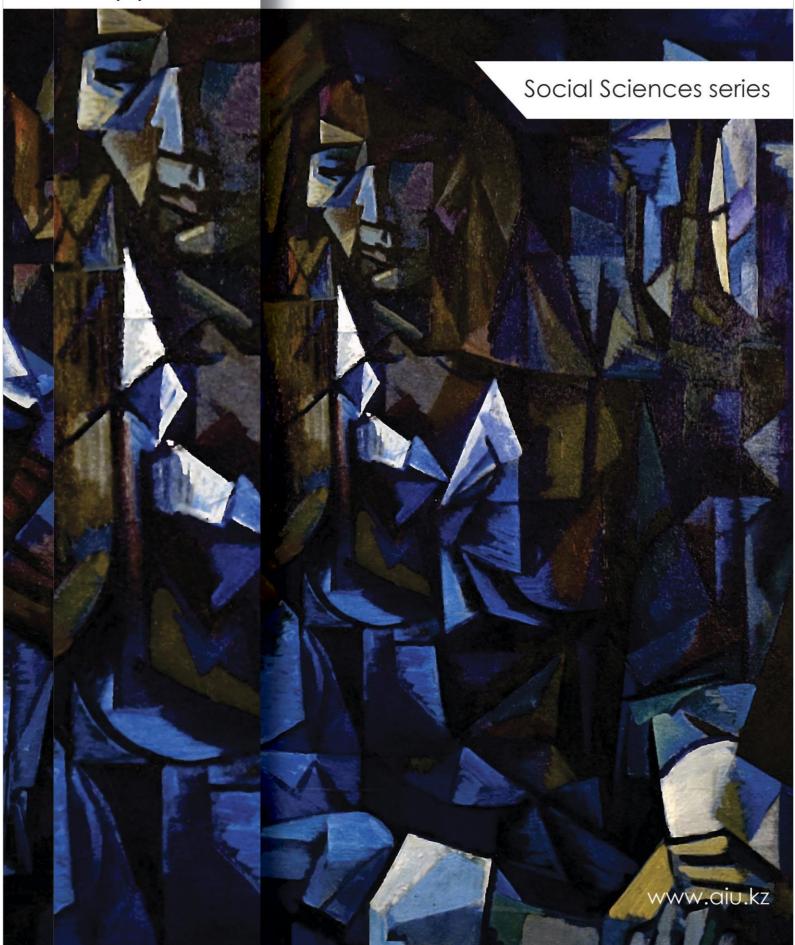


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# LEGAL LITERACY AND LEGAL CULTURE OF THE ELECTORATE AS A FACTOR IN THE DEVELOPMENT OF THE ELECTORAL SYSTEM OF THE REPUBLIC OF KAZAKHSTAN

#### Н.А. Ибраева<sup>1</sup>, С.К. Амандыкова<sup>2</sup>

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Abstract. This article is devoted to the issues of improving legal literacy, legal culture and electoral activity of voters, as well as the development of democratic electoral legislation. The article emphasizes the importance of involvement in the process of improving the electoral and legal culture not only of state bodies and election commissions at all levels, but also of civil society institutions. In addition, in the course of the study, the author of the article analyzed the normative legal acts of the Republic of Kazakhstan in the field of elections, studied the experience of the Russian Federation in order to: adopt the positive aspects of the practice of improving legal literacy, the culture of the electorate and the development of the electoral system in the conditions of our state. The article analyzes the main problems hindering the development of the electoral system of the Republic of Kazakhstan and gives their legal assessment. The author also reviewed the experience and practice of applying the legislation of the Central Election Commission of the Republic of Kazakhstan on electoral training of all persons involved in the electoral process and the voters themselves. In this regard, based on the study of periodical literature and normative legal acts, specific recommendations are given to improve and enhance the legal literacy and legal culture of the electorate.

*Key words:* electoral system, elections, electorate, legal literacy, legal culture, voters, nihilism.

#### INTRODUCTION

Legal literacy and the legal culture of the electorate plays a primary role in the formation of a legal, competitive state with the necessary elements of democratization. Therefore, it is very important to identify the main problems that hinder the modernization and improvement of the electoral system of the Republic of Kazakhstan and identify solutions that contribute to the improvement and development of electoral legislation.

In the explanatory dictionary of Ozhegov S.I., the term electorate is given the following definition: these are all voters participating in elections to state or other large public structures [1], that is, the people (citizens). And as we know,

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the only source of state power is the people (Paragraph 1 of Article 3 of the Constitution of the Republic of Kazakhstan) [2], that is, this very electorate itself. Fixing the will of the people as the only source of the formation of state power, this provision predetermines the legitimacy of the government, due to the fact that only the people of the Republic of Kazakhstan elect the President, deputies of the Majilis of Parliament, local representative bodies (maslikhats) and local self-government bodies. In other words, every citizen who meets the requirements has the right to be elected, and the people of the Republic of Kazakhstan delegate the exercise of their powers on his behalf to make appropriate decisions on matters of national importance.

According to paragraphs 1, 2 of Article 3 of the Basic Law of the country – the Constitution of the Republic of Kazakhstan, citizens of the Republic of Kazakhstan have the right to participate in the management of state affairs directly and through their representatives, namely, they have the right to elect and be elected to state bodies and local self-government bodies, as well as to participate in a republican referendum [2]. This norm establishes the active electoral right, in which citizens of Kazakhstan have the right to vote in the election process upon reaching the age of eighteen, regardless of origin, gender, race, nationality, language, beliefs, attitude to religion, as well as the passive right to be elected to public authorities.

#### **DISCUSSION**

Due to the fact that the constitutional right to vote and be elected is a right, not an obligation, a small part of citizens simply do not use this right. Perhaps the main reason is low legal literacy, that is, ignorance of certain electoral procedures and the electoral process itself as a whole. For example, not every voter knows that there are alternative ways of voting: the right to tick the box "Against all" and not vote for any of the candidates represented on the ballot [3, 5-7]. Voters basically do not know what electoral system they vote on, they do not know what a proportional or majority electoral system is. In addition, citizens do not understand why they vote for a certain candidate on ballots during the presidential elections, whereas in the elections of deputies of the Majilis of the Parliament of the Republic of Kazakhstan, representative bodies vote for a political party. There is no possibility to choose a certain candidate, the winning party decides which of the candidates to give authority, a deputy mandate. However, on the other hand, we are watching how our state is developing and the proposals that legal scholars and constitutionalists write

about are gradually being implemented. Thus, on June 5, 2022, a republican referendum was held in Kazakhstan, as a result of which 56 amendments to 33 existing articles were made to the Constitution of the Republic of Kazakhstan. One of the amendments concerns the electoral system, that is, the right to be elected will belong to both political parties and citizens of the Republic. It will look like this: 30 percent of deputies will be elected according to the majority system, 70 percent – according to the proportional system. This innovation, in turn, will give the opportunity to be elected to the Majilis of the Parliament of the Republic of Kazakhstan not only to candidates from political parties, but also to ordinary citizens of the republic, regardless of political affiliation. And there are a lot of such changes. Thus, we see that the legislation in the field of elections is changing and improving every year, and the electorate suffers from misunderstanding and low legal literacy in terms of exercising the right to choose a candidate for public authorities.

Another possible reason why citizens do not exercise their active suffrage is legal nihilism. We know from the theory of state and law that nihilism is the denial of any cultural, moral values, moral norms, social foundations. If we return to the concept of legal nihilism, this is, respectively, the denial of the law as a whole and the disrespectful attitude of citizens towards it, to state authorities, ignorance of the norms of the Constitution [4, 125-126]. Here there is a complete rejection of a part of the population from the constitutional right to vote and be elected. This category of citizens does not recognize their active suffrage as an important component of the electoral system, they believe that by voting for a certain candidate or party, their votes in this case will not play a significant role and nothing will change from the fact that he will not participate in election campaigns. The number of this part of the population, although insignificant, still "pulls back" the process of development of the electoral system of the Republic of Kazakhstan.

For example, let's go back to the last elections of deputies of the Majilis of the Parliament and Maslikhats of the Republic of Kazakhstan, which were held in January 2021. According to the statistical analysis of the Central Election Commission of the Republic of Kazakhstan, the participation of the population in the electoral process is as follows:

No Political party Number of votes As a percentage TOTAL votes cast for political parties

1	"People's Party of Kazakhstan"659 019 9,10 %	7 241 562
2	«Nur Otan» party5 148 074 71,09 %	
3	People's Democratic Patriotic Party «Auyl»383 023	5,29 %
4	Democratic Party of Kazakhstan "Ak Zhol" 792 828	10,95 %
5	Political party «ADAL» 258 618 3,57 %	

According to the above table, a small conclusion can be drawn: that out of the nineteen million population of the Republic of Kazakhstan, only 7,241,562 voters took part in the voting of deputies of the Majilis of the Parliament of the Republic of Kazakhstan (with the exception of persons who have not reached the age of majority; citizens serving sentences in correctional institutions, i.e. a category of people who do not have the right to vote) and this is approximately 63% of the total number of citizens of the country [5]. Based on this, the question arises: what is the reason for such an insignificant voter turnout at the elections? And here there is legal nihilism, distrust on the part of society towards electoral bodies and elected candidates, lack of legal literacy of the majority of the electorate.

Here is another simple example: During the extraordinary presidential elections held on November 20, 2022, I observed the elections as a party observer at the territorial polling station No. 105 located in Astana. Thus, as a result of the conducted voting, only 944 out of 3773 voters on the list voted, which is 25 percent of the total number of voters at the polling station. Here we understand that the numbers speak for themselves. And until the attitude of citizens to the electoral process is changed and measures with a large coverage of the population are not carried out to increase the level of legal literacy, unfortunately, the electoral system will not fully work and improve.

Therefore, we consider it necessary to develop a set of measures to form a political and legal culture of the electorate, overcome the passivity of a certain category of citizens and create a process of "Dialogue" between the electorate and those involved in election management.

To enter the thirty competitive countries of the world, it is necessary to improve the electoral system and further modernize it. Adhering to the principles laid down in international agreements and following the recommendations of international organizations, the Republic of Kazakhstan assumes all established obligations as one of the participating countries of international agreements. In most developed democracies, individuals who are directly involved in election management are charged with the duties of educating voters. So in our country, this duty is assigned to the Central Election Commission of the Republic of Kazakhstan. This is regulated by subparagraph 5) of Article 12 of the Law of the Republic of Kazakhstan "On Elections in the Republic of Kazakhstan", which states that the Central Election Commission of the Republic of Kazakhstan organizes clarification of election legislation, organizes and conducts training of participants in the electoral process, conducts seminars with representatives of political parties and other participants in the electoral process on the organization and conduct of elections [6].

In addition, since 2017, the newly created electoral training and analytics department of the Central Election Commission of the Republic of Kazakhstan has been functioning, which, in order to make the electorate accessible, open and legally enlightened, has been doing a lot of work on its training and thereby contributes to the improvement of the electoral system of our state.

Such forms of work as round tables, seminars, conferences, debates, meetings, trainings and much more play a key role in educating the electorate. For example, the CEC of the Republic of Kazakhstan regularly conducts online testing, Olympiads, debates among students of higher educational institutions on the electoral system, and the winners are awarded and sent to international tournaments in other states. For example, last year the Central Election Commission held an Olympiad among university students on the topic: "Electoral systems of the countries of the world", dedicated to the 30th anniversary of Independence of the Republic of Kazakhstan, according to the results of which the winner and two prize-winners in December 2021 took part in the International Youth School "Youth Parliamentarism as the basis for sustainable political development and partnership of countries CIS", organized under the auspices of the International Institute for Monitoring the Development of Democracy, parliamentarism and respect for the electoral rights of citizens of the member States of the Inter-parliamentary Assembly of the Commonwealth of Independent States [7]. We believe that this experience is interesting, creates a favorable ground for the development of legal literacy and legal culture among young people.

In addition, all members of election commissions at all levels are trained and pass tests on knowledge of electoral legislation, which is a prerequisite for their work as members of the electoral bodies of the Republic of Kazakhstan. A roadmap of electoral training for various participants in the electoral process is also currently being developed. In partnership with the Ministry of Information and Public Development of the Republic of Kazakhstan, the Ministry of Foreign Affairs of the Republic of Kazakhstan, the Academies of Law Enforcement Agencies at the Prosecutor General's Office of the Republic of Kazakhstan, Justice at the Supreme Court of the Republic of Kazakhstan, 18 training events were held covering 1,454 people [8]. This suggests that education and training is an important mechanism for improving the legal culture of voters, the professionalism of the organizers of electoral processes and, in general, the legal literacy of all participants in the electoral process. However, having studied modern statistics, the measures taken are not effective enough.

The experience of our neighbors, the Russian Federation, is very interesting. For example, in most of the autonomous Republics of the Russian Federation, various events are held in school institutions, in summer health camps, in higher educational institutions that form the foundations of knowledge in the field of electoral law. Especially popular is the holding of role-playing games - elections of school and university self-government bodies. For example, the elections of the "school authorities" should be as close as possible to real elections, so that every young person feels not only a citizen of a particular school, but also a citizen of the state. In addition, the territorial election commissions of the autonomous Republics of the Russian Federation welcome and strongly support innovations in terms of improving the legal literacy of the younger generation. For example, through close cooperation between the Ministry of Education and the election commission, the election of the president of the children's organization of the school is held, where a school election commission is created during the game, all election technologies are observed, election campaigning is carried out, and members of the territorial commission train presidential candidates, explain the rules of nomination and the like [9, 27-28]. In addition, at one of the conferences held at the Astana International University, Professor of Pyatigorsk State University Thabisimova L.A. shared a very interesting experience. So, since 2016, the North Caucasus Center for Electoral Law and Process has been functioning in the Russian Federation, Pyatigorsk, which is a structural subdivision of the Pyatigorsk State University. The purpose of the activity of this center is to train and train observers, members

of election commissions, candidates for elective positions in state and local government bodies, voters and other participants in the electoral process.

This practice can be implemented in the conditions of our state, as we understand that most citizens need training. For example, the same young candidates who were elected for the first time, those people who want to engage in politics and, of course, the electorate – all these citizens simply need training by highly qualified specialists in the field of electoral law. And the training should take place not at the level of a state body, including in the CEC itself, but on the basis of a university, by scientists, narrow specialists in the field of electoral law. That is, in this way, it is possible to create suitable conditions for increasing the level of legal literacy, culture, and trust of the younger generation in public authorities.

#### **CONCLUSIONS**

The electoral process requires from its participants a certain level of knowledge of the basic provisions of electoral law in general and the electoral system in particular. Based on this, on an ongoing basis, regardless of election campaigns, the electorate and the bodies directly involved in the electoral process should be trained. Based on the above, we believe it is possible:

- to carry out work on the implementation of projects: students doing research, writing essays, holding debate tournaments on electoral topics. By these means, it is necessary to awaken the interest of students and young people in the elections and the electoral system as a whole.
- to carry out joint work on electoral education of young and future voters,
   while involving scientists and teachers of educational institutions;
- to develop the practice of organizing and passing practical work of students in the office of the CEC of the Republic of Kazakhstan;
- to conduct informational training works with the participation of mass media, using popular means on the Internet, which would explain the main provisions of the current legislation of the Republic of Kazakhstan;
- to introduce the positive practice of the neighboring state in terms of instilling the foundations of the electoral system and conducting business games at the level of school organizations;

– to create a center for electoral law and the electoral process in the Republic of Kazakhstan in order to increase the level of legal literacy of all persons involved in the electoral process.

We understand that the development and improvement of the electoral system and the process in the Republic of Kazakhstan as a whole depends on how high our level of legal literacy in the field of elections will be. Therefore, in our opinion, only together all the above-mentioned sets of measures will lead to significant results.

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### ҚАЗАҚСТАН РЕСПУБЛИКАСЫНЫҢ САЙЛАУ ЖҮЙЕСІН ДАМЫТУ ФАКТОРЫ РЕТІНДЕ САЙЛАУШЫЛАРДЫҢ ҚҰҚЫҚТЫҚ САУАТТЫЛЫҒЫ ЖӘНЕ ҚҰҚЫҚТЫҚ МӘДЕНИЕТІ

Аңдатпа: Бұл мақала сайлаушылардың құқықтық сауаттылығын, құқықтық мәдениетін және сайлау белсенділігін арттыру, сондай-ақ демократиялық сайлау заңнамасын дамыту мәселелеріне арналған. Мақалада барлық деңгейдегі мемлекеттік органдар мен сайлау комиссияларының ғана емес, сонымен қатар азаматтық қоғам институттарының да сайлау және құқықтық мәдениетін арттыру үдерісіне қатысудың маңыздылығы атап Сонымен қатар, зерттеу барысында мақала авторы Республикасының сайлау саласындағы нормативтік-құқықтық актілерін талдады,Ресей Федерациясының тәжірибесін зерттеді: біздің мемлекетіміз жағдайында құқықтық арттыру сауаттылықты, электорат мәдениетін және сайлау жүйесін тәжірибесінің оң жақтарын қабылдау. Мақалада Қазақстан Республикасының сайлау жүйесінің дамуына кедергі келтіретін негізгі проблемаларға талдау жүргізіледі және олардың құқықтық бағасы беріледі. Сондай-ақ, автор Қазақстан Республикасы Орталық сайлау комиссиясының сайлау процесіне қатысқан барлық адамдарды және сайлаушылардың өздерін электоралды оқыту мәселелері жөніндегі заңнамасын қолдану тәжірибесі мен тәжірибесін қарастырды. Осыған байланысты мерзімді әдебиеттер мен нормативтік-құқықтық актілерді зерделеу негізінде сайлаушылардың сауаттылығы мен құқықтық мәдениетін жақсарту және арттыру бойынша нақты ұсыныстар берілді.

*Кілт сөздер:* сайлау жүйесі, сайлау, электорат, құқықтық сауаттылық, құқықтық мәдениет, сайлаушылар, нигилизм.

#### ПРАВОВАЯ ГРАМОТНОСТЬ И ПРАВОВАЯ КУЛЬТУРА ЭЛЕКТОРАТА КАК ФАКТОР РАЗВИТИЯ ИЗБИРАТЕЛЬНОЙ СИСТЕМЫ РЕСПУБЛИКИ КАЗАХСТАН

Аннотация: Данная статья посвящена вопросам повышения правовой грамотности, правовой культуры и электоральной активности избирателей, а также развития демократического выборного законодательства. В статье подчеркивается важность вовлеченности в процесс повышения электоральной и правовой культуры не только государственных органов и избирательных комиссий всех уровней, но и институтов общества. Кроме того, исследования автором гражданского в ходе проанализированы нормативно-правовые акты Республики Казахстан в сфере выборов, исследован опыт Российской Федерации в целях: перенять положительные моменты практики повышения правовой грамотности, культуры электората и развития избирательной системы в условиях нашего государства. В статье проводится анализ основных проблем, препятствующих развитию избирательной системы Республики Казахстан и дается их правовая оценка. Также автором рассмотрен опыт и практика применения законодательства Центральной избирательной комиссии Республики

Казахстан по вопросам электорального обучения всех лиц, задействованных в избирательном процессе и самих избирателей. В этой связи, на основе изучения периодической литературы и нормативно-правовых актов даны конкретные рекомендации по улучшению и повышению правовой грамотности и правовой культуры электората.

**Ключевые слова:** избирательная система, выборы, электорат, правовая грамотность, правовая культура, избиратели, нигилизм.