There is no more or less important issue concerning the contemporary history of Kazakhstan that is not reflected in legislative documents. Legislative sources contain extensive material which describes how local authorities were organized and how they were interconnected with central government bodies. Besides, it characterizes legal proceedings, administrative division, tax system, the activity of officials, agrarian and resettlement policy and other issues concerning the arrangement of the Kazakh territory. They are especially important for studying the history of subjugated peoples,

particularly the Kazakh people, because the official authorities implemented their purposeful and systematic policy in these territories. The researcher of Russian law I.A. Mironov confirms this thought: “Legislative acts are of doubtless interest if we study the history of non-Russian peoples which entered the Russian Empire and the nationally colonial policy of tsarism. They testify to the fact that the autocracy pursued the policy of national oppression towards non-Russian people, their culture and towards forcible russification” [2, pp: 29].

In spite of the colonial character of Russian legislative acts, it is impossible to recollect the objective history of Kazakhstan as a member of the Russian Empire. It is priceless for the history research of Kazakhstan in the 18th – the early 19th century to broaden the source base and to improve processing and analysis methods for the information contained in legislative sources.

Research methods

Modern conceptual approaches and general scientific methods formed a methodological basis for this paper. These are historicism, objectivity and other scientific principles of historic cognition and also theoretical findings and propositions made by leading researchers who formulated the basic principles of source study. One of the main guidelines is a complex approach to studying legislative acts and the range of scientific methods aimed at collecting, analyzing, systematizing and generalizing data.

Results and description

The main legislative acts of the Russian Empire of the period under study were included in official and unofficial publications, published in periodical press and preserved in archive funds. Among the published editions of legislative acts belonging to the period under study, there are: Complete collection of laws of the Russian Empire, Collection of statutes and orders of the government, and Code of laws of the Russian Empire. While studying the subject, the author used the funds of the following archives: Central State Archive of the Republic of Kazakhstan; Russian State Military Historical Archive; Historical Archive of the Omsk Region; Russian State Archive of Ancient Acts; and Russian State Historical Archive. At present, scientists systematized 2089 legislative acts of the Russian Empire directly connected with the history of Kazakhstan of the period under study. They were found in archives and libraries of Moscow, Saint-Petersburg, Omsk, Almaty and Pavlodar. This quantity is not final because the work continues.

The largest number of legislative acts connected with the history of Kazakhstan was taken from the Complete Collection of Laws of the Russian Empire – 1756 files [3]. This fact makes the Collection one of the main historical sources of the subject. The Collection contains legislative documents from 1649 to 1914 inclusive. However, this edition was considered mainly as the source for studying Russian history up to the present. In the first edition of the Complete Collection, scientists found more than 140 legislative documents which cover the events of internal and external history of Kazakhstan in the 18th – the early 19th century. The second edition contained about 900 such documents. These documents characterize the life of Kazakh society in the 19th century full of crucial events and facts. The third edition of the Complete Collection characterizes the position of Kazakhstan as a member of the Russian Empire. There are about 700 documents concerning the history of Kazakhstan in the third edition. The analysis of these documents shows that Kazakhstan gradually began to be governed by Russian laws, and all sides of life in Kazakh society began to be controlled and regulated by the tsarist government.

When studying materials, it becomes clear that not all legislative acts adopted towards the annexed Kazakhstan were included in the Complete Collection. This particularly concerns tsar's secret decrees adopted by the Board of Foreign Affairs and the Military Board. These decrees were applied to the conflicts with the Kazakhs and other members of the Empire, and the removal of lands at the beginning of the annexation. None of the 69 decrees adopted by

the Board of Foreign Affairs were included in the Complete Collection of Laws of the Russian Empire, the same with the Military Board. These facts confirm the idea that only the acts considered and approved by official state authorities were mainly published. The legislative documents concerning secret political issues were not published in the Complete Collection. They were only kept in archives marked as "Confidential Information".

Using the collected facts, the authors classified legislative sources by chronology, types, monarchs, themes and social context. As a result, the authors issued "The Chronological Index of Legislative Acts of the Russian Empire on the History of Kazakhstan of the 18th – the early 20th century" [4]. This Index made it possible to systematize tsarist legislation about the history of Kazakhstan chronologically. To simplify the work, the Index gives the type of legislative source, its full title, the initial data from the Complete Collection or archive and the initial data from other sources where this document were published or mentioned.

The classification of the legislative acts of the Russian Empire according to the monarchs allowed making the following conclusions. In the 18th century, such monarchs as Anna Ioanovna (1730-1740), Elizabeth (1741-1761) and Ekaterina II (1762-1796) mainly adopted edicts, senate orders, charters, rescripts and instructions. Altogether 48 charters, 13 rescripts and 8 instructions were signed as regards Kazakhstan. From the second half of the 18th century almost to the end of the 19th century, edict was the most widespread form of legislative acts. There are 359 edicts among the total number of legislative acts of the studied period of Kazakh history. This was typical for the period of Pavel I (1796-1801) and Alexander I (1801-1825). The analysis of legislative sources shows that charters, instructions, rescripts and regulations gradually disappeared by the end of the 19th century. Beginning with the second half of the 19th century, they attached more attention to statutes, regulations and approved opinions of the State Council, approved regulations of the Committee of Ministers, the Siberian Committee and the Military Council. It was typical to the period of Alexander I (1801-1825), Nicolay I (1825-1855) and Alexander II (1855-1881) to adopt almost all kinds of legislative acts concerning Kazakhstan. The role of the State Council and the Committee of Ministers strengthened. That is why the majority of legislative documents concerning Kazakhstan were adopted by these state bodies in the 19th century. As regards the quantitative factor, one can mark out the royally approved opinions of the State Council – 448 documents. Then follow the royally approved opinions of the Committee of Ministers – 222

documents. The Siberian Committee appeared in 1821. It regulated all issues connected with the Siberian Territory (the territory of Siberian Kirghiz). This promoted 143 royally approved regulations concerning Kazakhstan to be adopted in the middle of the 19th century by the Siberian Committee. In the late 19th century, the importance of royal dictation as a form of legislative act increases. Concerning Kazakhstan, 59 royal dictations were approved. The improvement of the legislative system led to the fact that laws and other legislative documents approved by official authorities became more and more important in the period of Nicolay II (1894-1917).

As for the quantitative factor, one can notice that the majority of documents were adopted in the period of Alexander II (1885-1881) and Nicolay II (1894-1917). This was a crucial time for Kazakhstan, where administrative, territorial and judicial reforms were carried out and tsarist colonial policy strengthened. Just in this period the basic regulations for all life spheres in Kazakhstan were passed. Altogether 52 regulations concerning Kazakhstan were passed in the studied period.

Comparative analysis supports the conclusion that the most widespread types of legislative acts in Russia in the 18th century were edicts, senate orders, charters and the royally approved decrees of the Board of Foreign Affairs and the Military Board. The largest number of legislative acts concerning Kazakhstan was surely issued in the 19th century. Their total quantity is 1074 documents. This period is notable for many different kinds of legislative acts from charters to approved laws. The big role in the legislation of that period belongs to such official bodies as the State Council, the Committee of Ministers and the Council of Ministers. That is why statutes and opinions adopted by these bodies became the most widespread types of legislative acts in that period. It should be noted that such types of legislative acts as charters, rescripts and instructions gradually were pushed to the sidelines at that time.

Due to the changed status of Kazakhstan as a member of Russia, they began to adopt statutes and regulations which fully determined the structure, rights and duties of public officers, governmental and other organizations, the mode of life for certain social categories. Beginning with the second half of the 19th century, the importance of statutes approved by the Military Council increases because the popular discontent grew and the revolutionary activity of the masses went up. The role of the Committee of Ministers strengthened after 1905, and the statutes approved by it began to be passed. In the early 20th century, when the State Duma was created, they introduce such legislative acts as laws royally

approved and endorsed by the State Council and the State Duma. During that period, 87 laws were issued. So, in the 18th – the early 20th century, the types of legislative documents were gradually changed and improved under the influence of changes in state bodies of the Russian Empire.

The classification by subject and theme shows the quantitative content of legislative acts, concerning the history of Kazakhstan, according to the main activity guidelines of the government. The analysis of legislation shows that the tsarist government paid the biggest attention to the questions of introducing the Russian legal procedure system in Kazakhstan. New laws created a legal base for the extension of Russian power, determined and regulated relations in the Kazakh society and the success of other innovations in Kazakhstan. The author found 285 legislative documents connected with this direction. These documents consolidated the position of the Russian government in Kazakhstan. Besides, they played a key role in distributing and introducing colonial tsarist policy in the territory. From the first days after the annexation of Kazakhstan, Russia tried to introduce the imperial laws in the Kazakh legal procedure system. This allowed Russian authorities to perform administrative, police and judicial function broadly in Kazakhstan.

In the end of the 18th century, they made first attempt to introduce the new system of administration and legal procedure on the basis of general laws of the Russian Empire [5]. However this attempt was not successful. Innovation did not strike roots in Kazakhstan. In the early period after annexation, the tsarist government did not have enough power to change the centuries-old law system of the Kazakh [6, pp: 2-3]. “The government tried to create in Kazakhstan a cheap but complex judicial system that could meet the goals of the Empire. The Tsarism was interested in machinery that could promote the colonial policy and preserve patriarchal-feudal relations in the Kazakh society. That is why the tsarism kept by courts along with the general imperial judicial system until the last days of its existence” [7, pp: 65].

Under the influence of numerous legislative reforms, the judicial system of Kazakhstan obtained a new status in the second half of the 19th century. The whole judicial administration of Kazakhstan was subordinated to general legal changes in Russia made in 1864. In general, in spite of the attempt to unify the judicial system and make it resemble the general Russian one, the judicial system of Kazakhstan had its peculiarities. First of all, the Russian legal procedure system was aimed at annihilating the traditional Kazakh justice. Secondly, the existing

historical circumstances forced the Russian judicial system to adapt to them and to take into account local conditions and peculiarities. Thirdly, the tsarist government had to preserve people's court. Fourthly, the Russian judicial system was closely interwoven with Kazakh law and the Sharia at that time. Fifthly, the judicial duty was not divided between courts and administrative bodies. Sixthly, the tsarist legislation corresponded to its political superstructure aimed at the consolidation of the colonial system in Kazakhstan. So, this was a colonial legislation directed against the rights of the Kazakh people, its political independence and cultural self-development.

Russia considered the newly annexed Kazakh lands as a source of raw material, market outlet and revenue earner [8, pp. 244-249]. From the first days of annexation, the tsarist authorities raised the subject of taxes and duties for the annexed lands. That is why the introduction of Russian tax system takes the second place because all the colonial policy was aimed at making profit from new territories. There are 237 documents applying to this theme.

The tax system was introduced in Kazakhstan gradually, according to the degree of the consolidation of tsarism positions. At the beginning, only the tribute paid in furs was nominally established, but by the middle of the 19th century the number of various charges and duties significantly increased. The duties in kind were substituted by money taxes. The reforms carried out in the second half of the 19th century finally formed and legislated the Russian system of taxes in Kazakhstan. The whole tax system added up to the subjecting of the Kazakh territory by the exploitation of local population. The analysis of sources shows that the whole policy of the Empire was based on the economic enslavement of the Kazakh people, and the legislative documents concerning the introduction and distribution of the Russian tax system became the pivot of this policy. The legal base which supported the introduction and distribution of the Russian tax system became the ground of economic colonization of the Kazakh territory.

The question of the administrative and territorial system of Kazakhstan was very complex and continuous because the process of Kazakhstan's accession to Russia was also contradictory and diverse. About one hundred documents concerning this theme were found. The Russian Empire desired to consolidate as fast as possible and introduce its administration in conquered lands. It didn't know and didn't want to take into account local features, the magnitude of Kazakh territories, the desperate resistance of the Kazakh people against the implemented reforms, and the discrepancy of these reforms to rapidly changing historic conditions. All

these facts promoted numerous legislative acts which supplemented and abrogated the previous ones, or even conflicted with each other.

The search for new sources of raw material and the development of natural deposits in Kazakhstan was important for the tsarist government. This question was reflected in 134 legislative documents. These documents confirm that, from the first days of annexation, the tsarism considered Kazakhstan as a market outlet and a source of raw material maximum profit for market developing in Russia itself.

The land question held one of the main positions in the economic policy of the tsarist autocracy. However the majority of actions were aimed at forbidding the Kazakhs to roam in certain places. From the middle of the 19th century, the land question was considered in tsarist documents only in connection with the resettlement began. "The forward economic development of Russia was closely connected with its conquering policy necessary to eliminate the internal crisis. This was possible only by expanding the territory. For Russian economy, new conquered lands served as a source of state income and a new market for selling Russian goods. In social aspect, the annexed territories were intended for the resettlement of the surplus population from the center" [9, pp: 4]. The scale of resettlement became enormous. The lands were confiscated at an incredible speed without any account of local peculiarities and the interests of the Kazakh population. As a result, the unprecedented expropriation of Kazakh lands was legally carried out. "The tsarism took away the Kazakh lands by the right of conquer considering these lands as "the state ones" given to the Kazakhs for temporary use. Along with the organized transfer of the Kazakh lands to the migrants, the tsarism sanctioned unauthorized seizures. The tsarist autocracy stuck only to the club law and military-feudal exploitation both in the land policy inside the Kazakh society and in the migration policy" [10, pp: 191].

The question of the Kazakh land as a state property was first raised in a document issued in 1844. Then it was considered and introduced by legislative acts in 1868 and 1886. It was finally fixed by the statute in 1891. If analyzing the tsarist legislation concerning the agrarian issue, one can make a conclusion that in spite of the fact that this was one of the most important issues in the general tsarist strategy towards Kazakhstan, although it was not properly reflected in legislative documents. Many legislative acts concerning the land question were secret, and they were not disclosed and published. Consequently, they were not included in the Complete Collection of Laws of the Russian Empire.

This fact is not accidental. It was in the interests of the tsarism to hush up these problems, not to solve them, but to continue the “quiet” expropriation of lands in order to build fortresses, districts, industrial enterprises, to develop natural deposits or simply for the profit of big landowners. In general, the agrarian policy of the tsarist autocracy was consistent and aimed at asserting the legal rights of the Russian state to the Kazakh lands.

The Islam policy of the tsarist government was not unambiguous. It changed in accordance with historic circumstances. The legislative materials allow us to retrace clearly the development of the following trend: from the acceptance and support of Islam just after the annexation to its persecution and full eradication in the late 19th and the early 20th century. Certain attempts to introduce the freedom of belief in the period of revolutionary enthusiasm of the year 1905 were not crowned with success. In general, the autocratic policy was aimed at the elimination of Islam and the gradual spread of Christianity among all nationals of Russia [11].

The enlightenment penetrated into Kazakhstan under the strict control of the government. First of all, its object was to prepare staff for the administrative machine and for educational work in the spirit of Russianization. There were found more than a hundred of legislative documents concerning public education and spiritual development for the Kazakh society. The majority of them were aimed at the distribution of the Russian language, culture and orthodoxy in the territory. All laws adopted in respect of education in the Kazakh territory, religious questions, way of life, traditions, customs, language, elementary human rights etc. had one and only goal – to completely conjugate the people of Kazakhstan to the Great Russian culture and to annihilate its national identity and independence. The legislative materials confirm that the tsarist government did its best to dissolve the Kazakh society in the conglomerated imperial mass, to deprive it of national identity and then independent nationality. In the Russian Empire, the laws were adopted in favour of the colonial policy pursued towards the Kazakh people. Tsarist officials guided by the legal base issued various orders and supplements causing arbitrariness and mob law in the fields. They neglected the elementary human rights of the Kazakhs. The tsarist colonization in the spiritual sphere influenced even more heavily the life of the Kazakh society as it affected the very fundamentals of its existence. It broke the traditional centuries-old mode of life. Its consequences are not eliminated until now in Kazakhstan. The prominent Kazakh scientist M. Tynyshpayev wrote on this subject: “They closed mosques, madrasah and

meeting houses, sealed and confiscated sacred books, distributed the Gospel in the Kyrgyz language and threatened to exile to Siberia those who did not want to accept it. They introduced the obligatory study of Russian literacy taught by missionaries in Kyrgyz religious school. They administered an oath to the Kyrgyz by kissing the gun muzzle and the sword edge. They put Kyrgyz children into the missionary walls and declared them to be orthodox. They tortured a Kyrgyz woman by compressing her head with a rope for she refused to adopt the Orthodoxy. They forbade handing in a petition in the Kyrgyz language and carried on correspondence in local offices in Russian. They committed many other kinds of rude humiliation and personal violence. All this happened in the 19th and the early 20th centuries, and it happens to this day in a far outlying district forgotten by people and the world. How can we call all this if not the crusades of the ignorant theocratic and bureaucratic government of the great state Russia against minorities and gentiles?!” [12, pp: 23].

There were found many legislative acts concerning insignificant issues. This fact again confirms that the tsarist legislation towards Kazakhstan was penny-wise. It tried to regulate all sides of life in the Kazakh society. At the same time it did not pay attention to the vital problems of its development. The questions of social development of the Kazakh society, the arrangement of conflicts with local population and the growth of the national liberation movement are almost not reflected in official tsarist legislation. For political reasons, the problems connected with the autocratic foundations and the interests of ruling circles were not considered or published in official editions.

Conclusions

In general, the analysis of Russian legislation of the studied period showed that it was aimed at the consolidation and broadening of the tsarist autocracy in the territory of Kazakhstan. Besides, it promoted the legal ground for the introduction of Russian administration with final transformation of Kazakhstan into its remote colonial district.

The development of commodity-money relations, the expansion of capitalism “into the depth”, the improvement of the administrative machinery and the intensification of exploitation in the mother country itself reflected in the territory of Kazakhstan as in a mirror and determined the appearance and content of various legislative documents. One can make a definite conclusion that this was a colonial legislation which protected and asserted the rights and principles of the existing monarchical system. This legislation was directed against humanism and people. It was penny-wise and

tried to control all sides of the life of the Kazakh society. It was aimed at the enslavement, oppression and exploitation of the Kazakh people in order to gain the maximum profit.

On the whole, the systematization and classification of the legislative acts of the Russian Empire concerning the history of Kazakhstan demands further study because their critical analysis opens up wide opportunities for their complex use and helps to study the objective history of the Kazakh territory of this period.

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