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ХАЛЫҚАРАЛЫҚ ҚАТЫНАСТАР МЕН ЖАһАНДАНУДЫҢ МӘСЕЛЕЛЕРІ

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РОЛЬ ИСЕСКО В СОВРЕМЕННЫХ МЕЖДУНАРОДНЫХ ОТНОШЕНИЯХ

Внешнеполитический курс, заложенный Первым Президентом Республики Казахстан – Елбасы Н.А. Назарбаевым, основан на принципах многовекторности и сбалансированности и направлен на развитие дружественных и предсказуемых отношений со всеми государствами (www.akorda.kz). В соответствии с Концепцией внешней политики Республики Казахстан на 2020 – 2030 годы, утвержденной Президентом Республики Казахстан К.-Ж. К. Токаевым 6 марта 2020 года, приоритетами Казахстана в области поддержания международного мира и безопасности является содействие восстановлению и укреплению атмосферы доверия в международных отношениях на основе целей и принципов Устава Организации Объединенных Наций, продвижение многостороннего взаимодействия на основе равноправия и компромисса, а также расширение международного сотрудничества на двустороннем и многостороннем уровнях в области образования, науки, культуры, спорта и молодежной политики (www.akorda.kz).

В области научно-образовательного и культурно-просветительского сотрудничества Казахстан плодотворно развивает сотрудничество с Исламской организацией в области образования, науки и культуры. ИСЕСКО на сегодня является важной и востребованной площадкой по обеспечению климата доверия между государствами и поддержания международного развития. При этом у Исламской организации имеется огромный потенциал для развития и укрепления глобального мира и межцивилизационного диалога. В этой связи значимый интерес представляет изучение институциональной и функциональной деятельности, культурно-дипломатической роли ИСЕСКО в системе современных международных отношений.

В противостоянии международным конфликтам, экономическим кризисам, экстремизму и терроризму ИСЕСКО может сыграть ключевую роль, продвигая духовные и этические ценности, гуманистические принципы. Организация способна увеличить свои возможности, ресурсы, инициативы и проекты, а также свои партнерские связи в интересах государств-членов и мусульманских общин за пределами исламского мира, тем самым выполняя обязательства по поддержке стран и народов в достижении Целей устойчивого развития.

Ключевые слова: международная организация, ИСЕСКО, исламский мир, сотрудничество, Казахстан.

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Role of ISESCO in modern international relations

The foreign policy set by the First President of the Republic of Kazakhstan – Elbasy Nursultan A. Nazarbayev, based on the principles of multi-vector approach and balance, means the development of friendly and predictable relations with all states (www.akorda.kz). In accordance with the Concept of Foreign Policy of the Republic of Kazakhstan for 2020 – 2030, approved by the President of the Republic of Kazakhstan Kassym-Jomart K. Tokayev on 6th March 2020, Kazakhstan's priorities in the maintenance of international peace and security are facilitation of restoring and strengthening the atmosphere of trust in international relations on the basis of the goals and principles of the Charter of the United Nations (UN), promoting multilateral interaction on the basis of equality and compromise, expansion of international cooperation at the bilateral and multilateral levels in the field of education, science, culture, sports and youth policy (www.akorda.kz).

In the field of scientific, educational, cultural and educational cooperation, Kazakhstan is fruitfully developing relations with the Islamic Organization for Education, Science and Culture. ISESCO today is an important and popular platform for ensuring a climate of trust between states and supporting international development. Moreover, the Islamic organisation has enormous potential for the development and strengthening of global peace and inter-civilization dialogue. In this regard, the study of institutional and

functional activities, the cultural and diplomatic role of ISESCO in the system of modern international relations is of significant interest.

In confronting international conflicts, economic crises, extremism and terrorism, ISESCO can play a key role, promoting spiritual and ethical values, humanistic principles. The organization is able to increase its capabilities, resources, initiatives and projects, as well as its partnerships for the benefit of Member States and Muslim communities outside the Islamic world, thereby fulfilling its obligations to support countries and peoples in achieving the Sustainable Development Goals.

Key words: international organisation, ISESCO, Islamic world, cooperation, Kazakhstan.

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ИСЕСКО-ның қазіргі халықаралық қатынастардағы рөлі

Қазақстан Республикасының Тұңғыш Президенті – Елбасы Н.Ә. Назарбаев белгілеген сыртқы саясат, көпвекторлық пен тепе-теңдік қағидаттарына негізделіп, барлық мемлекеттермен достық және болжалды қатынастарды дамытуды білдіреді (www.akorda.kz). Қазақстан Республикасының Президенті Қ.К. Тоқаевтың 2020 жылғы 6 наурызда бекіткен Қазақстан Республикасының 2020-2030 жылдарға арналған сыртқы саясат тұжырымдамасына сәйкес, халықаралық бейбітшілік пен қауіпсіздікті қамтамасыз етудегі Қазақстанның басымдықтарына Біріккен Ұлттар Ұйымы (БҰҰ) Жарғысының мақсаттары мен қағидаттары негізінде халықаралық қатынастардағы сенім ахуалын қалпына келтіру және нығайтуға жәрдемдесу, тең құқықтық пен ымыра негізінде көпжақты өзара іс-қимылды ілгерілету, сонымен бірге білім беру, ғылым, мәдениет, спорт және жастар саясаты салаларында екіжақты және көпжақты деңгейдегі халықаралық ынтымақтастықты кеңейту жатады (www.akorda.kz).

Ғылым мен білім, мәдени-ағарту ынтымақтастығы саласында Қазақстан Ислам білім, ғылым және мәдениет жөніндегі ұйымымен қатынастарды жемісті дамытып келеді. Бүгінде ИСЕСКО мемлекеттер арасындағы сенім климатын қамтамасыз ету және халықаралық дамуды қолдау үшін маңызды және қажетті алаң болып табылады. Сонымен қатар, ислам ұйымы ғаламдық бейбітшілік пен өркениетаралық үнқатысуды дамыту мен нығайту үшін үлкен әлеуетке ие. Осыған байланысты ИСЕСКО-ның институционалдық және функционалдық қызметін, қазіргі халықаралық қатынастар жүйесіндегі мәдени және дипломатиялық рөлін зерттеу үлкен қызығушылық тудырады.

Халықаралық қақтығыстарға, экономикалық дағдарыстарға, экстремизм мен терроризмге қарсы күресте ИСЕСКО рухани және этикалық құндылықтарды, гуманистік ұстанымдарды ілгерілете отырып, маңызды рөл атқара алады. Ұйым өзінің мүмкіндіктерін, ресурстарын, бастамалары мен жобаларын, сондай-ақ мүше мемлекеттер мен ислам әлемінен тыс мұсылман қоғамдастықтарының мүдделері үшін серіктестікті арттыра алады, осылайша Орнықты Даму Мақсаттарына қол жеткізуде елдер мен халықтарды қолдау бойынша міндеттемелерін орындайды.

Түйін сөздер: халықаралық ұйым, ИСЕСКО, ислам әлемі, ынтымақтастық, Қазақстан.

Введение

Современные международные отношения переживают турбулентный период динамичной трансформации мирового политического порядка и глобальной финансовой системы. Глобализация, призванная активизировать взаимодействие и взаимозависимость государств, одновременно порождает риски для международного мира и безопасности. Кризис в мировой экономике, сохраняющиеся региональные конфликты и вынужденные миграционные процессы, глобальные природные катаклизмы и эпидемиологические катастрофы требуют объединенной реакции государств.

Вопросами общемировых проблем и предотвращения угроз перед лицом всего человечества, по логике, должны заниматься наднациональные институты управления и развития. Однако, эрозия международного права и деградация международных организаций, а также разногласия между крупными державами, санкционные войны, дефицит доверия между глобальными и региональными акторами еще более усугубляют международную обстановку, сокращая возможности адекватных средств и инструментов противодействия глобальным вызовам.

В сложных геополитических и геоэкономических условиях возрастает ответственность национальных правительств. Если часть госу-

дарств, действуя по принципу «каждый за себя», все больше склоняются к политическому реализму и национализму, то другие страны продолжают стремиться поддерживать взаимовыгодное международное сотрудничество.

Казахстан, несмотря на относительно короткий, по историческим меркам, срок своей независимости, занимает достойное место на мировой политической сцене, закрепив за собой реноме миролюбивого и открытого государства, надежного партнера в глобальных и региональных делах.

Многонациональное и поликонфессиональное казахстанское общество, которое включает представителей более 100 этносов и 18 конфессий, по сути, сформировало государственную идентичность и характер мировосприятия. Геополитическое положение, разместившее страну в сердце Евразии, определяет форму ее сбалансированного и проактивного поведения на внешних границах. Реализация Казахстаном многовекторной и прагматичной внешней политики вносит значительный вклад в укрепление и развитие международного мира и безопасности. Руководствуясь незыблемыми национальными интересами, Нур-Султан выстраивает конструктивные отношения с международным сообществом.

Казахстан, являясь активным членом ООН и многих других ключевых международных организаций, позиционирует себя как центр межкультурного и межконфессионального диалога, мост для взаимодействия Востока и Запада, а также межрелигиозного диалога. Собственная этническая и религиозная многоликость Казахстана заслуженно дает право регулярно проводить Съезды лидеров мировых и традиционных религий, построенных на основе доверия и взаимопонимания. Через формат диалога духовных лиц и политиков Казахстан, обладая богатым опытом поддержания межэтнического и межконфессионального согласия, показывает всему мировому сообществу пример общенационального консенсуса и консолидации общества, а также готовность к широкому и эффективному сотрудничеству в этой сфере (www.akorda.kz).

Актуальность

Казахстан и Организация Исламского Сотрудничества

Одним из приоритетов внешней политики Казахстана является активное взаимодействие с исламским миром. Важное значение в развитии глобального процесса диалога культур и цивилизаций имеет деятельность Казахстана в рамках Организации Исламского Сотрудничества (ОИС), куда страна вступила в 1995 году. Международная организация, которая до 2011 года называлась как Организация Исламская Конференция (ОИК), объединяет 57 стран с населением около 1,5 млрд человек. Цели самой крупной и наиболее влиятельной официальной правительственной мусульманской международной организации: сотрудничество между мусульманскими государствами, совместное участие в деятельности на международной арене, достижение стабильного развития стран-участниц.

Согласно уставу ОИС к основным целям организации относятся: расширение и укрепление уз братства и солидарности между государствами-членами; охрана и защита общих интересов, координация и объединение усилий государств-членов с учетом задач, стоящих перед исламским миром, в частности, и международного сообщества в целом; обеспечение активного участия государств-членов в глобальных политических, экономических и социальных процессах принятия решений для обеспечения их общих интересов; развитие сотрудничества в социальной, культурной и информационной областях между государствами-членами (https://www.oic-oci.org).

Эксперты отмечают, что у ОИС достаточно мягкие условия сотрудничества, коммуникации, взаимодействия. Ее решения не являются обязующими для стран-членов. Организация представляет платформу для дискуссий, для взаимодействия стран, которые географически удалены друг от друга. На площадке ОИС страны-члены могут высказать свою позицию по критическим вопросам и заручиться соответствующей поддержкой.

Между тем, особая роль Казахстана в исламском мире была подчеркнута Генеральным секретарем ОИК в 1996–2000 годах А. Лараки, который, выражая удовлетворение вступлением Казахстана в Организацию, отметил, что «Казахстан со своим природным, экономическим, культурным и интеллектуальным потенциалом, сбалансированной и взвешенной внутренней и внешней политикой является бесценным вкладом в общую сокровищницу мусульманских народов, а также мирового сообщества» (www.tarih-begalinka.kz).

Созидательная деятельность Казахстана в рамках Исламской Организации отражалась во время его председательства в этой международ-

ной структуре в 2011 году. Примечательно, что именно решением состоявшейся в Астане 38-й сессии Совета министров иностранных дел ОИК 28 июня 2011 года переименована в ОИС (www.mfa.kz). Принятая Астанинская декларация ОИС провозгласила модернизацию и реформы в качестве основ развития Исламского мира в XXI веке. Кроме того, Первый Президент Республики Казахстан – Елбасы Н.А. Назарбаев является инициатором учреждения Исламской организации по продовольственной безопасности (ИОПБ), штаб-квартира которой располагается в Нур-Султане. Казахстанская столица приняла Первый Саммит ОИС по науке и технологиям в сентябре 2017 года, по итогам которого подписана Астанинская декларация, призванная обеспечить политическую поддержку научно-технологической модернизации в исламском мире.

Выступая на пленарном заседании саммита, Президент РК Н.А. Назарбаев выразил казахстанское видение на современные вызовы и угрозы, с которыми столкнулась исламская умма (www.akorda.kz). Во-первых, была отмечена активная деятельность экстремистских и террористических группировок. Во-вторых – проблема распространения «исламофобских» настроений. В-третьих, обозначено отсутствие единства в исламском мире. В качестве ответных мер была подчеркнута необходимость объединения усилий с целью противостояния современным вызовам и угрозам и предложено создание общего научно-инновационного фонда, акцентируя внимание на важности поддержки исследований ученых в мусульманских странах.

Сотрудничество Казахстана с исламским миром в сфере науки, образования, технологий и культуры дополнительно развивается отдельным треком через взаимодействие в рамках членства в специализированном учреждении ОИС – Исламской организации по образованию, науке и культуре (ИСЕСКО).

В контексте расширения научно-образовательных и культурно-просветительских связей в исламском мире, а также укрепления климата доверия между государствами и поддержания международного развития возрастает востребованность ИСЕСКО – важной площадки на многостороннем гуманитарном треке.

В поиске путей укрепления глобального мира и межцивилизационного диалога, учитывая авторитет, состав участников, институциональную и функциональную деятельность, требуется отдельное научное изучение культурно-дипломатической роли ИСЕСКО в системе современных международных отношений. Актуальность темы дополняется также тем, что в контексте современных международных отношений сотрудничество Казахстана с ИСЕСКО имеет значительный потенциал и представляет особый интерес.

Предметом исследования является деятельность ИСЕСКО в условиях современных глобальных процессов. Цель данной статьи – изучение институциональной и функциональной структуры, основных направлений деятельности и роли, анализ проблем модернизации и перспектив развития Организации для определения направлений и форматов сотрудничества между Казахстаном и ИСЕСКО. В статье представлен исторический обзор и анализ эволюции развития ИСЕСКО, концептуального содержания и механизмов реализации его деятельности. Автор анализирует основные направления сотрудничества между Казахстаном и ИСЕСКО.

Теоретико-методологическая база

Для анализа деятельности и роли ИСЕСКО автор статьи использовал теории либерального институционализма и конструктивизма. Сторонники либерального институционализма считают, что национальные и международные институты играют центральную роль в содействии сотрудничеству и миру между государствами (Tana Johnson and Andrew Heiss, 2018). При этом сторонники этой теории признают, что либеральный мировой порядок находится в состоянии изменения (Tim Dunne, 2020).

Представители конструктивизма подчеркивают социально выстроенный характер международных отношений (Robert Howard Jackson and Georg Sørensen, 2010), широко развивая идею о том, что международные отношения являются социальной конструкцией (Karin Marie Fierke, 2016). Конструктивизм является не только ценным инструментом для понимания внешней политики, но и руководством для определения внешней политики (Trine Flockhart, 2016). Также принята во внимание интерпретация современной исламской политической теории, которая имеет богатую традицию исламской политической мысли (Roxanne Euben, 2008), а также идеи концепции мультикультурализма (Andrew Heywood, 2017).

В соответствии с поставленной целью в исследовании применены метод системного анализа, структурно-функциональный и эмпирические методы. Системный подход, который дает возможность представить объект изучения

в его единстве и целостности, применялся для анализа эволюции направлений деятельности ИСЕСКО, способствуя определению роли организации в функционировании международной системы. Структурно-функциональный метод использовался для исследования институтов и механизмов организации, оценивая возможности ее развития и перспективы сотрудничества. Наблюдение и изучение документов, касающихся ИСЕСКО, составили эмпирические методы работы. При изучении предмета был проанализирован ряд документов ИСЕСКО, выступлений руководства и представителей стран-членов организации, а также широкий круг трудов казахстанских и иностранных ученых. Источниковая база исследования также включает публикации в СМИ и глобальной сети Интернет.

Создание и эволюция ИСЕСКО

В современных глобальных политических процессах в историческом и культурном контексте существуют различные подходы к решению конфликтов и налаживанию сотрудничества. Глобальная политика является динамичной, постоянно меняющейся, многомерной реальностью, это мир, в котором идеи, идентичности, интересы и институты постоянно развиваются (Richard W. Mansbach, Kirsten L. Taylor, 2018). Развитие взаимоотношений между государствами в современных условиях глобализации формирует новый взгляд на развитие международных отношений, повышая уровень взаимозависимости в международной системе (Colin Hay, 2016). Роль международных организаций состоит, главным образом, в определении международной повестки дня, посредничестве в политических переговорах, обеспечении места для политических инициатив и способствовании сотрудничеству и координации между государствами (Dictionary of International Relations, 1998).

Несмотря на нынешние тенденции национализма и протекционизма, роль международных организаций по-прежнему сохраняется, в том числе в области гуманитарного сотрудничества.

Инициатива по созданию ИСЕСКО была предложена на 9-й Конференции министров иностранных дел ОИК, проходившей в Дакаре (Сенегал) 24-28 апреля 1978 года (www.icesco.org). Решение о создании ИСЕСКО было принято в ходе 3-го Саммита государств-членов ОИК (25-28 января 1981 года) в Мекке (Саудовская Аравия).

Учредительная конференция и подписание устава ИСЕСКО состоялись 3 мая 1982 года в городе Фес в Королевстве Марокко под эгидой короля Хасана II (Terry M. Mays, 2015). На конференции, в которой приняли участие 28 государств, марокканский общественно-политический деятель Абдул Хади Буталиб был избран первым Генеральным директором ИСЕСКО, который возглавлял ИСЕСКО в период 1982-1991 гг. В настоящее время руководителем ИСЕСКО является представитель Королевства Саудовской Аравии д-р Салим бин Мохаммед аль- Малик, который приступил к исполнению своих обязанностей 9 мая 2019 года (https://educationrelief.org, 2019).

Структура и деятельность ИСЕСКО выстраивались на примере ЮНЕСКО, с которой установлено сотрудничество еще в 1980-х годах.

Согласно Уставу ИСЕСКО (https://unesdoc.unesco.org), каждое государство – член ОИК становится членом ИСЕСКО после официального подписания Устава, прохождения юридических формальностей и уведомления в письменной форме Генерального директората ИСЕСКО. Государство, не являющееся членом или наблюдателем в ОИК, не может претендовать на членство в ИСЕСКО. На сегодня ИСЕСКО насчитывает 54 государства-члена: Азербайджан, Иордания, Афганистан, Объединенные Арабские Эмираты, Индонезия, Узбекистан, Уганда, Иран, Пакистан, Бахрейн, Бруней, Бангладеш, Бенин, Буркина-Фасо, Таджикистан, Турция, Чад, Того, Тунис, Алжир, Джибути, Саудовская Аравия, Судан, Суринам, Сирия, Сьерра-Леоне, Сенегал, Сомали, Ирак, Оман, Габон, Гамбия, Гайана, Гвинея, Гвинея-Бисау, Палестина, Казахстан, Катар, Коморские острова, Киргизия, Камерун, Кот-д'Ивуар, Кувейт, Ливан, Ливия, Мальдивы, Мали, Малайзия, Египет, Марокко, Мавритания, Нигер, Нигерия, Йемен. Три из 57 государств – членов ОИС – Албания, Туркменистан и Мозамбик – не являются членами ИСЕСКО, обладая статусом государства-наблюдателя.

Штаб-квартира ИСЕСКО располагается в городе Рабат – столице Королевства Марокко. Рабочие языки организации – арабский, английский и французский.

Цели ИСЕСКО состоят в том, чтобы «укреплять и развивать сотрудничество между государствами-членами в областях образования, научной культуры и коммуникации; консолидировать взаимопонимание между народами внутри и за пределами государств-членов; содействовать миру и безопасности во всем мире

различными способами; пропагандировать истинный образ ислама и исламской культуры; поощрять диалог между цивилизациями, культурами и религиями; поддерживать культурное взаимодействие и культурное разнообразие в государствах-членах при сохранении культурной самобытности и интеллектуальной целостности» (www.jstor.org, 1989).

Реализуя миссию по развитию человеческого капитала и формированию будущих лидеров, принимающих решения, обмену опытом и институциональной поддержке, развитию систем инноваций и знаний, ИСЕСКО ставит следующие задачи (www.icesco.org):

1) создать элиты исламского мира;

2) развить потенциал, навыки и опыт, связанные с устойчивым развитием;

3) укрепить культуру стремления к совершенству и разработать качественный подход;

4) содействовать исследованиям, инновациям и предпринимательству;

5) продвигать инициативы, обмениваться успешным опытом и институционализировать передовой опыт;

6) развивать научные, академические, профессиональные и институциональные сети;

7) продвигать общечеловеческие принципы и основные права;

8) содействовать межкультурному и межцивилизационному диалогу и закрепить ценности умеренности и сосуществования;

9) использовать мягкую силу, чтобы раскрыть реальный образ ислама и его цивилизационный вклад в человечество;

10) распространять знания и сопровождать глобальные преобразования и изменения парадигмы;

11) укрепить коллективные действия и взаимовыгодные партнерства.

Структура ИСЕСКО:

1. Генеральная конференция. Состоит из министров, ответственных лиц или их представителей в области образования, науки, культуры и коммуникации, назначаемых правительствами государств – членов ИСЕСКО. Конференция созывается раз в три года, а также в чрезвычайном порядке, при необходимости.

2. Исполнительный Совет. В состав совета входит один представитель от каждого государства – члена ИСЕСКО, который специализируется в области образования, науки, культуры и коммуникации.

3. Генеральный секретариат. Возглавляет – Генеральный директор, который избирается участниками Генеральной конференции сроком на три года. Полномочия директора могут быть продлены только два раза по рекомендации Исполнительного Совета. Генеральный директор ИСЕСКО является главой административного органа организации, подотчетен Исполнительному Совету и Генеральной конференции.

Деятельность ИСЕСКО включает многие гуманитарные вопросы в сфере образования, культуры и науки, коммуникаций и информации.

Сектор образования в ИСЕСКО играет ведущую роль в разработке образовательной политики и координации совместных исламских образовательных программ. Это способствует закреплению принципов солидарности и сотрудничества между государствами-членами; и имеет ряд планов и проектов, направленных на решение стоящих проблем образования в мусульманских странах. На этом фоне сектор образования в ИСЕСКО стремится быть ориентиром для министерств образования в исламском мире таким образом, чтобы поддерживать их усилия на национальном, региональном и международном уровнях в соответствии с обязательствами и планами международного сообщества. Образовательный сектор ИСЕСКО стремится создавать стратегическое и долгосрочное видение, связанное с характером предстоящих основных задач и их прямыми последствиями для образования; и разрабатывать планы, опираясь на опыт ведущих международных экспертов и специалистов по планированию образования и основных учреждений стратегического планирования образования. Аналогичным образом он стремится активно присутствовать в кругах лиц, принимающих решения в области образования в государствах-членах, с тем чтобы принимать обоснованные решения по реформированию и совершенствованию политики, тем самым предоставляя различные услуги и программы, отвечающие потребностям государств-членов в решении проблем качества и конкурентоспособности, и содействуя региональному и международному партнерству с параллельными институтами.

Сектор по науке и технологиям сосредоточен на содействии внедрению современных технологий, приобретению или совершенствованию компетенций в новых технологиях на всех уровнях, использованию новых инструментов и методов для развития и роста на основе знаний, поддержке основанной на технологиях экономике, устранении гендерного разрыва в науке и технике, содействии управлению природными

ресурсами и окружающей средой, а также повышении устойчивости и готовности к стихийным бедствиям и последствиям изменения климата. Сектор привлекает национальных и международных партнеров из научных кругов, правительств, международных организаций, национальных директивных органов и гражданского общества для решения насущных проблем, укрепления солидарности между заинтересованными сторонами путем создания прочных сетевых связей сотрудничества и взаимодействия для обмена опытом, технологиями и инструментариями.

Сектор по гуманитарным и социальным наукам стремится стать мостом для построения лучшего исламского мира и системы цивилизационных знаний, развитие которых ориентировано на развитие человеческого капитала, опираясь на потенциал людей, особенно женщин и молодежи, а также на заботу о детях. Приоритеты сектора заключаются в разработке высококачественных рабочих программ, основанных на хороших международных научных исследованиях и опыте, понимании проблем исламского мира, его трансформации, проблем и воздействия, а именно экономической, продовольственной и медицинской безопасности; права человека, гражданские, экономические и социальные права; достоинство и социально-экономическая интеграция.

В целом развитие человеческого капитала является ключевой составляющей проектов ИСЕСКО, вырабатывая знаниями путем взаимодействия и продвигая междисциплинарные научные исследования с целью решения основных насущных и будущих проблем.

В целях развития культурной деятельности в интересах государств-членов новое видение ИСЕСКО зависит от региональных и международных культурных ориентиров, обязательств государств-членов по ним, резолюций и решений Генеральной конференции и Исполнительного совета ИСЕСКО, Исламской конференции министров культуры. Новое видение организации использует комплексный подход к развитию, который отделяет культурные проблемы от традиционного подхода, рассматривая культурное поле отдельно от других секторов. Этот подход, скорее, решает местные, региональные и международные проблемы, влияющие на культурную арену, на основе преобразований государств-членов с их последующим взаимодействием на местном, региональном и международном уровнях, чтобы подчеркнуть роль культуры как одного из фундаментальных строительных блоков устойчивого всеобъемлющего развития. Кроме того, культура играет новую роль, связанную с обеспечением культурной безопасности, созданием общества знаний, развитием диалога и сотрудничества с другими культурами, противодействием экстремистской мысли, ненавистью, насилию и терроризму, внедрением новых моделей культурного управления, принятием адекватных культурных подходов для устранения последствий кризисов, вызванных миграцией и оттоком беженцев из зон конфликтов, войн и нищеты. В целях популяризации исламской культуры ИСЕСКО практикует провозглашение городов мусульманского мира в качестве «столицы исламской культуры».

Обсуждение

Современная роль ИСЕСКО и перспективы развития

В текущих условия эрозии эффективности деятельности международных организаций, а также с учетом ухудшающейся политической обстановки в мире, развитие ИСЕСКО поверглось рискам застоя. Меняющиеся глобальные политико-экономические и культурно-гуманитарные параметры призывают ИСЕСКО эволюционировать. Руководство организации и страны-члены приходят к переосмыслению роли Организации – ее идентичности на мировой политической арене.

29-30 января 2020 года в г.Абу-Даби (ОАЭ) прошла 40-я сессия Исполнительного совета ИСЕСКО, которая была посвящена выработке нового стратегического видения развития организации, утверждению среднесрочного плана ИСЕСКО на период 2020-2030 годов, а также плана действий на 2020-2021 годы. Была утверждена новая организационная структура ИСЕСКО, при которой создан специальный Фонд развития и Международный консультативный совет.

В ходе юбилейной сессии название данной международной организации было изменено с «Исламская образовательная, научная и культурная организация» (Islamic Educational, Scientific and Cultural Organization) на «Образовательная, научная и культурная организация исламского мира» (Islamic World Educational, Scientific and Cultural Organization) (https://menafn.com). Как отметил Гендиректор ИСЕСКО С.аль-Малик, изменение названия Организации направлено на то, чтобы прояснить характер ее миссий и от-

крыть широкие перспективы ее присутствия на международном уровне. Новое название точно отражает характер цивилизационной миссии ICESCO в области образования, науки, культуры и коммуникации, а также ее цели и задачи. Предлагаемое выражение «Исламская всемирная» («Islamic World» – «Исламский мир») относится к цивилизационному пространству, которое учитывает глобальное измерение во всех регионах, включающих мусульманское население и меньшинства, или в регионах, которые так или иначе способствовали созданию и обогащению общего цивилизационного наследия этих регионов. Так, мусульманское население в некоторых государствах, не являющихся членами Организации, больше, чем мусульман в некоторых государствах-членах организации. Название «Исламская Всемирная Организация» («Islamic World Organization») позволяет организации сотрудничать с этими странами и осуществлять программы и мероприятия для мусульман в таких странах на институциональной и официальной основе. Изменение этого названия откроет широкие перспективы для расширения основ партнерства и сотрудничества в государствах-членах, а также с государствами, не являющимися членами, и значительным числом международных и региональных правительственных учреждений, которые не в полной мере осознают характер миссий Организации, областей деятельности и бенефициаров, а также их стратегических общих черт и приоритетов развития, разделяемых с ИСЕСКО (/www.icesco.org).

На полях форума ИСЕСКО подчеркнули, что исламский мир должен объединиться, чтобы противостоять международным конфликтам, экономическим кризисам и экстремизму. Именно в условиях такой нестабильности ощущается потребность перестроить мировой порядок на основе международных законов, духовных и этических ценностей, гуманистических принципов. Происходящие во многих сферах жизни в исламском мире трансформации требуют от организаций новых взглядов, стратегии, поисков путей инновативного решения во имя создания лучшего будущего (https://wam.ae).

Среди наиболее важных инициатив, озвученных на юбилейной сессии, – усиление роли национальных комитетов по образованию, науке и культуре. Организация намерена мобилизовать свои возможности, ресурсы, инициативы и проекты, а также свои партнерские связи в интересах государств-членов и мусульманских общин за пределами исламского мира. ИСЕСКО сосредоточится на приоритетах и потребностях, выдвинутых национальными компетентными сторонами, уделяя при этом особое внимание наиболее уязвимым регионам и категориям, которые остро нуждаются в помощи. ИСЕСКО продолжит выполнять обязательства по поддержке государств-членов в достижении Целей устойчивого развития (www.icesco.org).

С учетом текущих общемировых тенденций, нынешняя деятельность ИСЕСКО включает (www.icesco.org):

– Наращивание потенциала. В большинстве стран исламского мира слабый потенциал является одним из основных препятствий на пути к инклюзивному и устойчивому социально-экономическому развитию. Развитие человеческого капитала является ключевой составляющей проектов ИСЕСКО.

– Защита интересов. ИСЕСКО активно участвует в региональных и международных культурных дебатах и вносит существенный вклад в глобальное мышление по вопросам, представляющим взаимный интерес, следуя методу, сочетающему разнообразие и сближение. Организация стремится участвовать через свои сферы деятельности в развитии идей, позиций и назидании нового мирового порядка на основе моделей развития, которые являются более гуманистическими, справедливыми, сбалансированными, разумными, ответственными, инклюзивными и устойчивыми.

– Институциональная экспертиза и поддержка. Благодаря опыту, накопленному за 38 лет деятельности в области образования, науки, культуры и коммуникации, и опыту в области стратегического прогнозирования и планирования в этих областях, ИСЕСКО поддерживает страны исламского мира в разработке своих отраслевых стратегий, национальной политики и планов, обеспечивая при этом их соответствие требованиям развития.

– Распространение знаний. ИСЕСКО вырабатывает и обменивается знаниями и продвигает междисциплинарные и конструктивные научные исследования, которые решают основные будущие проблемы. Так, организация предвидит мировые изменения парадигмы и представляет возможное будущее для образования, науки, культуры и коммуникации и их влияние на отдельных людей, общества и организации.

– Установление контактов. Успех любой инновационной стратегии зависит от организованного и эффективного обмена знаниями. Сообщества знаний могут сыграть в этом значи-

тельную роль. ИСЕСКО выступает за создание и распространение этих сообществ, помогая странам исламского мира в создании специализированных сетей, программ обмена и мобильности, а также в управлении передачей и присвоением знаний, навыков и технологий.

– Поддержка инноваций. Слабые инвестиции в НИОКР и шаткие национальные инновационные системы препятствуют переходу большинства стран исламского мира к обществу знаний. Чтобы ускорить этот переход, необходимый для всестороннего и устойчивого социально-экономического развития, которое выходит за рамки механизмов инновационной помощи (призы, финансовая поддержка, гранты), ИСЕСКО активно работает вместе с государствами-членами в целях разработки механизмов постоянной поддержки, которые объединяют научные исследования, инновации и предпринимательство.

Сотрудничество Казахстана и ИСЕСКО

Реализация культурно-гуманитарной политики в рамках многосторонних организаций – одно из главных направлений внешнеполитической деятельности Казахстана (www.mfa.kz). ИСЕСКО является важным партнером Казахстана в решении задач в сфере образования, науки, культуры, информационных технологий (https://astanatimes.com).

Официальное вступление Казахстан в ИСЕСКО было объявлено на 24-й Исламской конференции министров иностранных дел в декабре 1996 г. в Джакарте, Индонезия. С 2000 года действует Национальная комиссия Казахстана по делам ЮНЕСКО и ИСЕСКО (www.natcom.kz).

С первых дней своего вступления в ИСЕСКО Казахстан принимал участие в большинстве ключевых мероприятий, проводимых в рамках организации, в том числе в соответствующих семинарах и учебных курсах (www.unesco.org). В целях активизации сотрудничества с ИСЕСКО Казахстан представлял свои проекты по развитию сфер образования, науки и культуры, в том числе выдвигая предложение об открытии представительства ИСЕСКО по Центральной Азии, Кавказу и Европе в Алматы.

ИСЕСКО принимает участие в ряде научно-исследовательских проектов по распространению и развитию ислама и исследованию исламской архитектуры в Казахстане, реставрации редких рукописей Национальной библиотеки Казахстана. Другая инициатива направлена на создание национальных консультативных структур для повышения осведомленности о проблемах информационного века в рамках сотрудничества ИСЕСКО-ЮНЕСКО. Сотрудничество с ИСЕСКО дает Казахстану возможность реализовать ряд национальных проектов, таких как сохранение и восстановление объектов культурного и природного наследия; обмен опытом в области изучения и преподавания языков, культуры и истории мусульманского мира, а также в разработке и переводе литературы по исламскому образованию.

ИСЕСКО намерено взять под свою опеку мавзолеи Аль-Фараби и Султана Бейбарса в Сирии. Руководство организации регулярно принимает участие в работе проводимого в Нур-Султане Съезда лидеров мировых и традиционных религий. В 2011 году Президент Казахстана Н.Назарбаев был удостоен высшей награды ИСЕСКО – золотой знак «ISESCO Shield» за выдающийся вклад в укрепление исламской солидарности, развитие исламского мира и продвижение гуманитарных ценностей на глобальном уровне. Казахстанские дипломаты работают на высоких должностях в штаб-квартире Генерального секретариата ИСЕСКО.

В рамках реализации научно-образовательных программ с исследовательскими учреждениями и высшими учебными заведениями Казахстана развивается сотрудничество между ИСЕСКО и Казахским национальным университетом имени аль-Фараби. На площадке КазНУ проводился ряд важных совместных семинаров и проектов (www.kaznu.kz).

С учетом развития Международного финансового центра «Астана» назревает необходимость изучения роли исламского финансирования науки и инноваций и усиления сотрудничества в сфере исламского финансирования.

В целом взаимодействие Казахстана с ИСЕСКО на сегодняшний день не полностью отвечает потенциалу сотрудничества, что требует нового взгляда перспективы взаимовыгодных отношений.

Заключение

В современном мире деятельность ИСЕСКО остается актуальной и формируется вокруг укрепления и развития сотрудничества между государствами-членами в областях образования, научной культуры и коммуникации. Поставленные перед ИСЕСКО при ее создании цели остаются неизменными: консолидация

взаимопонимания между народами внутри и за пределами государств-членов; содействие миру и безопасности во всем мире; пропаганда истинного образа ислама и исламской культуры. В современной сложной социально-политической обстановке в мире Организация попрежнему стремится поощрять диалог между цивилизациями, культурами и религиями; поддерживать культурное взаимодействие и культурное разнообразие в государствах-членах при сохранении культурной самобытности и интеллектуальной целостности.

В условиях сближения культур и диалога цивилизаций важным представляются преобразования ОИС как внутри организации, так и в ее отношениях с внешним миром. Глобализация открывает большие возможности для культурно-гуманитарного развития государств, где колоссальный опыт ИСЕСКО по поддержке мира и сотрудничества между народами окажет положительный эффект. При этом Организация сталкивается с необходимостью решения насущных проблем современности: бедности, перенаселения и миграции, экстремизма и терроризма, торговли наркотиками и социальной маргинализации молодежи. Необходимость наращивания сотрудничества с мировым сообществом как в политическом, так и в культурно-социальном аспекте требует пересмотра миссии ИСЕСКО в современном мире. Следует всесторонне изучить изменения внутри и вокруг организации, вызванные как внутренними, так и внешними факторами.

Вместе с тем, имеются практические перспективы для расширения и углубления взаимодействия между Казахстаном и ИСЕСКО. С одной стороны, Казахстан может принять активное участие в осуществлении планов действий ИСЕСКО, в том числе используя ресурсы и передовой опыт организации и ее стран-членов в области образования, науки, культуры и коммуникации, а также использовать ИСЕСКО как инструмент «мягкой» силы и ее каналы для продвижения своего международного имиджа. С другой стороны, Казахстан может усилить потенциал ИСЕСКО, тем самым внести свой вклад в развитие международных культурно-гуманитарных отношений, а также укрепление общецивилизационного и межкультурного диалога в исламском мире.

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CHINA AND INDIA IN GLOBALISATION 2.0

The growing economic presence of China, and the world's fastest growing economy, India, are developing global strategic agendas under nationalist leadership. While the West faces growing anti-globalisation sentiment and populism, Asia is contributing to discussions on the emergence of a new trend of globalisation or globalisation 2.0. This paper aims to discuss factors that have led to the discourse on the new globalisation. It will be argued that China and India are promoting the shift of global power to Asia by three features: leadership, initiatives and institutions. By doing so, the paper aspires to illustrate how the economic development of the two Asian emerging powers encourages the ambitions of its leaders towards the global and regional influence, which has been implementing through their connectivity instruments and new institutions. It presumes, that the connectivity projects by providing the 'hardware of integration' for the emerging world and its institutions as a 'software of integration' allows strengthening the Asian cohesion and assertiveness in the world politics. Taking into account the past several border clashes between China and India, the new globalisation lens might provide for both a common ground for bilateral cooperation and collaboration.

Key words: China and India, globalisation, Belt and Road Initiative, connectivity.

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Жаһандану 2.0 жағдайындағы Қытай мен Үндістан

Қытай экономикалық держава ретінде және Үндістан әлемдегі ең жылдам дамып келе жатқан экономика ретінде ұлтшылдықтың басшылығымен жаһандық стратегиялық бағдарламаларды әзірлеуде. Батыс елдері анти-глобалистік көзқарастар мен популизмге қарсы үрдістер басым болып жатса, Азия жаһанданудың жаңа кезеңі пайда болуы туралы пікірталастарды күшейтуде. Бұл мақала жеке, институционалдық және геосаяси факторларды талдай отырып, жаңа жаһанданудың құрылуына әкелген көрсеткіштерді ашады. Басты аргумент – Қытай мен Үндістанның көшбасшылық амбицияларына, бастамаларына және институттарына негізделген Азияға қатысты жаһандық билік сәулетінің өзгеруіне ықпал етеді деген сенім. Осылайша, мақала Азиядағы дамушы екі державаның экономикалық дамуы көшбасшылардың ғаламдық және аймақтық ықпалға деген ұмтылысын, олардың байланыс құралдары мен жаңа институттар арқылы іске асатындығын көрсетуге тырысады. Дамушы әлем үшін «интеграциялық жабдық» және «интеграциялық бағдарламалық қамтамасыз ету» ретінде институттарды ұсыну арқылы, байланыс жобалары азиялық келісімділікті және әлемдік саясатқа деген сенімдікті арттырады. Қытай мен Үндістан арасындағы жақында болған шекаралық қақтығыстарды ескере отырып, жаһанданудың жаңа тәсілі екіжақты ынтымақтастық үшін ортақ негіз құруға түрткі болуы мүмкін деп болжалдануда.

Түйін сөздер: Қытай мен Үндістан, жаһандану, Белдеу және Жол бастамасы, ынтымақтастық.

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Китай и Индия в условиях Глобализации 2.0

Китай как экономическая мощь и Индия как самая быстроразвивающаяся экономика мира разрабатывают глобальные стратегические программы под националистическим руководством. В то время как западные страны сталкиваются с растущими антиглобалистскими настроениями

и популизмом, Азия способствует дискуссиям о появлении новой тенденции глобализации, или Глобализации 2.0. В данной статье путем анализа индивидуальных, институциональных и геополитических факторов выявляются показатели, которые привели к дискурсу о новой глобализации. Основным аргументом является убеждение, что Китай и Индия способствуют изменению глобальной архитектуры власти в сторону Азии, основываясь на лидерских амбициях, инициативах и институтах. Таким образом, автор стремится проиллюстрировать, каким образом экономическое развитие двух азиатских развивающихся держав поощряет амбиции лидеров к глобальному и региональному влиянию, которое реализуется через их инструменты связности и новые институты. Предполагается, что проекты связности, предоставляя «оборудования интеграции» для развивающегося мира, а институты в качестве «программного обеспечения интеграции», позволяют усилить азиатскую сплоченность и уверенность в мировой политике. Учитывая недавние пограничные столкновения между Китаем и Индией, новый подход глобализации возможно стимулирует их к созданию общей почвы для двустороннего сотрудничества и коллаборации.

Ключевые слова: Китай и Индия, глобализация, инициатива Пояса и Пути, сотрудничество.

Introduction

Global activities by China, India and other emerging powers have contributed to the rise of nationalist movements, from vocal demonstrations to powerful leadership positions in many Western countries. As nationalist movements cause a dissociation of the West, emerging countries of the East are promoting their grand strategies under nationalist leadership. Thus, the world is currently facing shifts in the distribution of structural power, causing friction in global political structures. Emerging debates suggest that the new era is being defined as globalisation 2.0, new globalisation or de-globalisation by moving the globalisation to a new phase.

This paper argues that China and India stimulated a shift in gravity of globalisation by bringing together ideas, institutions and initiatives to influence the orientation of emerging countries. Assertive leadership, connectivity initiatives and institutions for emerging markets are key elements of that displacement which will be discussed in the following chapters.

Hence, based on the hypothesis that besides the remarkable economic expansion of China and India, there are several factors that affect the transformation of the globalisation to 2.0, the following points will be analysed further:

- The role of leadership – when changing times have boosted the public demand for more assertive leadership as seen in the strong nationalist leaders of China and India.

Time of new connectivity- when China's emblematic Belt and Road Initiative heralded the new path of connectivity, pushing India to present alternative projects.

New institutional endeavors through the establishing of AIIB, BRICS New Development Bank have evolved new mechanisms driven by global and regional financial cooperation.

Relevance

China's launch of the Belt and Road Initiative (BRI) became a symbol of Chinese-led globalisation. China's grand strategy includes 70 partner countries as part of its Belt and Road Initiative; however, simply examining BRI does not take into account China's projects in Latin America and Antarctica. If with the launch of BRI, the initiative was perceived as the new era of Chinese diplomacy, the ongoing version 2.0 of Beijing's assertiveness has been demonstrating a more mature stance than ever. It is vivid during the pandemic outbreak, when China's voice "becomes even more fractious" (Dettmer, 2020). China's "wolf warrior" diplomats – named after the Chinese movie in which Chinese special-operations fighters defeat American mercenaries in Africa and Asia – displays a much stronger posture, while the tone and temper of Chinese responses to critic around the coronavirus outbreak affirm the strong assertive stance of the Chinese government.

India's transition to globalisation also is evidenced by ambitious projects such as building a maritime domain awareness network across the Indian Ocean and claiming itself as a balancing power amid the escalating US-China rivalry. India's foreign policy has become vibrant and assertive under the Modi government, whilst the breakthrough of Indian diplomacy set after the Doklam crisis with China in summer 2017.

New institutional mechanisms also speak about the changing role of both countries, since as such, it may challenge the existing "Washington Consensus". If BRI and India's alternative initiatives provide 'hardware of integration' for the emerging world, its institutions as the AIIB and BRICS New

Development Bank provide the 'software of integration' by establishing financial pillars for the development of rising powers (Habib & Faulknor, 2020).

Theoretical-methodological basis

Against this backdrop, the paper describes major factors in the following sections, while scrutinizing the different approaches of globalisation. The theoretical positioning of the research is mostly grounded on the literature on globalisation, which allows us to understand the internal and external factors that are relevant for analysing the implications of the rise of China and India. Therefore, we analyse the rise of China and India with an interdisciplinary understanding taking geopolitical, economic, institutional and leadership factors into account.

Literature Review

The theoretical framework of globalisation has been explained through different approaches, whilst among the most popular are liberalism, realism, constructivism, and Marxism understandings. Liberalists see globalisation through the market extension, as a natural demand for economic welfare and political liberty (Harmes, 2012), whilst realists presume the globalisation as the instrument to pursuit a national interest (Nau, 2007). However, Marxism rejects the liberal and realist understanding of globalisation by stating that globalisation leads to competition at various levels that predate the emergence of capitalism, and 'capital by its nature drives beyond every spatial barrier to conquer the whole earth for its market'(Marx, 2010). The constructivist approach includes the social aspects of globalisation, taking into account language, images, and interpretation of globalisation (Wendt, 1999).

Globalisation also interpreted by various dimensions – social, physiological, geographical and economic. Dr Nayef R.F.Al-Rodhan who collected 150 definitions of globalisation stated that more than half of them are related to the economics. He defined the "globalisation as a process that encompasses the causes, course, and consequences of transnational and transcultural integration of human and non-human activities" (Al-Rodhan, 2006).

Besides, the majority of scholars tend to belief that the Western-dominated globalisation was the globalisation 1.0, which lasted from 1950-70s until the 2010s, whereas the economic development and political strength of Asian emerging giants ushered the present stage of globalisation 2.0. In particular, Ni Lexiong suggested "the West and East are switching their roles," and "China has awakened." (Meyers, 2018). Ikenberry, however, thinks that it is much less likely that China will ever manage to overtake the Western Order (Ikenberry, 2008). Nevertheless, Oliver Stuenkel (2016) predicts that a post-Western multipolar world will be "largely thanks to the economic catch-up of the developing world, more prosperous, with a far lower level of poverty on a global scale than any other previous order".

Either way, it is clear that the present day globalisation might be different from the past since the engine of globalisation has shifted east to Asia and Asian countries already showing their stance and role in further changing the world towards the globalisation 2.0.

The role of leadership

The changing times boosted the demand for more assertive leadership, when historical events explained by personalities and perceptions of individual political leaders and political agendas like those of Xi Jinping and Narendra Modi are embedded in history like Mao and Deng, or Nehru and Gandhi. The CCPs 19th National Congress, which reaffirmed the strategy of national rejuvenation and officially ushered the 'new era' of Chinese national development, undoubtedly supports this thesis. Modi on the other hand, acting in a different background, pushes his own global agenda.

While national leaders became more proactive and assertive in international affairs, their tools came in a form of strategies or initiatives to successfully implement their ideas of new globalisation. According to Amitav Acharya, "China's biggest push to globalisation is the construction of infrastructure". He assumes that "Globalisation 2.0" is more about investment, infrastructure and development rather than just trade in the old times. China already has invested US$18.5 billion in 56 economic and trade zones in countries along the BRI, for a more inclusive, mutually beneficial and equitable globalisation, which generated US$1.1 billion of tax and 180,000 jobs in host countries (China Daily, 2019).

While some argue that the Chinese perception of globalisation is limited to an economic dimension, the BRI works as China's contribution to a Chinese style trade architecture and new regulations including the "hard" economic and political interests of China.

China now has become a rule maker, not just a rule taker. With the launch of initiatives and new institutions, the shift of economic power eastward has accelerated, albeit the West continues to play

a constructive role in this process. Given China's global involvement, it is still not sufficient for China to become the sole leader of Globalisation 2.0. While China prefers to gather its own interests with the elements of global economic liberalization, this seriously limits its capacity and credibility as a globalisation champion and proponent. (Szczudlik, Wnukowski, 2017) As Ikenberry mentions "if the defining struggle of the twenty-first century is between China and the United States, China will have the advantage. If the defining struggle is between China and a revived Western system, the West will triumph". (Ikenberry, 2008).

India, as one of the biggest beneficiaries of globalisation, promotes its own strategies towards global integration, including partnership projects with Japan, Australia and the US across the Indo-Pacific. While continuing to support with massive assistance its neighbours, Prime Minister Modi aspires to secure control over them by using its economic strength and global reputation. The revocation of the Article 370 in Jammu and Kashmir that divided the state into Jammu and Kashmir and Ladakh, assistance to Pakistan against being blacklisted in the Financial Action Task Force (FATF), as well as India's position concerning the border clashes with China and strengthening the border infrastructure profile all demonstrates the implementation of Modi's 'New India' vision.

Time of new connectivity

Chinese version of globalisation. Building new types of relations and transitioning to a new level of economic development drives globalisation to a new level. This has become the focal point of the BRI. Primarily using an economic focus, it aiming to reduce internal disparities in China and to align its underdeveloped regions. Internationally, it is transforming exchanges across Eurasia and Africa by boosting China's world economic and strategic influence (Mackerras, 2017). Indeed, China's vision of globalisation is reflected by Chinese signature initiatives and at the strategic and diplomatic level and the BRI contributes to the legitimation of Chinese view of globalisation.

Nevertheless, there is various rhetoric referring to the BRI. Official statements say that BRI is not a Marshall Plan, even though it has large enough investments, and should not be referred to as a strategy. Internally, however, it is sometimes presented as a strategy in official media. Other rhetoric surrounding BRI portray China's 'pluralist' rather than 'liberal' vision for the future of international order. Moreover, by constantly referring to a "Silk Road" spirit, China is propagating a narrative of globalisation where China has a central yet benign role. China's economic power, however, allows it to promote this.

China will become one of the world's biggest cross-border investors by the end of the current decade. Moreover, while much of this total will be in the form of foreign exchange reserves and portfolio investment, a growing share will come from direct Chinese investment in developed Western countries.

With the establishment of Asian Infrastructure Investment Bank in December 2015 and Silk Road Fund, received a US$40 billion contribution in November 2014, making the institutionalisation of BRI mechanisms more confident. Additionally, China is using several tools to boost its export. Under the BRI, they are referred to as: national champions, credits, infrastructure, and trade agreements.

China's approach in dealing with nation states is centralized, yet flexible. First, China is ready to work with any government. In addition, China is open to building a budget based on the requirements for social and environmental safeguarding. Also, the government is flexible in negotiating terms of payments. Thus, the centralisation and flexibility provide a fast negotiation and realisation of projects. These, in the short-term facilitate project realisation, but carry out risks in the long-term (CSIS, 2019).

Challenges within the implementation of the BRI, as well as strategic inclusion of member states, occurs with the partner countries, most notably, India. Because it sees itself as a rival power to China, India is trying to establish 'alternative connectivity' to the BRI.

India's alternative connectivity. With the growing global ambitions of India and the articulation of Prime Minister Modi "to rebuild connectivity, restore bridges and re-join itself with immediate and extended geographies…", India also showed a great interest and a larger commitment to the concept of 'connectivity'. Connectivity, for India, is conceived of as a key driver for developing its ambitions, as well as acting as a cornerstone for its vision of international cooperation. (Pulipaka, et. al., 2017).

India presents three broad policies regarding the connectivity of its periphery: a Domestic Focus on the Northeast and Frontier Areas, the Act East Policy and the Neighbourhood First Policy. The Blue Economic Vision 2025 is a vision to address India's growing global and regional emphases on the sustainability of harnessing the Indian Ocean resources. Additionally, with its emerging partner-

ship with Japan, the Asia-Africa Growth Corridor pursues a connectivity and platform for being demand-driven and for shared perceptions of nations around the region.

According to the former External Affairs Minister Sushma Swaraj, "connectivity has become the key enabler for PM Modi's vision for India, as well as India's vision of the world that is 'Sabka Saath, Sabka Vikas' (everybody's cooperation and everybody's development). The Indian official discourse claims that India is the best place to champion connectivity both historically and geographically. This was reaffirmed by EAM Swaraj's statement that "building connectivity is in India's DNA….." (Pulipaka, et. al., 2017). At present, India seeks to overcome challenges of physical and digital connectivity, while economic connectivity remains another priority of India.

The Indian vision for the maritime connectivity was articulated by Modi as 'SAGAR' – 'Security and Growth for All in the Region'. The vision is committed to "safe, secure, stable and shared maritime space" while focusing on capacity building both at bilateral and regional levels. Within the SAGAR, the Indian government promotes the Blue Economy Initiative as a new pillar of economic activity in the coastal areas, linking hinterlands through a sustainable tapping of oceanic resources. (Pulipaka, et. al., 2017)

Since the upgrade of bilateral relations to 'Special Strategic and Global Partnership', Japan has become another key partner in providing connectivity in the region. The flagship initiative, Asia Africa Growth Corridor, launched in 2017, aims to establish an efficient and sustainable mechanism for linking economies, industries and institutions, ideas and people of Africa and Asia in an inclusive fashion (FICCI, 2017). According to the vision of AAGC document, the corridor will focus on four areas: development cooperation projects, quality infrastructure and institutional connectivity, enhancing skills, and people-to-people partnership.

However, considering that China's GDP is 4.8 times larger (2.4 times when adjusted for the purchasing power parity) compared to the GDP of India, it is difficult for India to propose such a comprehensive connectivity, as well as institutional framework with a sufficient budget (Brookings, 2019). Despite this, India does have the ability to balance China. During this new phase of globalisation, India offers an alternative space to major powers such as the US, Japan, Australia. Thus, while being in the same boat with China or competing, India stimulates to the shift of world politics to the Asian continent.

New institutional endeavours

Asian Infrastructure Investment Bank. Along with leaders' personal ambitions and foreign policies, international institutions among rising powers are challenging the existing Washington Consensus. Initiatives led by China have induced the snowballing perception of the future China-led global economic order. However, Chinese vision differs from the Washington Consensus type of globalisation. China develops new, inclusive international institutions that focus on building infrastructure to enhance connectivity between economies, rather than providing loans for various purposes.

The main intention behind the November 2013 proposal of AIIB was to maintain and to complement, rather than compete with or upend, the existing financial institutions as the World Bank and Asian Development Bank. The initial memorandum of understanding, signed by 21 states in October 2014, was expanded to 57 countries (estimate was 35) when the Articles of Agreement were released in June 2015. Among the signatories are non-Asian states, such as the UK, Germany and Brazil, whereas the US and Japan still declined to join. Involvement of Western countries turned AIIB into a more legitimate financial institution, as China has relatively less experience in managing multilateral institutions (Yang, 2016).

The AIIB has gone through the mutual shaping and reshaping process that played an important role in establishing the AIIB. Initially, China planned to contribute a 50 percent share. Since the number of partners increased, China reduced its share to 26 percent. (Ren, 2016) A voting share of 26 percent gives China an effective veto over the super majority of 75 percent for decision-making.

While China presents both the conformity and the institutional innovation in the institution building process of AIIB, it is difficult for China to introduce any radical changes to the institutional landscape of the region because AIIB members are heavily overlapped with existing multilateral institutions. (Ikenberry & Lim, 2017)

Over the long-term, however, a successful institutional leadership in AIIB can play an important role in China's global governance attempts. In the case of India, the AIIB proved to be relevant when India, a developing country with the largest coal reserves and a huge need of electricity infrastructure, turned to AIIB for financing coal energy projects for US$100 billion, after being denied by the World Bank (Chin, 2016). This case shows that there is a potential to achieve geopolitical goals, while realising financial mechanisms.

Consequently, AIIB has two major global implications. The first is the additional availability of finance for regional infrastructure development. In addition to traditional institutions – such as the IMF, World Bank, ADB- AIIB complements existing avenues specifically by financing infrastructure investment projects. For Asian emerging states, infrastructure is among important economic need, therefore increasing the significance of AIIB. The second implication is re-balancing the existing Washington Consensus. AIIB is evolving as an international financial institution that aims to give much greater space to emerging markets in institutional decision-making and project financing. Also, it is willing to contribute to a global financial architecture led by China (Palit, 2018).

New Development Bank. The institutionalized financial capacity of BRICS in the form of the New Development Bank (NDB) and the Contingent Reserve Arrangement was a crucial attempt to inscribe new principles for economic relationships among emerging economies. The NDB, established in July 2014 during the Sixth BRICS Summit in Brazil, was designed to support infrastructure investments in BRICS states and Africa. The initial projects of NDB focused on renewable energy.

The BRICS New Development Bank is similar to AIIB in terms of providing financial services for emerging countries. It provides additional investment sources that can balance the existing Bretton Woods system. Member countries have an equal share of 20 per cent of the initial subscription while headquarters are based in Shanghai.

The NDB promotes a flexibility for developing countries unlike the IMF and the World Bank. Both proponents and opponents of the globalisation describe the NDB as a rebellion against the hegemony of the U.S. dollar and a challenge to globalisation by emerging economies. The main principle of NDB is to work with developing nations, while complementing existing efforts of multilateral and regional financial institutions for the global growth. (Bolton, 2015)

However, there are major challenges in operating the NDB. The volatile capital flows from emerging countries, especially since the financial crisis in Russia and Brazil, as well as ongoing conflicts among member states. Issues of transparency, corruption, and political influences question the appropriate management of the institution. However, common efforts can make the NDB a platform for a new financial mechanism that can work for the needs of emerging nations.

Consequently, financial institutions such as the Shanghai-based NDB and Beijing based AIIB are new mechanisms driven by global and regional financial cooperation. The NDB, with initial authorized capital of US$100 billion, and AIIB, with the same amount, are meeting demands for huge infrastructure investments in developing countries with the AIIB investing in Asia while the NDB supports projects in Asia and Africa. Both are devoted to reducing global and regional poverty alongside their other priorities.

The momentum generated by such initiatives "outside" the system drives convergence dynamics within the expanded multilateral development finance system, creating strong forces and reputational incentives that should work to increase efficiency on all sides. The role of China and India in these institutional mechanisms are major. China has 20.06 percent of the voting share in AIIB, and India 7.5 percent, while in NDB, both have equal 20 percent shares. China, as the second largest economy in the world, leads AIIB's formation among 57 country-partners. India, a founding member of AIIB and despite having strategic contradictions within the BRI project, has worked with China to improve existing financial conditions within the NDB and AIIB.

Conclusion

Globalisation 2.0 represents the interdependence of several agents with new forms of non-Western leadership. The founding of new non-Western blocks with huge human and financial capital and security capacity, such as BRICS' New Development Bank and AIIB, has forced the world to view rising powers more seriously. According to French expert David Gosset "The West might fear a globalisation that it prompted. The US can be tempted by protectionism but this can't trigger a de-globalisation, the globalizing forces have simply shifted from one source to another, it is around non-Western regions with new forms of multilateralism and cooperation taking shape" (Xinhuanet, 2017).

China, as a second largest economy in the world, is taking a lead in this process. China today imagines itself to have the decisive capacity to complete any project it is involved in. For China itself, this role is a historical justice, based on its roots as Zhongguo, the center of the earth.

The BRICS-led New Development Bank and the China-led AIIB, along with China's BRI "Silk Road Fund" will contribute to a challenging of the Bretton Woods' system. If AIIB and BRICS New Development Bank provide the 'software of integration' by establishing financial pillars, BRI and India's alternative initiatives provide the 'hardware

of integration' of the emerging world. Asia will be a core in this process.

Both China and India are making good progress in becoming involved with and influencing the new global order. China is operating several mass investment projects with a large number of participants. India is enjoying partnerships within its own region as well as making serious attempts to achieve global recognition. As emerging powers, however, both China and India struggle with poverty, slowing economic growth and large populations. Nevertheless, the prediction is that the Asian global order, by developing in the most populated regions, will contribute to decreasing the number of people in poverty and unemployment levels on a global scale. Indeed, both countries are working on infrastructure investments at national, regional, and global levels.

India's Blue Economic Initiatives, the rival to the Belt and Road Initiative, provides a coherent framework to address regional challenges relating to economic development, infrastructure, and connectivity. Despite their bilateral divergences, China and India can cooperate through global structures to contribute to the development of their nations and the liberalization of non-Western structures in the process of Globalisation 2.0.

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USES OF MIGRANTS' REMITTANCES IN THE HOME COUNTRY: FOCUSING ON THE CASE OF PAKISTANI LABOR MIGRANTS IN SOUTH KOREA

This research paper has elucidated important factors and international remittance utilization areas in Pakistan. Due to the political and economic situation of the country, the people migrate to developed countries to earn better living standards for themselves and, the left-behind families. As of 2018, the Bureau of Immigration & Overseas Employment, Government of Pakistan counts 15472 Pakistanis living in South Korea.

In a bid to fully conduct this research, the structured interviews are conducted with Pakistani labor migrants residing in district Gwangju, South Korea. During the interview, participants are asked about the migration process, difficulties in the settlement, working environment, and volume of monthly remittances sent to their home country. The main purpose of the study is to investigate the current situation of Pakistani labor migrants in South Korea and to explore how their remittances are being utilized by their family members in Pakistan.

Pakistani labor migrants are migrating to Korea through the Bureau of Immigration & Overseas Employment, Government of Pakistan, to work in Korean factories. The observed motive of migration is the income generation that is utilized to improve the living standard of their families in Pakistan. As this study shows, transfer remittances are used to cover daily living expenses such as food, health, education, and other emergency needs such as medical, marriages, and funerals. The part of the transfer remittance is also used to establish a business in their home country for extra income generation and creation of employment opportunities for local people. Prior to the migration, the migrants learned the basic level of Korean language skills from their home country, but these skills did not reduce their difficulty in communication. The most prominent problem being faced by the migrants is the unavailability of halal food which is very important regarding their religious beliefs.

Key words: Remittance, development, income, labor migrants, remittance utilization areas.

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Өз елінде мигранттардың ақша аударымдарын пайдалану мәселелері: Оңтүстік Кореядағы Пәкістандық мигранттары мысалында

Бұл мақалада Пәкістандағы ақша аударымдарын халықаралық қолданудың маңызды факторлары мен бағыттары қарастырылады. Пәкістандағы саяси және экономикалық жағдайға байланысты еңбек мигранттары өздері мен отбасыларының өмір сүру деңгейін жақсарту үшін дамыған елдерге көшуде. 2018 жылы Пәкістан үкіметінің иммиграция және шетелдегі жұмыспен қамту бюросының мәліметіне сәйкес Оңтүстік Кореяда 15 472 пәкістандық еңбек мигранты жұмыс істеуде.

Осы зерттеуді толығымен жүргізу үшін Оңтүстік Кореяның Кванжу аймағында тұратын пәкістандық еңбек мигранттарымен құрылымдалған сұхбаттар өткізілді. Сұхбат барысында қатысушыларға көші-қон процесі, өмір сүрудегі қиындықтар, жұмыс жағдайлары және үйлеріне жіберілетін ай сайынғы ақша аударымдары туралы сұрақтар қойылды. Зерттеудің негізгі мақсаты – Пәкістанның Оңтүстік Кореядағы еңбек мигранттарының қазіргі жағдайын зерттеу және олардың ақша аударымдарын Пәкістандағы отбасы мүшелері қалай пайдаланатындығын анықтау болып табылады.

Пәкістандық еңбек мигранттары Оңтүстік Кореядағы фабрикаларда жұмыс істеу үшін Пәкістан үкіметінің иммиграция және шетелдегі жұмыс бюросы арқылы көшті. Пәкістандық еңбек мигранттары көші-қонның үдерісінен байқалған мотив – Пәкістандағы отбасыларының өмір сүру деңгейін жақсарту үшін пайдаланылатын кіріс алу. Осы зерттеу көрсеткендей, ақша аударымдары тамақ, денсаулық сақтау, білім беру және медицина, неке қию және жерлеу сияқты

күнделікті қажеттіліктерді өтеуге жұмсалатыны анықталды. Ақша аударымдарының бір бөлігі өз елінде қосымша табыс табу және жергілікті тұрғындар үшін жұмыс орындарын ашу үшін, бизнес ашу үшін қолданылады. Көші-қонға дейін мигранттар өз елінде кәріс тілін білуді үйренді, бірақ бұл дағдылар олардың қарым-қатынас қиындықтарын төмендетпеді. Оңтүстік Кореядағы пәкістандық еңбек мигранттардың ең басты мәселесі халал тағамның болмауы болып табылады, бұл олардың діни сенімдері тұрғысынан өте маңызды.

Түйін сөздер: ақша аударымдары, даму, еңбек кірісі, еңбек мигранттары, ақша аударымдарын пайдалану салалары.

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Использование денежных переводов мигрантов в родной стране: на примере Пакистанских рабочих мигрантов в Южной Корее

В данной статье рассмотрены важные факторы в области использования международных денежных переводов в Пакистане. Из-за политической и экономической ситуации в стране люди мигрируют в развитые страны, чтобы повысить свой уровень жизни для себя и оставшихся семей. По состоянию на 2018 год Бюро иммиграции и занятости за рубежом правительства Пакистана насчитывает 15,472 пакистанца, проживающих в Южной Корее.

В целях полного проведения этого исследования проводятся структурированные интервью с пакистанскими трудовыми мигрантами, проживающими в районе Кванджу, Южная Корея. Во время интервью участникам задавались вопросы о процессе миграции, трудностях проживания, рабочей среде и объеме ежемесячных денежных переводов, отправляемых на родину. Основная цель исследования – изучить текущее положение пакистанских трудовых мигрантов в Южной Корее и выяснить, как их денежные переводы используются членами их семей в Пакистане.

Пакистанские трудовые мигранты мигрируют в Корею через Бюро иммиграции и занятости за рубежом правительства Пакистана, чтобы работать на корейских заводах. Наблюдаемым мотивом миграции является получение дохода для повышения уровня жизни их семей в Пакистане. Как показывает это исследование, денежные переводы используются для покрытия ежедневных расходов на проживание, таких как продукты питания, здравоохранение, образование, и другие неотложные нужды, такие как медицинские, браки и похороны. Часть денежного перевода также используется для создания бизнеса в их родной стране с целью получения дополнительного дохода и создания рабочих мест для местных жителей. До миграции мигранты изучали базовый уровень владения корейским языком в своей стране, но эти навыки не уменьшили их трудности в общении. Наиболее значимой проблемой, с которой сталкиваются мигранты, является отсутствие халяльной пищи, что очень важно с точки зрения их религиозных убеждений.

Ключевые слова: денежные переводы, развитие, доход, трудовые мигранты, области использования денежных переводов.

Introduction

The workforce and employment condition of Pakistan resembles with the developing countries of Asia. The population of Pakistan is growing rapidly and the majority of them are living in rural areas. The country has limited job opportunities and the selection is not purely done on a merit basis. The major part of the population is aged below 20 years of age. In these scenarios, the young population is bound to adopt a labor force; it also increases the rate of migration. Employment is a crucial issue for the people of Pakistan. (Addleton 1984, 574–596). The country is focusing to produce skilled labor to enhance migration to foreign countries.

The recent economic history of Pakistan is based on the huge migration to the Middle East which is one of the major oil-exporting countries. According to the Bureau of Immigration & overseas employment (Pakistan Government Institution), currently, around ten million Pakistanis work in different countries throughout the world. Compared with that of other foreign countries, the migration rate is higher for Gulf countries. Overall, the migration rate increased after World War II, when the gulf region emerged as the main source of Western petroleum. Compared with the large oil export the Gulf countries have a small ethnic population and recruit a large workforce from other countries to implement development programs. (Airola 2007, 850–859).

The government of Pakistan believes to introduce easy to adopt migration policies to facilitate the migrants and the countries of migration. Without these measures, Pakistan's share of the migrating

workforce can begin to decrease owing to the stiff competition from India, Bangladesh, and the countries of East Asia. The government made attempts to reduce migrant's bad fame due to illegal migration. The registered migrants can get visas depending on the government to government agreement. The government of Pakistan established and signed MOUs with different countries including South Korea. In March 2018, an MOU was signed between the labor ministries of Pakistan and South Korea for employment for the year 2018-2019. The selected Pakistani laborers follow the criteria agreed by both countries.

The migrants earn and transfer remittance to their home country through a variety of channels such as banks, western union, G-Money, and Hundi. Remittances are one of the integral measures for developing countries. The speedy growth in the capacity of remittance is normally observed as the most direct method where migration is benefiting to Pakistan. These remittances are transferred back to their home countries via several ways mentioned above but the most popular ways are mentioned below which were observed during interviews. (1) using regular banking channels; (2) migrants returning home visits and (3) through private money changers. The third medium referred to Pakistan to the hundi system, which is illegal and also is used sometimes. Migrants send money to money operators in the country where they work and his agents transfer money into back-home accounts. High remittance is one of the major parts of the economic growth of the receiving country. The transfer remittance is the way through which the diaspora community can give benefits to their host land. The remittances affect positively at both micro and macro levels. The remittances directly influence poor households and reduce the poverty level.

The government of Pakistan took several measures to increase the number of migrants by establishing new destination places with a maximum level of earning opportunities and making the remittance process easier with reduced taxation.

Due to these measures, the remittance amount increased from 2008 to 2017. The remittance consumption is divided into three main categories such as domestic chores consumption, investment, and indirect investment. The micro-economic impact shows that the transferred amount is normally used to improve living standards. The rest of the amount is used in an investment like a direct business, indirect business, and real estate investment. (Mughal et.al. 2013, 1-91)

This study aims to shed light on the remittances of labor migrants living in South Korea; how they use their remittances and what is the result in terms of development in their home country. These are the objectives for pursuing this study. This research focuses on the usage of transferred remittances in the fields rather than basic living expenditures. Pakistan is ranked fifth in the world for receiving the most remittances yearly. (World Bank Data 2018).

Literature Review

Remittances help to boost the economy of countries and increase the body of indication that how remittances positively influence the economic growth and poverty reduction matters. (Joseph and Plaza). Among remittance-receiving families in El Salvador, the only female workers reduce their supply of labor, due to leisure preferences and enable intra-domestic specialization. Comparatively, remittance-receiving families do not prefer to invest extra in off-spring educational activities. (Acosta et al. 2006). Due to remittances, women labor supply are reduced in the rural and informal sectors. Remittances reduce mainly female labor migration while the men labor participation rates remained unaffected, but shifted to informal engagement (Amuedo-Dorantes and Pozo 2006). At microscale level, the remittance reduces poverty, improve living standard, bring new technology, increase chances of business in small and large scale, reduce the child labor market competition, and prepare the families to handle natural disasters like earthquake, cyclones, and droughts. Several previous studies clarify remittance usage and labor impact which comprises. (Cabegin 2006) and (Amuedo-Dorantes and Pozo), (Görlich and Trebesch 2008), (Sadiqi and Ennaji 2006) and Loshkin and Glimskaya (2008). The common outcome of these studies is that remittances to homeland result in decreasing the labor participation, especially the participation of female and young generation. Remittances are used differently that is linked with the age group. (Braga 2009). The findings of previous studies recommended that continual remittance flow just replaces and adjusts in lost income and there is no remarkable spare to alter labor price. (Rapoport and Docquier). In Mexican cases, children with migrant families were observed completing more years of educational attainment that is higher in comparison with non-migrant family's children. (McMillan and Woodruff 2002). For Mexico, some studies concluded that migration can even discourage higher educational attainments. The reason behind, the majority of Mexican migrant workers tend to labor in low skilled professions. This issue discourages

young Mexicans to invest much in higher education. (McKenzie 2006). Distinct remittances effect and migration effects. In Haiti case, remittances brought a big change and raise school attendance for all school going children regardless they belong from remittance-receiving family or not. But in other communities, the educational effects were observed among children belonging to remittance-receiving families. (Amuedo Dorantes and De la Rica Goiricelaya 2008).

Child labor is a vital subject during international policy developing processes in the domain of increasing international migration and remittances. This in turns out to be applicable to access the choice of families to send their off-spring to work. There are some theoretical and empirical systematic investigations on children's labor and education making decisions. In the low income and children, labor decisions are made by families to ensure households' survival. When the wages are not high children tend to work in support of their families and where wages are higher, the child does not work. (Basu and Pham 1998). The Live Standards Measurement Survey, data set from Tanzania, clustered for 1991, to 1994 and 2004, in a particular model called Recursive Simultaneous Equation model of migration, it has resulted that not only remittances but the migration also reduces the child labor by the households. (Amuedo-Dorantes and Pozo 2006). In Nepal, the remittance plays a positive role in child welfare. But remittance does not have a marvelous effect as compared to other income sources. It is observed that these remittances affect more positively in female children's school education in the case of Nepal. (Milligan and Bohara 2007). In the analysis of the Stackelberg-type model, households living at home and receiving remittances prefer to educate their children rather than have child labor. According to the household, if they give good education this will bring comfort in their lives as well as the lives of migrants after coming back to the homeland for a permanent basis. In the case of the Republic of Congo, this model resulted more effective and had a positive impact on girls' schooling. (Wodon et al. 2003).

The relationship between remittance and migration is interlinked. According to the United Nations Program (UNDP 2007), approximately 500 million people (8% of the world total population) receive remittances. As per World Bank report – 2006, remittances sent to underdeveloped and developed countries have a difference of US 85 Billion to the US 199 Billion. In this paper, we addressed various theoretical approaches to explain the uses of migrant's remittances in their home country.

The migrants transfer money to their home country, which directly or indirectly raises the economy of the home country. Most commonly, the migrants contribute to meet the basic needs of their families in the home country and then to finance small businesses. (Delgado Wise, Márquez Covarrubias, and Puentes 2013) examined the impact of remittance income on the families' daily life. Daily life expenditures include mostly commonly the education of their children. The empirical proof of remittance in children's education perspective is rather mixed. Hardly, few empirical research studies originate optimistic linkages between, remittances, education, and health facilities. Remittances encounter positive results in the educational attainment purposes of left-behind children. The transnational families with minimum one member abroad resulted in a reduction in dropouts owing to remittances flow. (Edwards and Ureta 2003). In the context of Filipino remittance-receiving families, an ascent in remittances of 10% of basic income will enhance the number of children, aged 17-21, heading off to their school by more than of 10% points. (Yang).

A lot of papers have examined the query of the effect of remittance on education, income distribution, and poverty reduction, on the other hand, the economic research on remittance is widely done; the empirical studies have provided a clearer view. The study concluded that remittance has an optimistic and momentous influence on economic development and providing facilities. This effect is more visible in countries which have low developed economic systems (Giuliano and Ruiz-Arranz 2009). According to Mundaca, the impact of remittance on economic development, established an exceptionally solid positive relationship between remittance and economic development (Mundaca 2009). Pradhan investigated remittance effects on financial growth using panel data of 39 countries consisting from 1980 to 2004 and resulted that remittances have a positive effect on financial development (Pradhan, Upadhyay, and Upadhyaya 2008). Some of the studies found a negative correlation between remittance and financial development. They argued that remittance

is countercyclical and compensatory transfers. Remittances are proposed for consumptions purpose such as housing, land, and in maintaining the daily lives, and they are not used for economic long term development (Catrinescu et al. 2009, 81–92). Few other studies revealed no negative and no positive relationship between remittances and economic development. They interrogated 13 countries in the Caribbean community and common market remittance importance, used data records from the period 1975-2010. Their investigation did not find any indication for the long-run association between GDP and remittances. The research concluded that these remittances are mainly used to fulfill the consumption deeds rather in development enhancing schemes (Gapen et al. 2009).

The remittances income helps in increasing the literacy rate of the home country. The migrants donate funds for local community development. This donation can create jobs for those people who wanted to go abroad for work so that they don't have to fly away from their land. Out of the remittances, received 40–50 % of the received amount is normally used to fulfill the essential demand of living like eatable products and on the human capital. In the general view, some part of remittances is saved or invested somewhere. (Yang 2015).

Some of the important studies which declare the reasons for remittances and the factors which push to send remittances are documented. (Azeez and Begum 2009(a), 55-60; Azeez and Begum 2009(b) 299-304). They pointed out the main three benefits of remittances in the home country, macro and micro benefits, the improvement in BOP, and foreign exchange. The impact of remittances on poverty reduction and tangible effects on the country's growth was also observed in 2003 by Kapur. The developing countries established more liberal policies that help to make an increase in the flow of remittance to them. A large amount of remittance can create many opportunities. (Tilly 2011, 675-692). The absorption of remittance into economic stability is very important. (World Bank Group 2018).

Methodology

This study is based on the information collected through structured interviews involving a set of predetermined questions and techniques of recording. The interviews were conducted with 16 labor migrants one by one. Owing to the language barrier issue, the interviews were carried out in the mother language of interviewees and subsequently the responses were translated to English. The structured interviews were based on the number of predetermined questions given below. The responses were coded and then analyzed using excel.

Table 1 – Focus interview Questions and Domains of Discussion

Domain. Questions
Describe the entry process to South Korea.
Entry Purpose/ Objective
Visa Category/ type
Living city
Adjustment Issues
Working environment/ condition, wages, and remittance.
How is the working environment
Duty hours (Working hours)
Monthly earnings/ monthly wages
Monthly expenses
Remittance per month
Use of remittance
What is pension status
Health facility
Do you have health insurance
Your health condition
Satisfaction level at Hospital
Are you satisfied with medicines
Social life
4.1 Holidays and cultural life
Family settlement and education
number of children
kids education issues
total family members

Table 2 depicts the details of the interviewed migrants who migrated from Pakistan to Korea. All of the 16 interviewees were male aged between 22 to 38 years of age. Of them, five have bachelor degrees (14 years of education), six higher secondary school certificates (HSSC: 12 years of education), and the remaining have secondary school certificates (SSC: 10 years of education). Their duration of stay and residency is mentioned in the above table. The majority of them are married, having 2 kids on average. Prior to the interview, the interviewees were taken in confidence by explaining the questions in detail. The recorded files were transcripted carefully.

Table 2 – Characteristics of Interview Participants

Case	Age	Nationality	Education	Type of Visa	Residence	Sojourn Period (Year)	Gender	Marital status	No. of Kids
A	29	Pakistan	SSC	E9	Hannam Hal Bun	4	M	Married	-
B	38	Pakistan	Bachelor of Arts	E9	Gwangju	11	M	Married	3
C	31	Pakistan	Bachelor of Arts	E9	Kyonggi-do	2	M	Married	3
D	22	Pakistan	HSSC	E9	Hannam Hal Bun	2	M	Single	-
E	26	Pakistan	SSC	E9	Kyonggi-do	5	M	Married	2
F	36	Pakistan	HSSC	E9	Mokpo	12	M	Married	3
G	27	Pakistan	HSSC	E9	Hannam Hal Bun	4	M	Married	-
H	35	Pakistan	Bachelor of Arts	E7	Gwangju	11	M	Married	3
I	35	Pakistan	HSSC	E9	SungJeong Dong	10	M	Married	5
J	26	Pakistan	HSSC	E9	Gwangju	3	M	Married	-
K	38	Pakistan	SSC	E9	Gwangju	7	M	Married	5
L	32	Pakistan	Bachelor of Arts	E9	Gwangju	3	M	Married	-
M	31	Pakistan	SSC	E9	Gwangju	7	M	Married	4
N	28	Pakistan	SSC	E9	Kyonggi-do	3.5	M	Married	1
O	31	Pakistan	HSSC	E9	SungJeong Dong	5	M	Single	-
P	32	Pakistan	Bachelor of Arts	E9	Hannam Hal Bun	2	M	Single	-

Results and discussion

The unemployment and poor financial condition of the migrants in their home country are the prominent reasons behind their migration. Prior to the migration, the migrants equipped themselves with a basic level of Korean language skills from Pakistan. Initially, all of them were assigned an E9 visa for entrance in South Korea with the support of the Bureau of Immigration & overseas employment, Pakistan. However, later on, depending on their extraordinary performance and response of factory owners some of them succeeded to get E7 visa. The major problem that the migrants face in South Korea is negligible access to halal food in restaurants. There are a few restaurants that offer halal food but at high prices.

Half of the interviewees earn in the range between USD 1250 to 1600 per month. The average monthly package of 16 migrants is USD 1778, of them USD 444 is spent on average in meeting living expenses. In order to save money, they are bound to adopt a low-level lifestyle. Overall, the interviewees were satisfied regarding their jobs in South Korea. The salaries are offered depending on the level of language skills and expertise in the assigned job. To save time and money, the majority of the migrants use their vehicles as a medium of transportation. They prefer to live in low-cost areas for the purpose of saving. For remittance transfer, different mediums are used by the migrants, most of them, especially low waged persons prefer to use illegal remittance–transfer–providers to get rid of the tax. On a question of remittance channels, they hesitated to mention the names of remittance–transfer–providers.

Adjustment Issues and Experiences:

The migrants are facing certain issues while living in South Korean society, the major one is the limitation of halal food in restaurants. In response to the question regarding overtime, a few migrants responded about the unavailability of overtime work. All of the respondents responded to welcome overtime work because these hours help them to adopt a moderate lifestyle. The overtime offered by the companies is not a regular thing, but compared with that of their home country it is still good. The migrant's cultural life was much disturbed and only limited to the weekend. The labor migrants face difficulty in celebrating their cultural, social, and religious activities.

Factors influencing the volume of Remittance:

The labor migrants reported transferring an average USD 1155 monthly remittance to their home country. The remittances range varies from USD 978 to 1689. The following factors are responsible for the difference in the amount of remittance per month.

The respondent with a higher monthly salary transfers a large amount to their home country.

The lifestyle adopted by the migrants also affects the amount of transferred remittance. It is seen that those migrants who prefer to live in private accommodation cannot save much amount for remittance.

The migrants who have good health conditions can work efficiently and also they can perform overtime duties in a good way that influence their earning as well as their remittances.

The migrants with health insurance have to pay less for medicinal purposes hence they save more money.

Those migrants who are aged don't prefer to send many remittances at home because they are planning to go back and saved amounts will be used for upcoming days in the home country after arrival.

Some migrants use personal vehicles for transportation thus they spend more and send fewer remittances.

Use of Remittances:

The remittances are mainly used for supporting their families, children, returning borrowed money, and establishing small businesses. Remittances have been used in the following areas.

Domestic and Children Education: In the Pakistani context, USD 500 per month is sufficient to run an average family. These expenses cover all edible items, children's education, and medical expenses. The majority of people in Pakistan are living in a joint family system, in some cases, even brothers and sisters also live in one big house. It is the responsibility of male members to take care of the house, health, medical, and food of their parents and other family members. In the priority, remittances are used to fulfill domestic expenses.

Dairy Farming:

The data show that the second most active remittance utilization is to establish a dairy farm business because of certain reasons such as people have sufficient knowledge about dairy farming. The weather is friendly for animal growth. The dairy farming business is prominent due to two reasons; one of them is the production of milk and the other one is the production of meat for religious and cultural activities. It is believed that access to fresh milk will be reduced in the near future, so the access to facilities to pack and distribute the milk is also considered alongside the dairy farming business.

Investment in Financial Institutes:

A small portion of migrants are investing their remittances in financial institutions like a stock exchange. The relevant respondents believe that investment in the stock exchange can be fruitful. When a company needs much money, it offers shares and normal migrants can buy and sell those shares easily.

Real Estate Businesses:

Some of the immigrants are investing in real estate by buying and selling land on profit because the real estate business is a growing business. They are buying agriculture and commercial land. The immigrants with an urban background prefer to invest in commercial land. They are building houses for personal use and to rent out to others. When they have their personal house it reduces their per month expenses. They build houses and rent it out this generates money on monthly basis. Then they are not worried about domestic expenses.

Returning Debit:

The data elucidate that some of the migrants took a loan to come to Korea. This time the main portion of remittances are used to payback that particular amount. The remaining amount is used for domestic use. This specific group is not investing money anywhere. They hardly meet their domestic needs.

Moving to Urban Area:

In some cases after starting to receive remittance on a monthly basis, the left-behind families start to shift from rural areas to urban areas. They think that in villages there are fewer facilities compared to cities. For the better health facilities and environment, they move to the urban location. This is usually trending in Pakistan when someone has a good money flow they consider living in urban areas as a status symbol. They look to live an easy life and migrate to cities.

Transferring Children from Government to Private Schools: In majority cases children of migrants, and in joint families, the children of their brothers have been transferred into private schools from Government institutions. As a general concept if children study in private schools they will have a good education level. In the case of Pakistan, this thing is very true. The education level and quality are different in both schools. The private schools focus more on children's education and thus result in better education quality.

Small Businesses:

The migrants don't have much money to establish a business on a large scale. Some of the migrants established rickshaw and taxi service business while hiring local unemployed people. They had two intentions; first, this business can be started with little capital and generate income on a daily basis. Second, the unemployed people from the poor community can get work and can live a better life.

The data explain that few migrants have installed grain grinding machines (flour making) that cost little. They said everyone has to eat bread and they will come to grind grains so this is a low budget and good profitable business. This business generates revenue on a monthly basis and helps to meet domestic needs. They were also in the intention to provide employment to local people.

The migrants who belong to the village and agricultural background invested to enhance the agriculture business. They bought a tractor and agricultural equipment to cultivate land on a large level. After meeting their cultivation needs they provide services to those farmers who don't have tractors and agricultural equipment (machinery) and earn money on an hourly basis. According to them, agriculture is growing in Pakistan, and in future agriculture business will prove to be very profitable.

Family functions and other Events: This data also depicted that other than domestic use, remittances are usually used for family events like marriages, cultural festivals celebrations, and religious events. When someone is working overseas and sending money on a monthly basis the family at home country does some extra expenses as they know every month they will receive such an amount. The same attitude is expected by others from remittance receiver's families. Even money is spent on unnecessary things.

Conclusion

The findings of the paper indicate multi aspects of migrant life in South Korea. This paper makes it clear that the migrant's purpose is not to settle permanently in South Korea but to earn money that can be used to enhance their living standard in their home countries. Overall, the transferred remittance is utilized as per the priorities set by the migrant. The major portion of the remittance is used to meet the living expenses of the dependants of migrants, however, the savings are invested in businesses for further income generation. One-fifth of the migrants can only meet their basic human needs and cannot save extra money to be invested in business.

The established businesses with the transferred remittance generate employment opportunities for the families and other local people. It also reduces the pressure on migrants to send higher remittance for the basic needs. The human capital is the guarantee to have a good future for the next generation. While other businesses were to support when migrants return home permanently. The Pakistani migrants also like to help poor families and give priority to start such businesses which can give maximum employment opportunities to unemployed people in their home country.

Recommendations

This article also suggests some recommendations to the Pakistani government in relation to three matters. First, establishing a remittance sending process easier that can reduce the remittance sending costs; second, organizing special training programs on how to utilize remittances efficiently; and third, generating programs that help to establish small businesses which will generate employment opportunities for local unemployed people.

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2-бөлім

ХАЛЫҚАРАЛЫҚ ҚҰҚЫҚТЫҢ ӨЗЕКТІ МӘСЕЛЕЛЕРІ

Section 2

CONTEMPORARY ISSUES IN INTERNATIONAL LAW

Раздел 2

АКТУАЛЬНЫЕ ВОПРОСЫ МЕЖДУНАРОДНОГО ПРАВА

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LEGAL CONSEQUENCES OF THE ACTS OF THE EURASIAN ECONOMIC UNION COURT AND PROBLEMS OF THEIR ENFORCEMENT

In this article the problems of legal consequences of the Eurasian economic union's (EEU) judicial actsare analyzed and the specifics of the implementation of these acts by member States and economic entities are reviewed. The legal consequences of non-compliance with these acts have a serious impact on both the legal order of the EEU and the legal systems of the Union's member states.

In conducting this research, the authors used general scientific, general legal and special legal research methods. Based on comparative legal analysis, the authors consider the statutory features of each individual act, especially its decisions that have binding legal force. The activity of the EEU Court was compared with the features of other international courts, which allowed to identify positive and negative sides. In this work, the mechanisms of interaction between the EEU Court and the national courts of the Union member states were studied, and such interaction was considered in relation not only to the highest courts of the member states, but also to national courts of all levels. In order to improve the efficiency of the EEU Courtfunctioning, it is proposed to give the EEU Court the power to provide pre-trial opinions, as well as to grant the right of the EEC to initiate a lawsuit against the EEU member states that violate their obligations under the law of the Union.

Key words: The court of the EEU, Statute, regulations, Board, resolutions, decisions, Advisory opinions, enforcement of court decisions.

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Еуразиялық Экономикалық Одақ соты актілерінің құқықтық салдары және оларды орындау мәселелері

Мақалада Еуразиялық экономикалық одақтың (ЕЭО) сот актілерінің құқықтық салдарларының мәселелері және осы актілерді мүше мемлекеттер мен шаруашылық жүргізуші субъектілердің орындау ерекшеліктері талданады. Осы актілерді орындамаудың құқықтық салдары ЕЭО құқықтық тәртібіне де, Одаққа мүше мемлекеттердің құқықтық жүйелеріне де айтарлықтай ықпал етеді.

Бұл зерттеуді жүргізу кезінде авторлар зерттеудің жалпы ғылыми, жалпы құқықтық және арнайы-құқықтық әдістерін пайдаланды. Салыстырмалы-құқықтық талдау негізінде әрбір жеке актінің, әсіресе оның міндетті заңдық күші бар шешімінің статуттық ерекшеліктері қаралды. ЕАЭО сотының қызметі басқа халықаралық соттардың ерекшеліктерімен салыстыру арқылы оның оң және теріс жақтары анықталды. Жұмыста ЕАЭО Сотының Одаққа мүше мемлекеттердің ұлттық соттарымен өзара іс-қимыл тетіктері зерттелді, бұл ретте мұндай өзара іс-қимыл тек мүше мемлекеттердің жоғарғы соттарымен ғана емес, сонымен қатар барлық инстанциялардағы ұлттық соттарға да қатысты қарастырылды. ЕАЭО Сотының жұмыс істеу тиімділігін арттыру мақсатында ЕАЭО сотына преюдициялық қорытындылар ұсыну бойынша өкілеттіктер беру, сондай-ақ ЕЭК-ға Одақ құқығы бойынша өз міндеттемелерін бұзатын ЕАЭО мүше-мемлекеттеріне қарсы талап қою құқығын беру ұсынылады.

Түйін сөздер: ЕАЭО Соты, статут, регламент, коллегия, қаулы, шешім, консультативті қорытындылар, сот шешімдерін орындау.

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Правовые последствия актов суда Евразийского Экономического Союза и проблемы их исполнения

В статье анализируются проблемы правовых последствий судебных актов Евразийского экономического союза (ЕАЭС) и специфика исполнения этих актов государствами-членами и хозяйствующими субъектами. Правовые последствия неисполнения данных актов довольно серьезно влияют как на правопорядок ЕАЭС, так и на правовые системы государств-членов Союза.

При проведении данного исследования авторы использовали общенаучные, общеправовые и специально-правовые методы исследования. На основе сравнительно-правового анализа рассмотрены статусные особенности каждого отдельного акта, в особенности его решения, обладающие обязательной юридической силой. Деятельность Суда ЕАЭС была сопоставлена с особенностями других международных судов, что позволило выявить положительные и отрицательные стороны. В работе были изучены механизмы взаимодействия Суда ЕАЭС с национальными судами государств-членов Союза, причем такое взаимодействие рассматривалось в отношении не только высших судов государств-членов, но и национальных судов всех инстанций. В целях повышения эффективности функционирования Суда ЕАЭС предлагается наделить Суд ЕАЭС полномочиями по предоставлению преюдициальных заключений, а также предоставить право ЕЭК инициировать иск против государств-членов ЕАЭС, которые нарушают свои обязательства по праву Союза.

Ключевые слова: Суд ЕАЭС, статут, регламент, коллегия, постановления, решения, консультативные заключения, исполнение судебных решений.

Introduction

In accordance with the "Kazakhstan-2050" strategy, the creation of the Eurasian Economic Union (hereinafter – the EAEU) was the country's immediate goal, and regional integration itself was perceived as the best way to stabilize Central Asia. The strategy clearly defines the tasks of creating this union: diversification of foreign policy, development of economic and trade diplomacy to protect and promote national economic and trade interests.

The EAEU Agreement defines several types of acts adopted by the EAEU bodies: orders of an organizational and administrative nature and decisions containing provisions of a regulatory nature. A variety of acts of the EAEU Court are specified in the Statute and in the Rules of Procedure of this Court **(**Statute of the court of the Eurasian Economic Union, 2014**)**. In accordance with these documents, the Court may issue rulings, decisions, advisory opinions, as well as dissenting opinions. These acts to date, quite seriously affect both the EAEU law and order and the legal systems of the Union member states. Therefore, their mandatory implementation, as well as bringing the law and order of the Union and Member States into line with these acts, is a task of primary importance. This argument is confirmed by the fact that, on the whole, the problem of the implementation by the member states of the international association of the decisions of the judicial authority of this organization is universal for international justice.

So, despite the existence of various international judicial bodies, all of them are established by states and their main task is to clarify and apply international legal norms. The very problem of the enforcement of legal acts of international courts is a small part of the comprehensive issue of compliance by states with international legal norms. In this regard, it should be noted that until recently, the problem of the implementation of international legal norms was not sufficiently covered by jurists. Thus, some authors noted that international lawyers did not consider the problem of compliance with international legal norms, since they believed that virtually all states comply with these rules, and non-compliance is associated more with political issues than legal ones (Schwebel, 1981). Moreover, it has been argued that work on international law focuses more on the codification and entry into force of international law, rather than on the economic and political issues of the formation of such legal norms and the responses of states to them (Hathaway, 2002).

Nevertheless, at the beginning of the XXI century, a legal paradigm shift occurred regarding the issue of compliance with international law, as the number of international courts that provided extremely interesting materials to study the problem

of the implementation of their decisions increased. Thus, legalism, according to which the norms of international law are fulfilled solely in connection with the need to comply with the principle of pacta-sunt servanda, has been replaced by new doctrines that are aimed at exploring the various reasons affecting the observance by states of international legal norms (Giants, 2018).

In general, these doctrines can be divided into two large groups. According to the first group, states comply with international legal norms and execute decisions of international courts for reasons of parity of benefits and costs, which may result from the refusal to fulfill certain obligations (Guzman, 2002). In this case, we are talking about sanctions and coercions applied if states do not fulfill their respective obligations, therefore this concept is most often called the doctrine of coercion. In contrast to this doctrine, representatives of the second group believe that states violate international legal standards unintentionally, and due to a variety of objective and subjective reasons, such as ambiguity and vagueness of contractual obligations, lack of material resources to fulfill these obligations, and lack of coordination in the activities of state bodies. Obviously, in such circumstances, the application of financial sanctions seems ineffective, therefore, non-compliance by states with international legal norms should be considered as a problem that needs to be solved by joint efforts, and not as a punishable misconduct. In this regard, it is necessary to carry out work to prevent and preclude legal violations through a constructive dialogue with states. Moreover, both of the considered concepts note that the execution of acts of an international court is a small part of compliance with international legal norms.

In international law, there are two types of enforcement of legal acts of international courts. The first category includes the execution of a court decision by the party to the dispute, and the second category is related to the quasi-unprecedented nature of legal acts of the court, which can affect not only the legal order of the states involved in the dispute, but also the law of states that did not participate in the consideration of the case.

In particular, the peculiarity of the enforcement of decisions of international courts lies in the fact that these courts operate according to completely different rules than national courts. So, in international law there is no universal coercive mechanism that could force states to enforce certain legal acts of international courts. Often, states, based on the principle of the sovereign equality of all states, indicate the impossibility of such coercion on the part of other states.

Thus, for a full analysis of the problems of the execution of acts of the EAEU Court and their legal consequences, it is necessary to study the statutory features of each individual act, in particular its decisions that are legally binding, and also consider the practice of the EAEU Court and other international courtson the enforcement by subjects of circulation of legal acts of these judicial authorities.

Discussion

Based on the results of familiarization with the submitted application, the Court of the Union first of all makes the relevant decision on procedural issues, namely the acceptance or refusal to accept the application for production, suspension, resumption, or termination of the proceedings. Moreover, the Court has the right to make such rulings in the form of a protocol ruling or as a separate act. In the first version, the decision is recorded in the court session record and announced orally in the presence of all the judges in the courtroom, while the decision is taken as a separate act by the judges in the deliberation room. Herwith, both types of resolution are final and cannot be appealed by the parties to the dispute (Rafalyuk, 2016).

A similar procedure for the issuance of judicial decisions on procedural issues was also provided for in the framework of the EurAsEC Court, in which, in accordance with the provisions of the Rules of Procedure of the Community Court, the Court issued an order on acceptance or refusal to accept, on suspension or termination, as well as on resumption of proceedings within a reasonable time sent it to the parties to the dispute or to the applicant's address (Rules of Court of the Eurasian Economic Community, 2012). At the same time, the statutory documents of the Community Court do not specify exactly what period is considered reasonable, in connection with which it can be assumed that the reasonableness of the term was determined by the Community Court itself, which itself sent these decisions to interested parties.

Thus, the EurAsEC Court had a wide margin of judgement in this regard, as well as the EAEU Court, the EurAsEC Court distinguished two types of judgments. Decisions in the form of a separate judicial act were made by the judges in the deliberation room in the order of making judicial decisions, and the protocol decisions were recorded in the court session record and announced verbally in the presence of all the judges involved. In connection

with the foregoing, it becomes apparent that the procedure for issuing judicial decisions on procedural issues of the EAEU Court has not undergone significant changes from the previously existing order for issuing decisions in the EurAsEC Court, while in the EC of the CIS, not a ruling is adopted on procedural issues, but a court ruling that within thirty days from the date of receipt of the relevant application, is signed by the whole composition of the Collegium of the CIS EC. At the same time, the parties to the dispute have the right to appeal the decision to refuse to accept the application to the Plenum of the CIS EC. And if the application was accepted, then the CIS EC sends copies of this ruling to the parties to the dispute within ten days from the date of its submission (Regulation of the CIS Economic Court, 1997). So, in contrast to the procedure provided for in the framework of the EAEU Court and the EurAsEC Court, the Regulation of the CIS EC clearly sets the terms for making a determination on procedural issues. This procedure not only streamlines the activities of the CIS EC, but also facilitates the work of individual judges in determining procedural terms. While in the EU Court, decisions on the procedural issues under consideration are made only after hearing the views of the judge rapporteur, the General Counsel and are taken in the form of reasoned decisions. Further, having examined the merits of the case, the EAEU Court makes a decision or an advisory opinion on the applications for clarification within 90 days (Rafalyuk, 2016). Moreover, such a decision is binding on the parties to the dispute, while the advisory opinion is only advisory for them in nature.In contrast to this procedure, the EurAsEC Court provided for the adoption of decisions, not only based on the results of the resolution of the disputed case, but also after clarification of the unclear legal norms of the EurAsEC and on applications for making conclusions. Whereas the advisory opinions were made by the EurAsEC Court precisely within the scope of consideration of requests for such opinions. A similar list of the grounds for decision-making by the EurAsEC Court is most likely related to its relatively broad powers. In particular, it is a question of the fact that the EurAsEC Court had prejudicial jurisdiction not provided for in the statutory documents of the EAEU Court. Whereas in the framework of the CIS, the Economic Court can adopt three types of judicial acts. So, the collegium of the EC of the CIS, after considering the case on the merits, issues an act in the form of a decision, and in other cases in the form of a determination. Meanwhile, the full composition of the CIS EC accepts advisory opinions on interpretative requests. Obviously, in general, the legal acts of the aforementioned international courts are not much different from each other. Since the activities of all these judicial bodies are aimed either at resolving a disputed case, or at interpreting international legal norms.

It should be noted that the Court of the Union, as well as the Court of EurAsEC and the CIS EC, makes a decision in the deliberation room by open vote, and the legal positions of each judge, as well as the essence of the discussion, constitute the secret of the deliberation room. Besides, the legal act of the Court is adopted by a majority of votes, and the refusal to vote is not possible. Any legal act of the Court is signed by all the judges who participated in its adoption, including those who submitted dissenting opinions. The Regulation of the EC CIS states that decisions are made in writing and signed by the entire composition of the collegium of the EC CIS without a separate indication of the dissenting opinions of judges. In the EU Court, decisions are signed by the Chairperson and the Registrar of the court session, and are announced in an open manner. In turn, like the decisions of the EAEU Court, its advisory opinions are adopted by a majority vote and signed by the entire composition of the Court, the presiding judge in this case being the last to vote, and the advisory opinions themselves must be translated into the state languages of the member states, with further publication on the website of the Court (Rafalyuk, 2016).

As for the requirements for the content of the legal act of the EAEU Court, as well as the decisions of the EurAsEC Court and the CIS EC, it should consist of an introductory, descriptive, motivational and resolutive part. The introductory part of the legal act covers provisions on the time and place of the decision, the name of the judicial authority, as well as information on the parties to the dispute and other interested parties. Whereas the descriptive part is devoted to the requirements of the applicant, the defendant, and interested parties, as well as the circumstance of the disputed case. The motivational part of the decision shall indicate the legal norms and evidence to which the Court referred when making the decision. The final part contains the findings of the Court in the present case. In general, all decisions of the Court should be logical in content and not allow incompatible provisions. In addition, when making decisions, the margin of judgement of the Court is limited to the issues indicated in the applications, and these decisions cannot change, repeal or create new legal norms of the EAEU or member states. The inclusion in the Statute of the

EAEU Court of such a provision not previously provided for in Eurasian justice is explained by the desire of member states to protect themselves from the risk of judicial activism shown by the previous integration court.

Thus, the statutory documents give the legal right to the EAEU member states not to agree with the decisions and not to execute them because of the illegitimacy of these decisions. If the parties to the dispute do not agree with the decision of the EAEU Court Collegium, they can appeal this decision by submitting a corresponding application to the Appeals Chamber EAEU Court. However, such a complaint must be filed before the expiration of 15 calendar days from the date of the appeal decision. Moreover, any decision of the Appeals Chamber is final and cannot be appealed. It should be noted that the decisions of the Grand Collegium, in contrast to the decisions of the Collegium, are not subject to appeal and come into force from the date of their adoption. Moreover, the main goal of the Court's activity is to create a unified practice by formulating a common and accurate legal position, which is reflected in the decisions of the EAEU Court.

In the judgment in the case "Russian Federation v. Republic of Belarus" of February 21, 2017 No. CE-1-1/1-16-BK, the Court indicated that decisions of the bodies of the Union may be classified as administrative acts of state bodies, which are drawn up in the form of a separate document in print or electronic form, as well as decisions made within the framework of customs procedures and officialized by affixing signatures, stamps and seals to government officials. Moreover, all bodies of the Union must recognize such documents without fail. As a result of the implementation of this decision, the EEC Board adopted decision No. 139 of November 7, 2017 "On documents confirming the status of the EAEU goods", which indicated that the decisions of the EAEU bodies include invoice, shipping list or other transportation documents, specification, a bill of lading, a document confirming the conclusion of a transport expedition agreement, an invoice in which there is an entry "EAEU Goods" to prevent the risk of substitution of such documents (Decision of the EEC Board, 2017). Consequently, in the positive law of the EAEU, the legal position of the Court on the decision of this case has been formed and is gradually developing.

In contrast to the legal positions of the Court, formulated in its decisions, the positions indicated in the advisory opinions are introduced into existing law in a completely different way. Since in this case, the changes primarily relate to national legal norms. For example, in the case of clarification on the application of the Ministry of Justice of the Republic of Belarus of April 4, 2017 No. CE-2-1 / 1-17-BK, the applicant appealed to the Court with the aim of clarifying the possibility of establishing in the national legislation a different authorization other than that contained in the Treaty on the EAEU. The Court pointed out in its advisory opinion that such an interpretation of the legal norm of the Union seems impossible, since the EAEU Treaty provides the Member States with discretion only in the field of prohibitions and not permissions. After making this advisory opinion, the legislative body of the Republic of Belarus drafted the necessary amendments to the Law on Combating Monopolistic Activities and the Development of Competition of December 12, 2013 (Law of the Republic of Belarus, 2013), the validity of which was confirmed by a decision of the Constitutional Court of the Republic of Belarus of December 28 2017 No. R-1117/2017 (Decision of the Constitutional Court of the Republic of Belarus, 2017).This decision notes that since the general rules of competition in cross-border markets are within the exclusive competence of the EAEU, this policy is excluded from national regulation. By the way, it was to this advisory opinion of the Court that the dissenting opinion of Judge E.V. Hayriyan that exclusively national bodies of the member states of the Union should exercise preliminary control over the legal acts of these states. On the whole, this happened because, referring to the practice of the Court of the Union, the Constitutional Court of the Republic of Belarus affirmed the impossibility of deviating from the EAEU norms.

The specificity of the acts of the Court in the national judicial systems of the Member States should be noted. So, in accordance with the Decree of the Plenum of the Supreme Court of the Russian Federation of May 12, 2016 No.18 "On some issues of the application of the customs legislation by courts", acts of the Commission are legal norms regulating customs relations in the Russian Federation as a member of this Union (Decision of the Plenum of the Supreme Court of Russian Federation, 2016). In pursuance of this rule, the judicial authorities of the Russian Federation quite often refer to the legal positions of the EAEU Court. In particular, these are decisions of the Court of the Union on statements of economic entities relating to customs relations. Namely, the decision in the case of General Freight CJSC v. EECof April 4, 2016 No. CE-1-2/2-16-KS and the decision in the case of Sevlad LLC v. EECof April 7, 2016 No. CE-1- 2/1-16-KS. For example, the Ninth Arbitration Court of Appeal in its ruling of

January 17, 2017 No. 09AP-63420/2016 referred to the decision of the EAEU Court in the case of General Freight CJSC, in which objective characteristics and properties of the goods are indicated as the main classification criteria for customs declaration (Resolution of the Ninth Arbitration Court of Appeal, 2017). Similar provisions are also defined in the Decree of the Eleventh Arbitration Court of Appeal dated December 18, 2017 No. A72-20 / 2017 (Decree of the Eleventh Arbitration Court of Appeal, 2017) which specifically emphasizes the practice of the EurAsEC Court in the cases of Zabaikal resurs LLC and Nika LLC of 20 May 2, 2014 No. 2-4/7-2014, as well as the decision of the EAEU Court in the case of General Freight CJSC. In its turn, in the decision of the Thirteenth Arbitration Court of Appeal of March 20, 2017 No. 13AP-1447/2017, the court referred to the decision of the EAEU Court in the case of Sevlad LLC, noting that the expression "similar to them" is used in the trade item 3808 of the commodity nomenclature of foreign economic activity as evidence of a non-exhaustive list of such products. Thus, the legal positions of the EAEU Court have been repeatedly confirmed by the national judicial authorities of the member states, which gives reason to talk about the formation of a stable and uniform judicial practice within the framework of the Eurasian integration system.

In case of disagreement with the general decision of the Court, the statutory documents of the EAEU Court, as well as the EurAsEC Court, provide for the possibility of providing dissenting opinions. In the event of such disagreement, the judge shall have the right to submit in writing his dissenting opinion within a period not exceeding 5 days. A copy of this document is then sent to all interested parties within 6 days. Whereas in the framework of the EU Court, judges unanimously decide, and therefore have no right to give dissenting opinions.

The form and method of execution of the judgments of the EAEU Court are determined by the parties to the dispute. Moreover, the same procedure existed within the framework of the CIS Economic Court, while in the EurAsEC Court the Court itself determined the procedure for the enforcement of decisions and the application of interim measures. If the EAEU Court decides that the legal act of the EEC does not comply with the EAEU standards, even after the entry into force of this decision of the Court, the contested act will continue to be valid until its execution by the EEC. Moreover, in accordance with the Statute of the Court, the EEC must execute this decision before the expiration of 60 calendar days. Nevertheless, if there is a request to suspend the EEC act immediately after the entry into force of this act of the Court, the EAEU Court may satisfy such a statement. Here we are talking about the legal acts of the EEC, since the acts of the Commission, which are not legally binding, cannot be disputed in the Court, as they do not form part of the Union's law. It turns out that the procedure for challenging the legal acts of the Commission is significantly different from the annulment procedure in the Court of the European Union, since within the framework of the EAEU Court only the acts of the Commission are checked for their compliance with the legal norms of the EAEU and nothing more. Whereas in the decision of the EurAsEC Court in the case of OJSC Ugol'naya Kompaniya "Yuzhnyy Kuzbass" dated August 17, 2010 No. 1-7 / 1-2012 (Summary of the judgment of the Grand Collegium of the EurAsEC Court, 2013) it was stated that the recognition of the Commission's act as inconsistent withthe EurAsEC's legal standards shall entail its invalidity from the moment of its adoption, and the fact that the judgment of the Court is ergaomnes in nature, and therefore all Member States should have brought their legal provisions into line with this judgment. Obviously, in this case it was not a matter of eliminating the contradictions or clarifying the unclear rules of law of the EurAsEC, as the full substitution of the norm of the constituent agreement by the norm created by the Court was implemented. Moreover, the Court noted that the fact of the establishment of a Community Court on the basis of an international treaty a priori implies its rule-making function. It seems that in response to this decision of the EurAsEC Court, the EAEU member states significantly limited the jurisdiction of the Court of the Union.

However, in addition to curtailing the powers of the Court to verify the EEC acts for compliance with the provisions of the EAEU legal norms, the member states have included in the statutory documents of the Court of the Union some legal norms that legally allow member states not to comply with the legal acts of the Court. For example, although all decisions of the Court are binding, paragraph 114 of the Statute of the Court states that if a member state fails to comply with a legal act of the Court, another member state may apply to the Supreme Eurasian Economic Councilб and the economic entity – to the Court for appropriate action on its execution. At the same time, such applications by individuals are sent by the Court of the Union to SEEC to make the necessary decision on this issue. Similar rules were in effect in the EurAsEC Court and in the CIS EC, in which, if a court decision was not enforced, the

member states were entitled to apply to the supreme body of these associations (Neshataeva, 2015). Thus, the process of execution of the legal acts of the Court is due to the significant influence of the EEEC, which is essentially a body representing the interests of the EAEU member states than the Union itself. On the one hand, indeed, the SEEC can contribute to the implementation of the decisions of the Court, since it is the heads of state and government that have the highest powers in each of the member states, and therefore has the right to force the parties to the dispute to comply with the relevant decision of the Court. However, such a procedure for the execution of legal acts of the Court is fraught with a limitation of the independence of the Court, which already has very narrow jurisdiction. Moreover, if SEEC fails to reach consensus, then the judgment will not be enforced. Nevertheless, it should be noted that there have been no cases of non-enforcement of legal acts of the EAEU Court.

It is obvious that the mechanism for the enforcement of legal acts of the EAEU Court is weak compared to a similar EU system. Since, as already noted above, the EU Court has the highest percentage of execution of its decisions, as well as its prejudicial opinions – 97%. In general, the EU Commission has the authority to monitor the implementation of the legal acts of the Court of Justice of the EU, which, if a violation is discovered, carries out the necessary proceedings and then applies to the judicial authority of the Union to confirm the fact of such violation. At the beginning of its activities, the EC began such a process only in cases of special need, but now the process is quite formalized. Since, every year, the EC initiates many such investigations. However, in the event a member state fails to fulfill its contractual obligations, the EC most often solves this problem through dialogue with that state, and therefore more than 80% of such cases are regulated out of court (2007).

It should be noted that initially the Court of Justice of the EU was only entitled to make declarative decisions on the fact of violation by the state of its obligations. But this procedure did not give positive results in this area, in connection with this, the Maastricht Treaty granted the EU Court the right to impose a fine and penalties for each day of delay in the implementation of legal acts of the EU Court. Since, until the establishment of financial sanctions, not all acts of the Court of Justice of the EU were voluntarily enforced by EU member states (Tamm, 2013).

For example, in the European Commission v. France case of July 12, 1990 No. C-236/88 (Commissionv. France, 1990), despite the fact that the defendant's refusal to keep social benefits to a pensioner who moved to live in Italy was found to be inappropriate by the EU Court of Law EU, France categorically refused to implement this decision. Moreover, the conflict on this issue was resolved only after the initiative of France was amended by Council Regulation No. 1408/71 on the application of social security schemes for working people, self-employed persons and members of their families moving in the Community (Council Regulation, 1992), which made the execution of an act of the Court meaningless. Whereas in the European-Commission v. France case of July 12, 2005 No. C-304/02 (Commission of the European Communitiesv. French Republic, 2005), due to the defendant's failure to comply with the decision of the EU Court in the earlier Commission v. France case of June 11, 1991 No. C-64 / 88 (Commission of the European Communitiesv. French Republic, 1991), the Court of the Union for the first time imposed a fine and a penalty on a violating state. He noted that the fine is used to prevent future violations, and the penalty is aimed at the quick and full implementation of the decision of the EU Court of Justice and is not a punishment tool. However, it is obvious that even the highest financial sanctions cannot solve the whole problem of the implementation of the decisions of the EU Court. So, in 2015, the EU Commission examined seven separate cases that were not executed even after financial sanctions were applied to violating states. For example, in European Commission v. Italian Republic case of July 16, 2015 No. C-653/13 (European Commissionv. Italian Republic, 2015), a fine of twenty million euros was imposed on the defendant and penalties amounted to one hundred twenty thousand euros for each delayed day of execution. Whereas in the European Commission v. Hellenic Republic case of October 15, 2015 No. C-167/14 (European Commissionv. Hellenic Republic, 2015), the defendant was fined ten million euros and a penalty of more than three million euros for every delayed six months of the decision enforcement.

As for the prejudicial conclusions of the Court of Justice of the EU, from the moment of their first appearance in the Rome Treaty to the present, the legal status of these judicial acts has not been determined. However, the level of enforcement of the prejudicial findings of an EU court is actually incredible. Since, as already noted above, only in 3% of cases the national courts of the EU Member States refused to comply with these conclusions. This phenomenon is explained by the extremely successful position

of the EU Court to disseminate its doctrinal views. Understanding that it is impossible to compel the domestic courts to follow its judgments, the Court of Justice of the European Union organizes a dialogue with the national courts of the Member States, in which both judicial systems remain in a mutually beneficial position. As a result of this cooperation, the conclusions of the EU Court are in good faith executed by the courts of the Member States, which perceive the consent to comply with the legal norms of the EU Court as their legal right, and not an obligation. Therefore, even in the EU Court of Justice, many decisions may not be enforced by EU member states.

Thus, the EAEU Court has the right to make legally binding decisions, as well as advisory opinions, which are advisory in nature. For the purpose of a multilateral analysis of this problem, the charter qualities of each individual act of the EAEU Court were examined, as well as the practice of implementation by the member states and economic entities of the legal acts of the Court itself and other international judicial bodies. Thus, it was found that in international courts the performance indicators of judicial decisions vary significantly. For example, within the UN, the decisions of the International Court of Justice are executed by 72%, the decisions of the WTO DSB by only 66%, and the binding decisions of the ECHR are implemented by 80%. Moreover, the EU Court has the best indicators, with 82% of all decisions and 97% of advisory opinions being executed by the relevant entities. While this indicator is relatively low for the Inter-American Court of Human Rights, where only 4% of decisions are enforced (Ispolinov, 2017). As for the EAEU Court, in practice this body has not yet encountered cases of non-enforcement of its decisions. It was also revealed that the issue of the enforcement of international court decisions is an integral part of the broader issue of compliance by states with their treaty obligations. At the same time, while some states comply with these norms in connection with the negative impact of financial sanctions that may follow from the failure to fulfill such obligations, others argue that the fact of non-compliance with international law is caused by objective and subjective circumstances independent of states. Despite the position taken by a particular state, the problem of the enforcement of decisions of international courts always remains part of the problem of fulfillment by states of their international legal obligations.

Thus, in the doctrine of international law, there are two types of enforcement of legal acts of international courts. In particular, court decisions can be executed by the party losing the case, or these decisions are executed because they can directly affect the rule of law of states that did not participate in the consideration of the case. As for the EAEU Court, the form and method of execution of decisions is determined by the parties to the dispute. The same procedure existed in the CIS EC, and in the EurAsEC Court, the Court itself was empowered to determine the order of execution of decisions, as well as for security measures. Moreover, despite the fact that the decisions of the EAEU Court are binding, if they are not executed, the interested entity can apply to the Supreme Eurasian Economic Council to take appropriate measures for its implementation. A similar procedure was in force in the Court of the EurAsEC and the CIS EC, where in case of failure to comply with judicial acts, member states were entitled to apply to the supreme body of the association. It turns out that the process of implementing the decisions of the Court depends on the will of the SEEC, which actually represents the interests of each individual member state of the Union, but not the association itself. It seems that such an order of enforcement of the judgments of the EAEU Court limits the independence of the Court, the jurisdiction of which is already significantly narrowed compared to the previous integration court. Also, if it is not possible to establish consensus within the framework of the SEEC, a circumstance may arise in which court decisions cannot be enforced at all.

Conclusion

As a result of consideration of the specific competence and function of the EAEU Court, the following conclusions were drawn.

Since the beginning of the functioning of the EAEU Court, and to this day, a total of 36 applications have been received by this body, of which 17 on dispute resolution, 14 on clarification and 5 on appeal of decisions. However, out of all appeals, only 27 were accepted for legal proceedings, since 9 applications were refused acceptance for proceedings and 6 applications were left without movement. Furthermore, most of the applications that were not accepted were sent by business entities. So, of the 9 applications that were refused to be accepted for proceedings, only one was sent by a member state of the EAEU. Moreover, the application was returned only in connection with the fact that the applicant withdrew his application until it was accepted for production (Official website of the EAEU court, 2020). The EAEU Court has two different competencies, which are the resolution of disputes and

the provision of advisory opinions. As part of the competence for the settlement of disputes, the Court resolves cases on the basis of the applications of member states and business entities. Member states are privileged applicants due to the fact that they can not only appeal against the decisions, actions or inactions of the Commission, but also have the right to apply directly to the EAEU Court with claims against other member states, while business entities have the right to appeal decisions or EEC actions and inactions. In contrast, in the framework of the Court of Justice of the EU, it is not only Member States and private individuals that are subject to appeal to the Court of Justice of the EU, since EU institutions and their employees can also protect their rights in the judicial body of the Union. Whereas in the former EurAsEC Court, disputes were considered at the request of the parties, Community bodies and business entities. In this case, the parties were understood only as Member States of the Community.

On the other hand, the EAEU Court has the right to provide advisory opinions at the request of the Member States and bodies of the Union, as well as employees and officials of the EAEU bodies. At the same time, the latter can apply to the judicial body of the Union only regarding labor issues, which obviously reduces the substantive competence of the EAEU Court, since the largest number of situations requiring clarification of the legal norms of the Union appear precisely in the course of labor disputes among employees of the EAEU bodies.

Unlike decisions, advisory opinions are acts of a recommendatory nature, and are aimed at a uniform explanation of integration law by the member states of the Union. Nevertheless, although part of the Union's law is international treaties of the Union with third states, the Court can clarify their provisions only if such a procedure is provided for in the text of the international treaty. It seems that this is due to the fact that the parties to such agreements are not only member states of the Union, but also entities whose activities are not governed by the legal norms of the EAEU. Since there is no legal hierarchy in international law, it is impossible to regulate such agreements by the legal order of only one of the parties to the agreement. In this regard, the clarification of these contracts is usually carried out through the creation of an arbitration court.

Further, it was revealed that the competence of the EAEU Court to clarify the legal norms of the Union differs from the similar competencies of the EurAsEC Court and the EU Court. Thus, the subjects of the appeal to the Community Court with requests for advisory opinions were the member states and bodies of the EurAsEC, as well as the higher courts of the member states of the Community. This order was much more effective than the current order, since it was possible to establish a dialogue between the Community Court and the national courts of the Member States. Whereas in the EAEU Court, the highest national judicial bodies can request these conclusions only by contacting the authorized bodies of the member states. However, it should be noted that only the higher courts of the Member States could request the EurAsEC Court to clarify Community legal rules, while their other courts did not have this right. Meanwhile, the EU Court has the right to provide prejudicial opinions at the request of national courts of all levels, as well as at the request of member states and bodies, as well as employees of the bodies of the Union.

Many significant legal positions of the EAEU Court were developed not within the framework of its decisions, as happened in the EU Court, but within the framework of its advisory opinions.

So, in these documents the Court of the Union formed the concepts of direct action and direct application of the Union's legal norms, and they also detail the conflicting provisions of the EAEU legal norms. In its decisions, the EAEU Court determined that the current EAEU agreement must be implemented in good faith and that a member state cannot refer to the norms of its national legislation as an excuse for not fulfilling the EAEU legal norms. Further, it was revealed that international treaties that are not part of the Union's law are applied on the territory of the EAEU, provided that all member states of the Union have signed this international treaty, as well as if this treaty regulates legal relations that are part of the EAEU common policy area. Further, it was determined that the legal positions of the EurAsEC Court serve as a precedent for the EAEU Court, since the decisions of the Community Court continue to operate in their previous status.

Consequently, the jurisdiction of the EAEU Court ondispute resolution, as well as its jurisdiction to provide advisory opinions, have their own functional characteristics. Thus, according to the decisions of the Court, many important legal positions were formed, and in the advisory opinions, the Court determined the special nature of the Union's law and order. The execution of these acts is of paramount importance for the effective functioning of the Union, since it is they who are developing the EAEU legal system.

In order to improve the functioning of the EAEU Court, the following practical

recommendations were developed based on the results of the study.

First, the EAEU Court must be empowered to provide prejudicial opinions. Since the absence of such jurisdiction negatively affects the formation of a productive judicial dialogue between two different judicial systems. At the same time, the jurisdiction of the Court should be based on international judicial practice of issuing prejudicial opinions, and not on the experience of the former EurAsEC Court. Secondly, the right should be given to the EEC to initiate a lawsuit against the EAEU member states that violate their obligations under Union law. Since the practice of international justice itself proves that states, guided by political considerations, rarely appeal to an international court against another state. Whereas the Commission, which is essentially a supranational body of the EAEU, can act outside the political environment of the Member States of the Union, and thereby independently monitor the implementation of integration legal norms. In addition, it is necessary to expand the right of individuals to apply to the EAEU Court, since the rights and legitimate interests of not only business entities, but also representatives of other areas may be infringed by illegal decisions, as well as actions and inaction of EAEU bodies. It is also necessary to change the procedure for the execution of legal acts of the Court EAEU, since the fact that the execution of the judgments of the EAEU Court is ensured only by the Supreme Eurasian Economic Council, which does not have the right to establish any sanctions against the state, it nullifies the effectiveness of the activities of the EAEU Court.

It seems that the implementation of the above recommendations to increase the efficiency of the functioning of the EAEU Court will contribute to the further development of the judicial system, and will also positively affect the practice of the national courts of the Member States of the Union.

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ON HEAVY PENALTY FOR INTERNATIONAL HOMICIDE

The crime of intentional homicide in criminal law of various countries is the first mission. Domestic scholars focus attention on the crime of intentional homicide at normative level and legal philosophy level. Author conducts inspection of intentional homicide from four aspects: at the normative level, expands the crime ladder of Beccaria, and explains the function of criminal law sentenced to felony for committing homicide; at the crime level, explains the necessity of killing penalties from anthropological and sociological level; at the philosophical level, discusses the philosophical presupposition of punishing on homicide from moral and legal responsibility; at the political level, discusses the inevitability of homicide in elements of nature before the modern society. The author i explains in the article the purpose of criminal law on human right's protection. The legal protection of the right to life is bound to be a category of moral rationality. Therefore, the protection of the victim's right of life should belong to the category of criminal law.

Key words: intentional homicide, crime, responsibility, protection of victims, national fines.

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Халықаралық кісі өлтіргені үшін ауыр жаза туралы

Әр түрлі елдердің қылмыстық заңдарында қылмыс ретінде қасақана өлтіру басты миссия болып табылады. Отандық ғалымдар қасақана адам өлтіру қылмысына нормативтік деңгейде және құқықтық философия деңгейінде назар аударады. Автор мақалада қасақана кісі өлтіруді төрт тұрғыдан қарастырады: нормативті деңгейде Беккарияның қылмыстық сатысын ашады және кісі өлтіргені үшін сотталған адамның қылмыстық заңының қызметін түсіндіреді; қылмыс деңгейінде антропологиялық және социологиялық деңгей тұрғысынан кісі өлтіргені үшін жазаның қажеттілігін түсіндіреді; философиялық деңгейде адам өлтіргені үшін жазаның моральдық және заңды жауапкершілік тұрғысынан философиялық негізін талқылайды; қазіргі қоғамның алдында саяси деңгейде қылмыстың сөзсіздігі элементтерін талқылайды. Мақала авторы қылмыстық құқықтың адам құқығын қорғау туралы мақсатын түсіндіреді. Өмірге құқықты құқықтық қорғау моральдық ұтымдылық категориясы болуы керек. Сондықтан жәбірленушінің өмір сүру құқығын қорғау қылмыстық заңның санатына жатады. Гегельдің құқықтық жауапкершілік теориясы жазаның сыртқы белгілерінің айырмашылығын жоққа шығарады және ішкі эквиваленттілікті ұстанады. Адамды өлтіру әрекеті қоғамға үлкен зиянын тигізеді. Сондықтан кісі өлтіргені үшін жаза бірдей болуы керек, яғни оған байланысты жаза қатал болуы керек.

Түйін сөздер: қасақана кісі өлтіру, қылмыс, жауапкершілік, құрбандарды қорғау, ұлттық айыппұл.

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О тяжести наказании за международное убийство

В уголовном законодательстве разных стран умышленное убийство как преступление является основной миссией. Отечественные ученые акцентируют внимание на преступлении умышленного убийства на нормативном уровне и уровне правовой философии. Автор рассматривает умышленное убийство с четырех точек зрения: на нормативном уровне раскрывает преступную лестницу Беккариа и объясняет функцию уголовного права осужденного за совершение убийства; на уровне преступления объясняет необходимость наказаний за убийство с точки

зрения антропологического и социологического уровня; на философском уровне обсуждает философскую предпосылку наказания за убийство с точки зрения нравственной и уголовной ответственности; на политическом уровне перед современным обществом обсуждает элементы неизбежности преступления. Автор в статье объясняет цель уголовного закона о защите прав человека. Правовая защита права на жизнь должна быть категорией моральной рациональности. Поэтому защита права жертвы на жизнь должна принадлежать к категории уголовного права. Теория юридической ответственности Гегеля исключает различие внешних черт возмездия и преследует внутреннюю эквивалентность. Убийственное поведение наносит очень сильный социальный вред. Следовательно, наказания за убийство должны быть одинаковыми, а это значит, что наказание должно быть суровым.

Ключевые слова: умышленное убийство, преступление, ответственность, защита жертв, национальные штрафы.

Introduction: The specification dimension

Beccaria divides crimes into three categories: The first category is crime that directly damages the representatives of society or society. The crimes are socially harmful and thus being the most serious crimes. The second category is violations of private security. Crimes, in part, involve infringement of the person, part of it is to damage one's reputation, and part of it is a violation of property; the third category is behavior that disrupts public order and citizens' safety.

1. Intentional homicide and purpose of criminal law

The purpose of the criminal law is the creator of all criminal laws, and each criminal law rule derives from one purpose, namely, an actual motivation. The purposes of the criminal law can be divided into three layers. The first layer is the overall purpose. It can be summarized as the content of Article 2 of the Criminal Law of China, that is, protection of legal interests; the second layer is the purpose prescribed by each chapter. It expresses as the legal interests protected by various types of criminal law. The third layer is specific purpose, that is, the interests that the specific crimes are intended to protect. The legal interest protected by intentional homicide is the interest of human life.

As a biased concept, focus of legal interest is on interest. By abstracting the object, which the criminal law protects and crime infringes, as interest, it can calculate the amount of responsibility that the crime has harmed society. Beccaria genius introduced Newton's mechanics into criminal law and created a crime ladder to achieve a balance of quality and quantity between crime and punishment.

The specific purpose embodied in code 232 of the Criminal Law is to protect the right of life. Marx called the criminal law the Bible of human rights, human rights, which we must not only describe as the protection of the defendant's interests from the perspective of the rule of law, at the same time, the content of the criminal law itself aims to protect the legitimate rights and interests of the entire population from being illegally violated. The author hereby explains the purpose of criminal law on human right's protection. In our country , mainstream scholars believe that the human right's protection of victims is manifested in the protection of the victim's substantive rights and litigation rights. However, the author believes that, although the crime manifested itself as a violation of the victim's rights, it actually also infringed the Entire society (a kind of safe atmosphere created by the way to punish punishment on criminals and the mainstream values established by the as Chinese scholar Chu Huaizhi said: combating the country.), it is also socially harmful. Crime and punishing criminals are the protection of the interests of the broad masses of the people and the greatest protection of human rights. This is, of course, a fact, but it is mainly the exercise of right national penalty and it is a category of socialty. The protection of human rights in criminal law should essential refer to the protection of the rights of the weak party in the course of criminal procedure. So in the mainstream view, the human rights' protection of victims is included in the sovereignty, human rights are denied.

However, we must have a deep understanding of the ethical foundations contained in the purpose of criminal law. Law and morality are inseparable. Morality has an orderly shaping and maintenance function on a subjective level, and it can fill in gaps left by the actual operation of the law. Human rights and order complement each other, and the maintenance of human rights requires good order, while the fairness and morality of order reflect human rights values. Therefore, the two are the integration of instrumental values and physical values. Therefore, we should understand the purpose of the criminal law from the substantive point of view, not just from the formal way. The understanding of human rights can be divided into proper and real aspects,

and proper aspect should be of guiding and guiding significance. On the proper level, the famous natural jurist in the Netherlands pointed out that: natural rights are the orders of legitimate reason. They determine whether or not an act is in harmony with a reasonable nature and determine that it is morally vile or morally necessary. Grotius explicitly linked natural rights with morality. The legal protection of the right to life is bound to be a category of moral rationality. Therefore, the protection of the victim's right of life should belong to the category of criminal law. Therefore, intentional homicide anticipates criminal law.

2. Intentional Homicide and Criminal Law Value Structure

The concept of individual person and social person is the source of disputes between the criminal classical school and the criminal positivism school about the value of the criminal law. The relationship between individual and sociality of the person is essentially the relationship between the individual and the society. This is an eternal topic in political philosophy.

Individualism. This concept contains many ideas. It is centered on individuals. As a sociological theory, individualism is also called social atomism. "Individualism tells us that society is only greater than individuals in terms of the fact that society is free. In terms of social control or guidance, society is controlled and directed." Individualism emphasizes the individual's priority to society and the pursuit of personal freedom. Therefore, since the Enlightenment Movement, the principle of the rule of law in the criminal classical school is to maintain individual freedom and to exclude excessive interference from the state's public power. Freedom is bounded by the condition that must not infringe exercise of freedom of others. The act of infringing upon the free exercise of others requires the intervention of public power to impose sanctions. Intentional homicide is second only to destroying social in Beccaria's ladder of crimes, depriving others of their lives, which means depriving freedom of the material carrier, which cannot be tolerated in the individualism.

Holism. It is a theory that is opposed to individualism. It gives society a unique position as an ethical and political doctrine. It places individuals under the collective interest.

With the disclosure of the regularity of social life, the ability of humans to foresee and control will continue to improve. From this it can be concluded that a perfect social system driven by positive science will end the history of human confrontation that produced sensational knowledge.

The same Durkheim also opposed the ethical trends of thought since the Enlightenment:

The word "social" is used only to emphasize that social phenomena are a special phenomenon that is independent of the individual. It is pointed out that the term "society" is used only to denote a comprehensive phenomenon, and a phenomenon that wants to separate from an already formed individual phenomenon which is certain. The difference between social phenomena and individual phenomena is that they are behavioral modes, thinking modes, and sensory modes that exist outside the human body, and they are applied to everyone through a kind of coercive power.

In short, holism emphasizes the decisive role of society over individuals, and pursues the value of social order. Pound pointed out:

"Civilization is the continuous improvement of human power. It is the maximum controlment of human external or material nature and the inherent or human nature that humans can control now. Social control is an important part of this social control. First, social control is mainly achieved through the law. Therefore, the task of the law is to achieve social control."

Social order means using rules to regulate social conflicts. The intentional homicide has strongly affected the stability of the social order. The criminal positivism school corrects the killer from the perspective of criminal anthropology and criminal sociology – Correcting a crime that can be corrected, if it can't be corrected to make it harmless.

Discussion: The social and the political dimension

The criminal positivism school explores the social causes of crime from the perspective of criminal anthropology. Intentional homicide crimes have their profound human basis and social foundation.

1. Anthropological origins of intentional homicide crime

Lombroso made statistics on the physical characteristics of offenders through the anatomy of the corpse of the criminal, and proposed the concept of "returning to ancestors." The phenomenon of returning to the ancestors is an anthropological phenomenon. It reflects a regression of humanity. The characteristics of natural criminals described by Lombroso include the following aspects:

"Physical characteristics: flat forehead, prominent head, brow bulge, eye socket sinking, huge jaw bone, cheekbones towering; missing teeth,

very large or very small ears, uneven skull and face, squinting Fingers are often malformed and lack of body hair.

Mental characteristics: Analgesia, visual acuity; gender is not obvious; extreme laziness, no sense of shame and compassion, sick vanity and irritability; superstition, like a tattoo, used to gesture to express meaning."

The problem of unconflicted, lobbro's theory is based on intuitive understanding and lacks an accurate scientific basis, but, his theory on the criminal's sexual characteristics is still of reference value. The perpetrators of intentional homicide commit murder in violation of social ethics and ignoring the fear of punishment. The offender's own criminal personality that ignores utilitarianism still has certain reference value in modern science. As a result, there is still a large market in our country that the punishment for intentional homicide is even severe. Not only is the crime of homicide extremely socially harmful, but also because the perpetrator has a very strong danger and the possibility of recidivism. This kind of mental disorder is what Freud called "perverted". This criminal personality is almost irrecoverable. In Freud's view, this is the result of the suppression of its "original desire" based on the antagonism of the individual with the mainstream values of the society. Therefore, the criminal law has a profound human basis for the determination of heavy penalties for intentional homicide.

2. The criminal sociological origin of intentional homicide

Enrique Philly pointed out: "Our task is to prove that every theoretical basis for the society to defend criminals must be the result of both personal and social observations of criminal behavior. In a word, our task is to establish criminal sociology."

Philly's so-called crime sociology is to find the root cause of crime from the society and emphasize the social decision-making role of individuals. He believes that the natural causes of crime are not only found in the individual organisms, but also in the natural and social environment to a large extent, thus leading to the so-called theory of crime saturation that each society has its due criminality, crimes are caused by natural and social conditions, and their quality and quantity are compatible with the development of each social group. Since the crime was caused by the natural conditions and social conditions of society, Philly reached the conclusion that if we do not work hard to improve the social environment, the correction of criminals alone is not enough to prevent them from committing recidivism. So Liszt stated: "The best criminal policy is social policy."

Society is coordinating the conflict between common survival and survival competition, and the ultimate goal is the coordination of people and society. Intentional homicide is an extreme measure to disrupt social order. Crimes have not only "evil in themselves" but also "derived evil", that means the serious social impact of crime itself not only destroys property and interests at the material level, but also causes people's fear of social security on a subjective level. It will even set a typical sinful example for people. This is incompatible with good social order. Therefore, in the sense of criminal sociology, it is also necessary to remedy murder crimes.

According to Philly's theory, there will be crimes in different social stages. This is called by Philly law of social saturation. Therefore, the author went to the estate of nature before the human society, and profoundly analyzed the root cause of the existence of the murder.

Arrival not reached

Rousseau stated in "On the Origin and Foundation of Human Inequality": "The philosophers who have studied the social foundations all feel that it is necessary to go back to the natural state, but no one has yet arrived there." In Rousseau's eyes, none of them really reached the state of nature, their common weakness was that all these philosophers constantly talked about needs, greed, oppression, desire, and pride. These were the concepts they brought from society to the natural state. They were talking about barbarians, but they described it as a politician. Philosophers of natural law confuse people in society with people in their natural state, clearly showing that their description of the state of nature does not reach the so-called purely natural state. However, Hobbes's natural state is based on "human nature" and "experience". Hobbes's state of nature is to eliminate the common power created by all people in modern political society – thus excluding the order of thought related to the political body. With lifestyle – the basic condition of natural human nature.

To enter the estate of nature, we need to know what is the estate of state. According to the theory of the estate of nature described by Hobbes, the estate of nature refers to the state of "our nature will place us" or the state of "men considered in mere nature."

We first clarify the exact meaning of nature in Hobbes's view. In Hobbes's view, nature is natural ability and experience. In Hobbes's view, the nature of man's single consideration from a natural perspective refers only to the sum of his natural

powers and powers. For these powers, everyone is considered natural and universally accepted as the basic content of the definition of man. The natural ability or power Hobbs first listed seems to largely follow the classical Aristotelian tradition, understanding the basic stipulations of human beings from the natural ability of nutrition, exercise, reproduction, and sense and reason. Hobbes believes that all these physical and mental natural abilities can be categorized into four types: physical strength, experience, reason, and passion. This shows that in Hobbes's the estate of state, experience is not ruled out. Of course, experience is just a course of mind, discourse of mind, and it is a memory of things or thoughts in succession. There is no "screen of ignorance" in Hobbes's the estate of state. When analyzing human nature, Hobbes always regards reason and experience as two ways to understand human nature.

In the past, most people who discussed public affairs either assumed or demanded or established a public establishment: people are animals that are naturally suitable for society. On this basis, they built the building of the political doctrine... This axiom, though accepted by the majority, is false. The mistake is that it comes from an overly shallow understanding of human nature. As long as we look closely at why people come together and why they like to interact with each other, it's easy to conclude that this kind of situation is not due to human nature... we are not seeking for our partners in nature, but we are pursuing honours and benefits from it. Therefore, for anyone who has only a little bit of focus on investigating personnel, experience clearly shows that every time people come together spontaneously, it is not the result of mutual need but the result of pursuing honor.

Therefore, Hobbes's the estate of state is "the status of man outside the political society" (status hominum extra societatem civilem). In this state, there is no artificial common power, and there is no common effort to keep them all in awe. Here it shows the fundamental difference between the political society and the estate of state.

Why is the estate of nature conditions of war?

In the natural state, everyone has the will to injure, but they are not for the same reason, nor should they be equally blamed. Some people are based on the equality of nature, and all those it gives to others also allow others to have it. Some people value themselves as surpassing others and always want to put everything into his own request to win more honors from others. For the latter, his will to injure comes from vanity and wrong valuation of his own strength. For the former, his will to inflict harm stems from his inevitability of opposing the latter and surrounding his property and freedom.

The estate of state of man is a war of all against all others. There is no other error except that it should be said to be a state of war.

Why Hobbes created a state of nature is a state of war, Hobbes provides two paths of understanding. The first is the equal status in the natural state. The equality here refers to "equality of death"--- That is, everyone has the right to kill everyone. Hobbes's revision of Aristotle's humanity rules began with the replacement of the Aristotelian tradition with the definition of the life machine's lifestyle from the level of soul power with "strength, experience, reason, and passion". Hobbes denies Aristotle's proud politics, recognized the equality of natural endowments.

Hobbes's argument on the equality of natural capabilities is only a preparation for his natural state theory. There is no difference in the equality of people in natural endowment. It is precisely because of this equality that we cannot stay ourselves in the estate of security by our own strength or ability.

The second path of understanding is natural passion. Hobbes considered natural equality as the basic starting point to understand human nature. Humanity faces extremely profound conflicts. This inner conflict ultimately causes the natural destruction of human nature itself. This kind of conflict of human nature shows that in the absence of deterrence of common power, with the natural power of the private, it is impossible to live together in common. Hobbes made different answers in different writings:

	1	2	3
«elements of law natural and politic» causes of offensiveness	Vain glory general diffidence in mankind	comparison	appetite
«de cive» causae voluntatis mutual laedendi	Inanis Gloria necessitas defendendi	Certamen/ contention ingeniorum	Multi simul eandem rem appetent frequentisima causa
«leviathan» three principal causes of quarrel	competition	diffidence	glory

Predictive equality faces a fundamental difficulty in that the happiness of people depends on whether they can surpass others. Hobbes is almost entirely about the contrast of subjective or conceptual self-power and the power of others, and gaining superiority to their own strength in this comparison in analysis of Passion.

First of all, in the mechanistic theory of power, because of the lack of a deterrent common power in the natural state, the recognition of power means that one party's strength is over that of the other. Recognition of power means recognition of honor. Hobbes denounces Aristotle's use of the soul as a means of completion and generation of human natural bodies. He believes that maintaining survival is the most important goal. Therefore, in the process of life, the vain glory of others is the only goal pursued. Although the initial reason may be that there are some vanities, a systematic analysis of human power and passion causes Hobbes to conclude that differences in human passions will inevitably lead to a general diffidence in mankind, and mutual fear one of another. Vanity underscores the insurmountable conflict between human nature in terms of natural equality and overcoming others.

There is another intensifying conflict in Hobbes's theory. The desire for the same goal will trigger a struggle in the natural endowment equality population. No matter how much confidence you have in your own strength, you cannot imagine that nature will make you surpass others, for the ability to kill people is equal.

Hobbes explicitly pointed out in the «On Citizens» that natural equality is only a part of the cause of fear among people. It must combine the will of mutual harm to arrive at the conclusion that the natural state is a state of war.

In the «On Citizens» lists three causes of mutual harm – differences in intelligence, vanity, and the desire of many people for the same thing.

From this we come to the conclusion that homicide is inevitable in the estate of nature, the presumption of the estate of nature – equality refers to the equality of killing and death.

The discovery of natural law, the control of homicide

In Hobbes's view, the universal existence of private judgment power is always a sign of the natural state. In Hobbes's view, unless there is an arbitrator who has the right to public judgment, eliminate disputes between people, people can avoid being trapped in one another's hostility. The natural law concerning public arbitration is undoubtedly a key link in the natural law path of exiting the estate of nature into the political society.

The importance of private judgment to the natural state is manifested in the De Cive. After the establishment of Leviathan, Hobbes still allowed subjects to retain their right to self-preservation. For example, when the sovereign ordered their subjects to mutilate and kill themselves. Hobbes does not believe that the self-preservation rights reserved for his subjects in his theoretical construction will form a revolutionary right like Locke.

Because of the artificially established country, its purpose is for the peace and defense of the whole, and either party has the right to the purpose and therefore has the right to the means. All individuals and collectives who have sovereign rights have the right to judge the means to achieve peace and defense, and also have the right to judge what matters are obstacles and disturbances to peace and defense, and therefore have the right to do anything that he thinks must be done.

As Hobbes said, after the establishment of the country, although individuals still have the inalienable natural right to self-preservation, they no longer have the right to everything, and most of the content of the right to use means and private judgment is the freedom that he can give up when joining the founding contract.

In the estate of nature, we traced back to the beginning. In the latter part of the natural state, people discovered the natural law and thus concluding the contract and placed the power of private judgement under the public judgment of the sovereign's necessary means for the determination of all subjects' peace and security, because private judgement is laissez-faire, it will not be seen by any sound person as a full measure of human endurance.

The most common means of Leviathan's will to exercise sovereignty is to enact laws, therefore, self-preservation as the first priority must be the primary purpose. In the estate of nature existed before the modern political society, there are also murders. Therefore, the homicide has its profound historical and political origins.

Conclusion: Philosophy dimension

The author has discussed the social and political roots of intentional homicide from the estate of nature to political society, and the necessity of criminal law to criminalize homicide. In the end, the author will explain why the intentional homicide should be severely punished from the philosophical level.

Criminal responsibility refers to the negative evaluation given by the state to the criminal acts committed by the perpetrators. It is a subjective disapproval given by government to criminal actor.

There are three kinds of logic structures about "crime-penalty" in China: crime-responsibility, crime-responsibility–punishment, responsibility-crime punishment.

In the first logical structure, it must be recognized that crime is the premise of responsibility and responsibility is the consequence of crime. At the same time, it should be also recognized that criminal punishment and non-penalty punishment are content of criminal responsibility. In this theory, theory of crime and criminal responsibility are in the same important position, and penalty is the lower content of criminal responsibility. In this way, it is not the crime adapts to the penalty but the culpability. However, the adaptability of guilt and accusation is the basic content of criminal responsibility, and it is not the basic principle of criminal law. It does not permeate the criminal law all the time.

The logic structure of crime-responsibility-penalty regards responsibility as the intermediary bridge between crime and punishment, and criminal responsibility plays a regulatory role in the relationship crime and punishment. Crime is the basic content of criminal liability, and the establishment of penalty must be judged on the basis of the size of criminal responsibility, there is no penalty without criminal responsibility. However, with the development of the positivism school and the introduction of the concept of "personal danger", this structure gradually caused a situation that the court conducts different penalties on the same crime.

Responsibility-crime-punishment, this logical structure takes criminal responsibility as the basis of theory of crime and punishment. Criminal responsibility, as a reflection of the ruling class's concept of crime and punishment, is established by the ruling class. It carries out actions that endanger the society and violates the negative evaluation of criminal law. When an offender commits an act that harms the society, the state agency should not only judge whether the behavior is an offense, but also need to judge the penalty it should impose. As Chinese scholar Zhang Zhihui said: although the theory of criminal responsibility can be compared with the theory of crime and the theory of penalty, but in terms of value function, it has a basic theoretical significance. The basic principles of criminal law revealed by the theory of criminal responsibility is that its specific content should be enriched by the theory of crime and the theory of punishment, Therefore, in terms of legal system, the theory of responsibility can't be used as a precursor of criminal consequences and penalties to insert the part between the theory of crime and the theory of punishment, but it should be taken as the basic theory of criminal law before criminal theory and as the basic principle of criminal law.

We have already established the basic position of criminal responsibility, the principle of adaptation of crimes and punishments must not only reflect the purpose of the criminal law of punishment, but also reflect the purpose of prevention. To prevent the separation of crimes and penalties, the criminal responsibility must be in the upper concept and cover all the objective dualism. Therefore, the author will discuss why the responsibility for homicide is so heavy.

Moral retribution

Morality retribution is advocated by Kant. This doctrine is also called isometric theory. Kant regards punishment as a right of revenge. The exercise of this right should be impartial. This kind of justice is the pursuit of the same external identity between crime and punishment as much as possible. Kant pointed out:

What is the yardstick of public justice as a punishment for its principles and standards? This can only be an equal right. According to this principle, the pointer will not be biased toward the other side in the fair world. In other words, anyone who commits evil on others is committing evil on himself. Therefore, it is also possible to say: If you intend to marry another person , then you also marry yourself; if you steal someone else's things, then you cast your own things; if you want to fight someone, then you hit yourself; if you kill others, then you kill yourself. This is the right to revenge. It is the sole principle that governs the public court. According to this principle, it can be clearly decided that both the quality and quantity of justice will be fair.

Therefore, on behalf of Kant's moral retribution theory, intentional homicide will inevitably come to its death, which also explains why intentional homicide will be punished with severe punishment.

Legal retribution

Legal retribution theory also known as the equivalent, which pays attention to the intrinsic identity between penalty and crime. Hegel believes that, in terms of the nature of punishment, it is a kind of retribution. However, the retribution as punishment and the punishment as retribution are different:

The retribution as punishment is the revenge of the homomorphism of the primitive society. This kind of retribution, from the content, it is just, but formally speaking, it is an act of subjective will. The

subjective will reflects its infinity in every violation. So whether it is in line with justice is, in general, accidental, and for others it is nothing more than a special will. Revenge is a new violation because it is an affirmative act of special will. As this kind of contradiction, it is trapped in an infinite process, passed down from generation to generation, and as a punishment for retribution, it embodies the justice of punishment. This kind of retribution is the equivalence of traits with different phenomena and different external reality, that is, the equivalence of values. Equivalent to this rule, it brings a major problem to the concept of retribution; the rule of punishment in terms of quality and quantity is a matter of justice, and it is true that it is behind the things that are physical in nature. The concept of retribution given penalty is the inevitable link between the above-mentioned criminal punishment and punishment, that is, crime, as an indifferent will of freedom, of course, contains self-denial in itself, and this kind of negation is manifested as punishment.

Hegel's legal responsibility theory excludes the difference in the external traits of retribution and pursues the inherent equivalence. In the above, we have argued that the murderous behavior has a very strong social harm. Therefore, the penalties for homicide must be the same, which means the punishment must be heavy.

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ҚАЗАҚСТАН РЕСПУБЛИКАСЫНДАҒЫ АУЫЛ ШАРУАШЫЛЫҒЫ МАҚСАТЫНА АРНАЛҒАН ЖЕРЛЕРДІҢ ҚҰҚЫҚТЫҚ МӘСЕЛЕЛЕРІ

Бұл мақалада Қазақстан Республикасындағы ауыл шаруашылығы мақсатына арналған жерлердің құқықтық мәселелері қарастырылған. Қазіргі уақытта өзекті мәселе жер қатынастарын өзгертудегі басты мақсатқа қол жеткізу және сайып келгенде, ауылшаруашылық экономикасын реформалау болып табылады – бұл бірінші кезекте кооперативтерді ұйымдастыру; екіншіден, мемлекеттің қатысуынсыз акционерлік қоғамдар құру. Ауыл шаруашылығында жерге меншіктің әртүрлі нысандарын пайдаланудың орындылығы туралы мәселе ауыл шаруашылық реформаларының жүргізілуінде болып тұр. Жер қатынастары заңнамасын жетілдіру процесі жүруде, ауыл шаруашылық жерлерін пайдалану тиімділігін арттыру жолдары мен әдістерін ғылыми іздестіру жалғасуда. Өкінішке орай, 2021 жылы жер заңнамасының жекелеген нормаларын қолдануға мораторий аяқталады, Қазақстан Республикасының Жер кодексінің кейбір ережелеріне өзгертулер мен толықтырулар қажет. Сол себепті Қазақстан Республикасының қолданыстағы жер заңнамасын зерделеп, оның кемшіліктерін, қайшылықтары мен олқылықтарын анықтау қажет етеді.

Зерттеудің ғылыми жаңалығы таңдалған тақырыппен, дамуға жүйелі көзқараспен, Қазақстан Республикасының жер реформасы жағдайындағы ауылшаруашылығындағы жер қатынастарын құқықтық реттеу мәселелеріне жан-жақты талдау жасаумен анықталған. Әр түрлі көзқарастарды сыни тұрғыдан талдау негізінде мақала зерттелетін мәселелердің теориялық және тәжірибелік мәселелері туралы өз көзқарасын ұсынды және дәлелдеді.

Түйін сөздер: шаруашылық мақсатына арналған жерлер, ҚР-дың Жер кодексі, жер учаскесі, жайылымдар, ауыл шаруашылық өндірісі, жер пайдаланушылар.

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Legal problems of agricultural land in the Republic of Kazakhstan

This article discusses the legal problems of agricultural land in the Republic of Kazakhstan. At present, the urgent issue remains to achieve the main goal of transforming land relations, and, ultimately, reforming the agricultural economy – this is, firstly, the organization of cooperatives; secondly, joint-stock enterprises without state participation. The question of the appropriateness of using various forms of land ownership in agriculture underlies the ongoing agricultural reforms. Currently, the process of improving the legislation of land relations is ongoing, the scientific search for ways and methods to increase the efficiency of agricultural land use is ongoing. Unfortunately, in 2021 the moratorium on the application of certain norms of land legislation ends, and some rules, changes and amendments to the Land Code of the Republic of Kazakhstan are needed. Therefore, it is necessary to study the current land legislation of the Republic of Kazakhstan and identify its shortcomings, contradictions and gaps.

The scientific novelty of the study is determined by the chosen topic, a systematic approach to development, a comprehensive analysis of the problems of legal regulation of land relations in agriculture in the context of land reform of the Republic of Kazakhstan. Based on a critical analysis of various views, the article offers and substantiates its vision of theoretical and practical issues of the studied problems.

Key words: agricultural land, Land Code of the Republic of Kazakhstan, land, pastures, agricultural production, land users.

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Правовые проблемы земли сельскохозяйственного назначения в Республике Казахстан

В данной статье рассматриваются правовые проблемы земли сельскохозяйственного назначения в Республике Казахстан. В настоящее время особо актуальным является вопрос земельных отношений и, особенно проблемы реформирования сельскохозяйственной экономики, а именно, касающихся, в первую очередь, организации кооперативов и создания акционерных обществ без участия государства. Вопрос целесообразности использования в сельском хозяйстве различных форм земельной собственности лежит в основе проводимых аграрных реформ. В настоящее время идет процесс совершенствования законодательства земельных отношений, продолжается научный поиск путей и методов повышения эффективности использования сельскохозяйственных земель. К сожалению, в 2021 году заканчивается мораторий на применение отдельных норм земельного законодательства, и необходимы некоторые нормы, изменения и дополнения в Земельный кодекс Республики Казахстан. Поэтому важно исследовать действующее земельное законодательство Республики Казахстан и выявить его недостатки, противоречия и пробелы.

Научная новизна исследования определена выбранной темой, системным подходом к развитию, всесторонним анализом вопросов правового регулирования земельных отношений в сельском хозяйстве в условиях земельной реформы Республики Казахстан. На основе анализа различных точек зрения авторы представили и доказали свою точку зрения о теоретических и практических проблемах исследуемых вопросов.

Ключевые слова: земли сельскохозяйственного назначения, Земельный кодекс РК, земельный участок, пастбища, сельскохозяйственное производства, землепользователи.

Кіріспе

2016 жылғы 15 маусымда Мәжіліс депутаттары «Жер кодексінің кейбір нормаларын тоқтата тұру туралы» заң жобасын екі оқылымда мақұлдады. Мұның себебі Қазақстан Президентінің жарлығы болды. Халық ереуілге шықты. ҚР-дағы Жер кодексіне өзгертулер мен толықтырулар – «Қазақстан Республикасының Жер кодексіне өзгерістер мен толықтырулар енгізу туралы» 2015 жылғы 2 қарашадағы № 389-V ҚР-дың Заңы болды (ҚР Жер кодексіне өзгерістер мен толықтырулар енгізу туралы Заңы, 2015). Бастапқы өзгертулер жер учаскелерін ҚР-дың азаматтарына (ауыл шаруашылық жерлерін жалға беру және кейіннен сатып алу мүмкіндігімен) және шетелдік азаматтарға (меншік құқығында сатып алу мүмкіндігімен) жалға беруге бағытталған.

ҚР-дың қазіргі Жер кодексінің 24-бабына сәйкес, ауыл шаруашылығы мақсатына арналған жер жеке меншікте, сондай-ақ жер пайдалану құқығында болуы мүмкін. Жер пайдалану құқығы тұрақты немесе уақытша иеліктен шығарылуы немесе иеліктен шығарылуы, ақылы немесе ақысыз негізде сатып алуға болады. Жер пайдалану құқығына меншік құқығы байланысты нормалар қолданылады, себебі Жер кодексінде меншік құқығының сипатына қайшы келмейді (Жер кодексі, 2003).

ҚР-дың қазіргі Жер кодексінің 24-бабына 1-тармақшасында шетелдіктер, азаматтығы жоқ адамдар, шетелдік заңды тұлғалар, сондай-ақ жарғылық капиталындағы шетелдіктердің, азаматтығы жоқ адамдардың, шетелдік заңды тұлғалардың үлесі елу пайыздан асатын заңды тұлғалар ауыл шаруашылығы мақсатындағы жер учаскелерін жиырма бес жылға дейінгі мерзімге жалдау шарттарымен уақытша жер пайдалану құқығымен ғана иелене алады (Жер кодексі, 2003).

Шетелдіктердің, азаматтығы жоқ адамдардың және шетелдік заңды тұлғалардың (мемлекеттік емес) жеке меншігіне жер учаскелері ауыл шаруашылығы тауарларын өндіруге, орман өсіруге, игеруге немесе өнеркәсіптік және өнеркәсіптік емес, соның ішінде тұрғын үйлерге, ғимараттарға ғимараттар, құрылыстар) және олардың кешендері, ғимараттарды (құрылыстарды, құрылыстарды) тағайындалғанға сәйкес ұстауға арналған жер учаскелерін қоса алғанда, сондай-ақ коммерциялық шаруашылығы мен орман өсіруге арналған жерді қоспағанда берілген (берілген) жер учаскелері болуы мүмкін. Шетелдіктердің, азаматтығы жоқ адамдардың және шетелдік заңды тұлғалардың жеке меншігіне Қазақстан Республикасының шекара аймағында және шекара белдеуінде орналасқан жер учаскелерін беруге жол берілмейді (Жер кодексі, 2003).

Ауыл шаруашылық мақсатына арналған жерлерді жеке меншікке алуға шетелдіктерге тыйым салуды ғана емес, сонымен бірге шетелдіктердің бұл тыйымды айналып өту мүмкіндігін болдырмайтын мехнизмдерін де қарастырған.

ҚР-дың аймақтарындағы жер нарығы екі жолмен қалыптасқан: бастапқы жер нарығында жерді жеке меншікке стандартты құн негізінде мемлекет меншігіне сатады. Жердің кадастрлық (бағалау) құны – нормативтік баға болып табылады. Кадастрлық құнды есептеуде жеке меншік ұсыну (сату) және жер учаскесіне жалдау құқығын сату үшін алым, ал шаруа немесе фермер қожалықтары үшін жер салығының сомасын төлейді. Қазақстандықтар ауыл шаруашылық жерлерін жеке меншікке, біріншіден, 10 жылға дейінгі мерзіммен жалға алынған жерді жеңілдетілген бағамен (50%) сатып ала алады, екіншіден, аукцион арқылы ала алады. Сондай-ақ, қолданылып отырған жер бұрын жалға берілген жер учаскелерін жеке меншікке пайдаланушыларда 50% жеңілдікпен сатып алу құқығы беріледі, сонымен қатар осы соманы он жылға дейінгі мерзімге бөліп төлеуге болады.

Теориялық және әдіснамалық негіздері

Ғылыми мақаланың теориялық маңыздылығы, оның нәтижелерінің жер құқықтың теориялық тұжырымдамаларына жаңа ғылыми дәлелдер мен нәтижелермен толықтыратынымен түсіндіріледі.

Осы мақаланы жазу барысында жалпы диалектикалық, танымдық, логикалық, салыстырмалы құқықтық, формальді-заңи кешенді зерттеу, құқықтық модельдеу, жүйелік және басқа да әдістер қолданылды.

Мақаланың зерттелу деңгейі

Мақаланы жазу барысында жердің құқықтық-теориялық мәселелерін – А.Е. Бектұрғанов, Л.Қ. Еркінбаева, А.Х. Хаджиев, Г.А. Стамкулова, Ю.Г. Жариков, Г.Е. Быстров, Б.Б. Бегалиев, А.З. Каскеева, К. Келлей, Б. Меулен және тағы да басқа заңгер ғалымдардың жер құқық қатынастарының жалпы негіздерін зерттеуге арналған құнды ғылыми еңбектері қолданылды.

Негізгі бөлім

Жақында қабылданған «ҚР-дың Жер кодексіне өзгерістер мен толықтырулар енгізу туралы» ҚР-дың 2015 жылғы 2 қарашадағы № 389-V Заңына көп сын пікірлер туындады. (Қазақстан Республикасының Жер кодексіне өзгерістер мен толықтырулар енгізу туралы. 2015).

Бұл өзгерістер 100 нақты қадамды ұлт жоспары бес институционалды реформаны іске асыру кезінде ауыл шаруашылық жерлерін нысаналы пайдалану мақсатында рыногқа шығаруға қатысты, жер учаскесінің нысаналы мақсатын өзгерту тәртібін жеңілдетуге бағытталған болатын.

Жер кодексіне өзгерістер мен толықтырулардың басты мақсаты – ауыл шаруашылығы мақсатына арналған жерлерін жеке меншікке беруді ынталандырудың жаңа механизмдерін енгізу болатын, соның ішінде оларды жекешелендіру және олардың ұтымды және тиімді пайдаланылуын қамту үшін ұйымдастырушылық-құқықтық шаралар жиынтығы арқылы іске асыру (Стамкулова).

Қоғамның әрекетіне байланысты Мемлекет басшысы «2016 жылғы 30 маусымдағы «Қазақстан Республикасы Жер кодексінің кейбір нормаларының қолданылуын тоқтата тұру туралы және Қазақстан Республикасының 2015 жылғы 2 қарашадан бастап қолданысқа енгізу туралы» заңына қол қойды. Қазақстан Республикасының Жер кодексіне өзгерістер мен толықтырулар енгізу туралы» заңда 2021 жылға дейін жер заңнамасының кейбір нормаларын пайдалануға мораторий ұзартылған болатын (Қазақстан Республикасы Жер кодексінің кейбір нормаларының қолданылуын тоқтата тұру туралы заң, 2016).

Өкініштісі, 2021 жылы Жер кодексінің жекелеген нормаларын пайдалануға мораторий аяқталады, сол себепті ҚР Жер кодексінің кейбір нормаларына өзгертулер мен толықтырулар қажет етіп отыр. Осыған орай ҚР-дың қолданыстағы Жер кодесінің нормаларын қайтадан зерттеп, оның кемшіліктерін, қайшылықтары мен олқылықтарын анықтау керек болып тұр.

Қазіргі таңда мал жаю мәселесі өзекті болғандықтан, сонымен қатар жайылым жерлерді тиімді пайдалану мақсатында Парламент депутаттары жайылымдар мәселесін зерттей келе, «Жайылымдар туралы» Қазақстан Республикасы Заңының жобасын әзірледі. Заңға Мемлекет басшысы қол қойып, 2017 жылғы 20 ақпанда күшіне енді (Жайылымдар туралы заң, 2017). Осы уақытқа дейін еліміздің тарихында бұндай заң болған емес. Оның бірегейлігі – заң нормалары мал шаруашылығын жүргізуді жандандыруға жағдай жасайды.

«Жайылымдар туралы» Қазақстан Республикасы заңы қабылданғанға дейін мал жаю және жайылым жерлерді қолдану мен пайдалану заңмен реттелмеген болатын, жайылым жерлерінің жағдайы төмендеп, жайылым экожүйелері нашарлаған. Осы заң нормаларында уәкілетті орган мен жергілікті атқарушы органдардың жайылым жерлерді ұтымды және тиімді пайдалану мәселелері бойынша жүйелі жұмыстар қарастырылған (Жайылымдар туралы заң, 2017).

Бұл заңның басты жаңалығы – еліміздің әр ауылдық округтері жерінің климаттық ерекшеліктері мен аумақтарда мал жаюдың керекті дәстүрлерін негізге ала отырып, жайылымдарды басқару мен пайдаланудың өзіндік жоспарын әзірлейді. Одан әрі аудандық мәслихатта бекітіліп, әділет органдарында тіркелу керек. Тіркеу нөмірін берген сәттен бастап, бұл құжат заңды актіге ие болады. Осыған орай, әрбір ауылдық округ өзіне тиесілі актісінде жайылымдық жерлерді пайдалануды көздейтін жоспармен жұмыс істеуі керек. Сонымен қатар, заңға орай әр бір мүдделі жер пайдаланушылар жоспарды жасауға, қатысуға және жайылымдарды беру мен пайдалану үшін жергілікті қоғамдастықтың жиналыстары мен жиналыстарына қатысуға құқылы болады. Олар жоғары тұрған мемлекеттік органдарға не болмаса Үкіметке, министрлікке жүгінудің қажеті болмайды. Барлығы жергілікті деңгейде шешілу керек, «Жайылымдар туралы» ҚР Заңы осындай мүмкіндік береді (Дуйсебаев).

«Жайылымдар туралы» заңның күшіне енгеніне 2 жыл уақыт өтті, дегенімен жайылым жерлерінің жетіспеушілігі мәселесі әлі күнге дейін шешілмеген түйін болып тұр. Бұл өз кезегінде ауыл тұрғындарының көптеген шағымдарын тудырады. Біздің ойымызша, құзырлы органдардың ауылдықтардың алдындағы жайылым жерлеріне деген жауапкершілігін арттыра отырып, заңда жүктелген міндеттерді уақтылы орындауы керек деп ойлаймыз.

Сонымен қатар, ауыл шаруашылық ұйымдарының, шаруа (фермер) қожалықтарының, ҚР азаматтары мен шетелдіктердің жер участігіне деген құқығын неғұрлым толық қамтамасыз ету кезінде жерге мәмілелер жасауда мақсатсыз және ұтымсыз пайдалану, басқа санаттарға ауыстыру мүмкіндігін болдырмайтын жағдайлар жасау қажет. Ауыл шаруашылық жерлері айналымының реттелмеуі ауыл шаруашылық жерлерін пайдалануды неғұрлым егжей-тегжей жазылған арнайы заңның болуы және жер айналымын мемлекеттік реттеу туралы арнайы құқықтық актіні қабылдауды қажет етеді.

Қазіргі уақытта жер қатынастарын өзгертудегі басты мақсатқа қол жеткізу, сайып келгенде, ауыл шаруашылық экономикасын реформалау – бұл бірінші кезекте кооперативтерді ұйымдастыру болып табылады; екіншіден, мемлекеттің қатысуынсыз акционерлік қоғамдар ашу.

Жер реформасының құқықтық аспектілерін зерттеуде, Б.Б. Бегалиев былай деген: «Бұл күрделі әлеуметтік-экономикалық құбылыс және оны іске асыруда, ең бірінші, елдің экономикасының дамуы аграрлық секторымен бірге дамиды, өйткені ауыл шаруашылық өнімдерін өндіруде жер өндірістің негізгі құралы және сонымен қатар жетекші рөл атқарады. Жер – ауыл шаруашылық өндірісінің негізгі факторы. Ауыл шаруашылығында ең бірінші жердің құнарлылығы, яғни өсімдіктерге қажетті пайдалы қоректік заттардың жинақталуы және берілуі жатады. Аграрлық секторда жер екіжақты функцияны орындайды, біріншіден, өндірістің негізгі құралдары, екіншіден, өндіргіш күштерді орналастыратын орын. Жер реформасы әрдайым экономиканың аграрлық секторында экономикалық қайта құру мақсатын көздейді, бірақ сонымен бірге аграрлық реформаны ауылдық жерлерде жер реформасынсыз жүзеге асыру мүмкін емес» (Бегалиев, 2003).

Л.К. Еркинбаева мен А.Т. Озенбаеваның еңбектерінде, ауыл шаруашылық жерлер «айрықша» санаттағы жер болып табылатындығын атап кеткен. Бұл жерлердің құқықтық режимі «айрықша нысаны мен субъект құрамына» байланысты бірқатар маңызды ерекшеліктерге ие деген. Жер учаскелерінің меншік иелері мен жерді пайдаланушылардың жекелеген құқықтар мен міндеттердің берілген және оны пайдалану мен қорғау тәртібінен, сондай-ақ осы жерлердің аумағын аймақтарға бөлу шарттары мен талаптарынан туындайды деп атап кеткен (Еркинбаева & Озенбаева А.Т., 2019).

Ауыл шаруашылық алқаптарының негізгі анықтамасы ҚР-дың Жер кодексінің 97-бабына сәйкес «ауыл шаруашылығы мақсаттары үшін берілген немесе осы мақсаттарға арналған жерлер ауыл шаруашылық мақсатындағы жерлер деп танылады» (Жер Кодексі, 2003).

Айта кететін мәселе, орман және су ресурстары, қорғаныс, ерекше қорғалатын табиғи аумақтардың жер учаскелері ауыл шаруашылық мақсаттарына арналған жерлері ретінде шөп шабу, мал жаю мақсатында пайдаланылуға бола-

ды. Бұндай пайдалану уақытша негізде қолдану болады.

Ғалымдардың арасында ауыл шаруашылығы жерлерін уақытша пайдаланылатын басқа санаттардағы барлық жер учаскелерін пайдалануға беру қажеттілігі туралы айтқан ойлары бар.

Атап айтқанда, Ю.Г. Жариков: «Ауыл шаруашылық мақсатындағы жерлерді пайдалану туралы заңнама тек бір ғана санаттағы ауыл шаруашылық жерлерін ғана емес, сонымен қатар ауыл шаруашылық өндірісі үшін пайдаланылатын барлық басқа жерлерді, қай қорда (санаттарда) орналасқан жерлер жатады» деп жазады (Жариков, 1969). А.Е. Бектұрғанов, «ауыл шаруашылық мақсатындағы жерлерге колхоздарға, совхоздарға, басқа да ауыл шаруашылық кәсіпорындарына жеке жер массасы түрінде тұрақты пайдалануға берілген жер – ауыл шаруашылығы алқаптары және өзге жер санаттарының бөлігі ретінде оған ауыл шаруашылығы мақсаттарына арналған жер тұрақты пайдалануға берілген жер кірген. Оларға елді мекендердегі орман және су қорлары жердің бөлігі болып табылады, бірақ олардың бір уақытта ауыл шаруашылық қажеттіліктеріне берілген ауыл шаруашылық жерлеріне тиесілі (Бектұрғанов, 1986). А.Х. Хаджиевтің пікірінше, мұндай тәсіл қолданылмайды, басқа санаттағы жерлердің ауыл шаруашылық мақсатына уақытша ауысуы фактісі оларды ауыл шаруашылық мақсатындағы жерлердің құрамы деуге болмайды деген (Хаджиев, 2005).

Біздің ойымызша, әр алуан санаттағы жерлерді ауыл шаруашылық мақсаттарына пайдалануға беру, оларды ауыл шаруашылық мақсатындағы жерлердің құрамына енгізуге болады, осы жерлерді пайдалану және қорғау мерзімдерін ұзартуға негіз болмайды. Мысалы, орман қоры жерлерін пайдалану тәртібі мен шарттары орман кодексімен егжей-тегжейлі реттелген. Ауыл шаруашылық жерлерін арнайы қорғау нормалары оларға қолданылмайды. Сондықтан да ауыл шаруашылығы мақсаттары үшін уақытша пайдаланылатын ауыл шаруашылық емес санаттардағы жерлерді ауыл шаруашылық мақсатындағы жерлердің құрамына енгізуге жол берілмейді.

Қазақстан Республикасының Жер кодексіне 05.04.2018 ж., 05.04.2018 ж., ҚР Жер кодексіне жер қатынастарын одан әрі ретке келтіруде, жер пайдаланушылардың ауыл шаруашылық жерлерін жалға беру институтын жетілдіруде, жер учаскелеріне құқық беру рәсімдерінің ашықтығын қамтуда шаруалар мен фермерлер, шаруа қожалықтары жерді ұтымды пайдалану мониторингінің тиімділігін арттыруға бағытталған бірнеше аса маңызды өзгерістер мен толықтырулар енгізілген болатын.

Соның ішінде, Қазақстан Республикасының Жер кодексіне енгізілген бірқатар өзгерістерге сәйкес, Мемлекеттік шекарасының шекаралық белдеуінде орналасқан жерлерді жеке меншікке және уақытша пайдалануға беруге жол берілмейтіндігі заңдық нормамен бекітілген. Сонымен қатар ҚР Мемлекеттік шекарасының шекаралық аймағында орналасқан жер учаскелері шетелдіктерге, азаматтығы жоқ адамдарға, шетелдіктерге не болмаса азаматтығы жоқ адамдарға тұрмысқа шыққан Қазақстан Республикасының азаматтарына, сондай-ақ шетелдік заңды және заңды тұлғаларға пайдалануға немесе жеке меншікке беруге жол берілмейді. Неке (ерлі-зайыптылық) Қазақстан Республикасының азаматтарымен шетелдіктермен немесе азаматтығы жоқ адамдармен жасасқан кезде, Қазақстан Республикасының Мемлекеттік шекарасының шекаралық аймағында және шекара белдеуінде орналасқан жер учаскелеріне меншік құқығы қайта тіркелуге немесе иеліктен шығарылуға жатады (Жер кодексі, 2003).

Ауыл шаруашылық мақсатына арналған жерлерді жалға беру институтын жетілдіруде ауыл шаруашылық жерлерін конкурстық негізде беру тәртібін егжей-тегжейлі сипаттайтын нормалар енгізілді. Сондай-ақ, ҚР-дың азаматы шаруа (фермер) қожалығын жүргізу үшін және ауыл шаруашылық өндірісін жүргізуде Қазақстан Республикасының мемлекеттік емес заңды тұлғасы ұстай алатын ауыл шаруашылығы мақсатындағы жер учаскелерінің шекті (максималды) мөлшерін анықтау әдістемесі енгізілді.

Сонымен, шаруа (фермер) қожалығын жүргізуге арналған жерлер, ауыл шаруашылық өндірісіне пайдаланылмаған жағдайда, осы факті анықталған күннен бастап қатарынан 2 жыл бойы мақсатына сай пайдаланылмаса, мұндай жер учаскесі мәжбүрлі түрде алынады.

Сонымен қатар, жергілікті атқарушы органның қасындағы мәслихаттардың депутаттарымен, қоғамдық кеңестердің, ауыл шаруашылығы саласындағы үкіметтік емес ұйымдардың, жергілікті өзін-өзі басқару органдарының, Қазақстан Республикасы Ұлттық кәсіпкерлер палатасының өкілдері алқалы орган болып табылады, олар жер комиссиясының құрамында өтініштерді қарау және жер учаскелеріне құқық беру туралы пікірлерді дайындай отырып, (шаруа немесе

фермер қожалығына уақытша ақылы жер пайдалану (жалдау) құқығын беру конкурсының жеңімпазын анықтау туралы) жер учаскелерінің нысаналы мақсатын өзгерту және су қорынан жерді басқа санаттағы жерлерге ауыстыру туралы экономика, ауыл шаруашылық өндірісі) мәселесін қарастырады.

Сонымен қатар, үкіметтік емес ұйымдар өкілдерінің саны жер комиссиясы мүшелерінің жалпы санының кем дегенде 50%-ын құрауы керек. Жер комиссиясының ережесін, сондай-ақ оның құрамын жергілікті өкілді орган (мәслихат) бекітеді.

Жер учаскелеріне құқық беру рәсімдерінің ашықтығына әсер ететін маңызды жаңалықтың бірі жер комиссиясының отырысын аудио дыбысты, видео бейнені қолдана отырып, оған мүдделі тұлғалар қол жеткізе отырып, міндетті түрде белгілеу болады. Сондай-ақ, жоғарыда аталған заңдардың нормаларында жер учаскелеріне құқықтарды тіркеу бойынша құжаттаманы ресімдеу тәртібі мен мерзімдері, сонымен қатар жауапты уәкілетті органдар нақтыланады.

Жергілікті атқарушы органдар жер учаскесін алған тұлғалардың тізімін, жер учаскесінің мақсаты, ауданы, орналасқан жері, құқық түрі, жалдау мерзімі көрсетілген, көпшілік қол жетімді жерлерде арнайы ақпараттық стендтерде, сонымен қатар облыстың, республикалық маңызы бар қаланың, астананың, ауданның, облыстық маңызы бар тиісті уәкілетті органның интернет-ресурсында және тиісті әкімшілік-аумақтық бірліктің аумағында таратылатын мерзімді басылымдарда ай сайын жариялау арқылы кемінде тоқсан сайын орналастыруға міндетті.

2021 жылғы қаңтардан бастап жер учаскесін сату немесе жер учаскесін жалдау құқығына арналған конкурстар (конкурстар, аукциондар) мемлекеттік мүлік тізілімінің веб-порталында электронды түрде өткізілетін болады.

Енді әлемдік тәжірибеге келетін болсақ, ауыл шаруашылығына арналған жерлер мен жер ресурстарын пайдаланудың барлық аспектілері жер иелері үшін де, жалға алушылар үшін де жан-жақты айқындайтын тиісті әр мемлекеттің өзінің заңнамалық актілерімен реттелетіндігін көрсетеді.

Дүниежүзілік экономикалық дамыған шетелдерде ауыл шаруашылық жерлерін пайдалануға қатысты келесі негізгі қағидаттарды ұстанады: басты мәселе жерге меншік нысаны емес, жер иелері мен жалдаушылардың құқықтары мен міндеттері болады. Аталған жағдайда бұл түсініктердің нақты шегін ажырата білу керек:

- жер меншік объектісі ретінде;
- жер шаруашылық объектісі ретінде.

Капиталистік елдердің көпшілігінде жерге жеке меншікке билік ету, пайдалану құқығын жоғалтып түбегейлі өзгерістерге ұшырап жатыр.

Экономикасы дамыған барлық шетелдер ауыл шаруашылық жерлерінің мақсатты пайдаланылуды қатаң бақылауға алған. Өйткені ауыл шаруашылық өндірісіндегі жерді пайдалану мақсатын өзгертуге муниципалитеттің жанындағы арнайы комиссиялардың келісімімен ғана рұқсат етілу керек. Өз кезегінде, осы аталған арнайы комиссиялар ірі жер иеленушілердің қалыптасуына жол бермеу және ірі жер учаскелерінің бір адамға ғана тиесілі болуын шектеу мақсатында жерді сатып алу-сатумен байланысты қызметтерді бақылауға құқылы болып тұр. Осы аталған тармақты негізге алмау өте үлкен айыппұлдар төлеу және жерді мәжбүрлеп алуға дейінгі талаптар қолданады.

Дамыған елдерде пайда табу мақсатында жерді қайта сату, алыпсатарлыққа қарсы арнайы шаралар қолданылады. Мәселен, АҚШ заңдарында ипотекалық банктерге ауыл шаруашылық жерлері өз балансында 3 жылдан астам уақыт ұстауға тыйым салады. Банктер жер участоктарын оңтайлы бағамен сатуға міндетті, бұл ретте сатып алудың басым құқығын жердің бұрынғы иелері пайдаланады (Быстров, 2012).

Батыс елдерінде жердің иесі сирек жер иелерінің 1,5-тен 5%-ға дейінгі аралықта өзгереді. Данияда бір жыл ішінде жер учаскесінің иесі 4%-ға дейін өзгереді, ал АҚШ пен Ирландияда – 3%, Германия мен Бельгияда – 1,5%. Сонымен қатар, сол АҚШ, Канада, Франция, Германияда және т.б. жерді сатып алу-сату мәселелері аталған мәселені үйлестіруші муниципалды комиссияның арнайы рұқсатымен жүзеге асырылуы мүмкін. Тиісінше, жер учаскелерін сату нарығын арнайы нормативтік-құқықтық құжаттар негізделген тиісті мемлекеттік органдар бақылайды. Жерді сатып алу-сату шартын жасау кезінде жер учаскесінің бағасы мен тұтынушылық құнының жеткілікті айырмашылығы шарт жасауға рұқсат беруден бас тартудың негізгі себебі бола алады (Allen, 1999).

Мысалы, Францияның Ауыл шаруашылығы министрлігі жыл сайын әр бөлімде сатылатын жердің орташа бағасын және дақылдың түрін анықтайды. Бұл шкала кеңестік сипатта болады және сатылатын жердің, сондай-ақ даулы жағдайлар туындаған жағдайда құқық қорғау органдарының бағасын анықтайды. Сонымен қатар, француз заңы жердің басшысы қайтыс

болғаннан кейін, мұрагерлердің біреуінде ғана жер бөлінбеуі үшін шаруа қожалығын алуға мүмкіндігі бар деп белгіленген (Weber, 2001).

Енді АҚШ елінің ауыл шаруашылығы мақсатына арналған жер заңнамаларына салыстырмалы талдау жасайық.

Шын мәнінде, АҚШ-та кейбір ауыл шаруашылығы өнімін өсіруді дамыту үшін 3000 гектар жер беріп отырды. Соңғы жиырма жылда 8%-ға шаруашылық жерлері төмендеп кетті, 1990 жылы 987 млн акр болса, бұл сан 2000 жылы 943 млн-ға дейін қысқарды, 2012 жылы 943 млн акрға қысқарған («New Acres of Developed Land in Metropolitan Areas, 1992-1997», 2000).

Жалпы АҚШ-та жер қатынастарын реттейтін нормативтік актілердің өзі федералдық және штаттық (мемлекеттік) актілерден тұрады. Федералдық акті жоғарғы деңгейлі болып табылады, ал штаттық акті ол федералдық актіге негізделіп жұмыс істейді. Яғни, АҚШ-тың 50 штатына тән ауыл шаруашылығы жерлерін реттейтін жеке заңдар бар.

Қоғам мен жеке топтар ауыл шаруашылығы жерлерін сақтау үшін іс әрекетке көшу керек деп шешті. Ұлттық деңгейде Конгресс ауыл шаруашылық мәселелерін шешуде жаңа заң қабылдау керек деп шешіп, «Ауыл шаруашылығы жерлерін қорғау саясаты туралы» Құрама Штаттарының Кодексінің 73-бөлімін 1981 жылы қабылдады. Ол 4201-4209 параграфтан тұрады. Бұл заң барлық штаттарға қолданыста бола алатын, ауыл шаруашылығы өнімін өндіру кезінде туындаған келеңсіз жағдайлардан сақтау үшін кейбір әсерлерді азайту үшін қабылданған болатын (Meulen, 2010).

«Ауыл шаруашылығы жерлерін қорғау саясаты туралы» Құрама Штаттарының Кодекске сәйкес, ауыл шаруашылығы мақсатына арналған жерлер дегеніміз ауыл шаруашылық өнімдерін өндіруге, жем, шөп, мал шаруашылығын және өзге де ауыл шаруашылығы өсімдіктерін өсіруде топырақ эрозиясын жасамай жылудың, тыңайтқыштың, пестицидтердің, жұмыс күшін пайдалана отырып, физикалық және химиялық сәйкестіктің дұрыс болуын айтамыз (U.S. Code «Farmland protection policy Act of 1981», 1981).

Жерге әр түрлі операцияларды іске асыратын көбіне кішігірім фермерлер бар. Осы шағын фермерлер жердің азғантай ғана бөлігімен айналысады. АҚШ-та фермерлікпен айналысу негізгі азық-түліктің қайнар көзі болып тұр. Мысалы, АҚШ-та ауыл шаруашылық өнімінің 69 мыңын ірі фермерлер өндіреді, ал кіші фермерлер 1,5 %-ын өндіреді (Allen & Elliot, 1988).

Фермер жерді иелену және жалға ала отырып, онда ауыл шаруашылығымен айналысатын шаруа фермер – кәсіпкер ретінде танылады.

АҚШ-та XX басынан бастап фермерлердің ауыл шаруашылық кооперативі жұмыс істей бастады. 1926 жылы кооператив туралы заңы қабылданып фермерлік кооперативтерге мемлекет тарапынан қолдау көрсетіп және кеңес берді. Ал бұл кооперативтер ауыл шаруашылық өнімдерді өткізумен, дайындаумен және тасымалдаумен айналысады.

Олар ауыл шаруашылық шикі өнімдерін өткізуге жібереді, көбіне фермерлермен келісіп тауарларды көп көлемде сатып алады, көбіне кооперативтер азықтарды жекелеп өткізуді көздейді. АҚШ фермерлері өткізу кооперативтері ғана емес, олар өнімдер мен қызметтерді жабдықтаумен де айналыса алады. Оның ішіне дәндер, химикаттар, ветеринарлық заттар, жемдер, жем дайындайтын құрылғылар, құралдар мен техникаларды жөндеу, бөлшектерді жеткізу жатады (Rathbone, 1997).

К.Р. Келлидің ойынша, америка кооперативтерінің мақсатына – жөндеу мен өндірудің көлемінің ұлғаюына байланысты ұйымға қатысушылардың кірісінің өсуі, кооперативті қызмет түрлерінің керектісін дамыту, керекті қызмет түрлерін қамтамасыз ету болып табылады (Kelley, 2001)

Ауыл шаруашылығы санатындағы жерлерді қорғау мақсатында көптеген нормативтік құқықтық актілер қабылданған, оның ішінде ең маңызды актінің бірі ол «Ауыл шаруашылығы жерлерін қорғау саясаты туралы» Құрама Штаттарының Кодексінің 73-бөлімін 1981 жылғы заңын жатқызуға болады. Құрама штат тәжірибесінде кездесетін мәселенің бірі ол жермен айналысатын тұлғаның көп бөлігі фермерлер болып отыр. Көп жағдайда азық өнімдерімен қамтамасыз ететін фермерлер болғандықтан, оларға мемлекет тарапынан көптеген жеңілдіктер жасалған (Duncan, 1987).

Фермерлердің шаруашылығы дамыған елдеріндегі ауыл шаруашылығы өндірісінің негізгі нысаны болып табылады. Фермерлік шаруашылықтың иесі, яғни фермердің жеке меншігінде ауыл шаруашылығы мақсатына арналған жерлер бар, бірақ ол аталған жерлерді иелену, пайдалану және билік ету құқықтары шектелген болады. Себебі, оның меншігінде тек қана ауыл шаруашылығы өндірісін іске асыратын топырақтың құнарлы қабаты ғана пайдаланады. Фермердің жер учаскесіндегі жер асты қойнаулары, су, орман, атмосфералық ауа және

басқа да объектілер елдің ұлттық байлығына жатады. Тиісінше, жер иесі бұл игілікті өз шаруашылығына қажет болғанда тек мемлекеттің рұқсатымен және қатаң бақылауымен ғана пайдалануы мүмкін (Kaskeeva, 2013).

Әлемнің барлық елдерінде байқалып отырған, атап айтқанда, жұмыскерлердің басым бөлігі аграрлық өндірістің тікелей иелері, яғни акционерлік және ұжымдық кәсіпорындардың ортақ иеленушілері болып табылатын жалпы үрдіске назар аудару керек. Мұндай үрдіс оны өз бетінше пайдаланатындарға тиесілі жер учаскелерінің артуына алып келеді. Жерді пайдалану мақсаты мен ауыл шаруашылығы өнімдерін өндіру ерекшелігіне жер алқаптарының мөлшері тәуелді, бірақ ауыл шаруашылығы кәсіпорындарының мөлшері мен нысандарына қарамастан, экономикалық және әлеуметтік ерекшеліктерді ескере отырып, ауыл шаруашылығы өндірісін дамытуға ұтымды тәсілдерді, нарықтық қатынастарды дамыту жағдайында ауыл шаруашылығы өнімдерін өндіру тиімділігін арттыруға ықпал етеді.

Қорытынды

Қазіргі таңдағы жаһандану мен интеграциялық процестердің күшеюінде әлемдік жағдайды ескере отырып, мемлекеттің ауыл шаруашылығы өндірісін дамытудағы рөлі, оның ішінде ауыл шаруашылығы өндірушілерді мемлекеттік қолдау бірнеше есеге өсті. Бұндай қолдау кез келген ауыл шаруашылығы өндірісіне аса қажет, өйткені ол бір жағынан шығыны жоғары болады, ал екінші жағынан бұл сала халық үшін маңызды болып табылады. Бірақ біз ауыл шаруашылық өндірісін ынталандыру, оны дамыту үшін негіздемелік жағдайлар жасау, тиімді нормативтік-құқықтық жүйені қалыптастыру туралы айтып отырмыз.

Қазақстанда жер қатынастарын қайта құруды іске асырудың тиімді тетігін құру мақсатында жер реформасын басқару және жүргізу үшін мемлекеттік органдар жүйесі құрылды, өйткені жер және жер қатынастары туралы құқықтық актілер мен нормативтік нұсқаулықтарды әзірлеу қажет болды. Жер қатынастарын дамыту үшін нормативтік-құқықтық жүйені құру Үкімет, оның орталық және жергілікті құрылымдары тарапынан құрылған мемлекеттік басқару субъектілерінің нақты функциялары бар жер ресурстарын басқарудың арнайы жүйесін құруды қажет етеді.

Ең қызу пікірталас ауыл шаруашылық жерлердің айналымын реттеу мәселесіне байланысты болды. Сондай-ақ, ауыл шаруашылық ұйымдарының, шаруа қожалықтарының, азаматтар мен шетелдіктердің жер учаскесіне деген құқығын неғұрлым толық жүзеге асыруын қамтамасыз етуде осы жерлермен мәмілелер жасау үшін ысыраптау, мақсатсыз пайдалану, қайта бөлу, басқа санаттарға ауыстыру мүмкіндігін болдырмайтын жағдайлар жасау. Ауыл шаруашылық жерлері айналымының реттелмеуі ауыл шаруашылық жерлерін пайдалануды неғұрлым егжей-тегжей зерттеген арнайы заңды және жер айналымын шектеу ерекшеліктерін мемлекеттік реттеу туралы арнайы нормативтік құқықтық актіні жариялауды қажет етеді.

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3-бөлім

ТАРИХ, ТЕРМИНОЛОГИЯ ЖӘНЕ МЕТОДОЛОГИЯНЫҢ КЕЙБІР МӘСЕЛЕЛЕРІ

Section 3

SOME ISSUES OF HISTORY, TERMINOLOGY AND METODOLOGY

Раздел 3

НЕКОТОРЫЕ ВОПРОСЫ ИСТОРИИ, ТЕРМИНОЛОГИИ И МЕТОДОЛОГИИ

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GENERAL DWIGHT EISENHOWER AND THE SOVIET ALLIANCE DURING THE SECOND WORLD WAR

When Dwight David Eisenhower ran for President in 1952, he, along with his Democratic competitor Adlai Stevenson, was the first presidential candidate to make campaign commercials for television. One of the most notable ones depicted Eisenhower standing next to Soviet Marshal Georgi Zhukov in Berlin in 1945, when the narrator assured viewers: "Ike knows how to handle the Russians," and that he would effectively lead the American government in the Cold War. Interestingly, nearly all of Eisenhower's initial experiences with Russian military and government leaders came during a time when the United States and Soviet Russia were allies, during the Second World War. This essay will examine Ike's complicated views towards the Soviet Union before, during, and after the Second World War, and how they translated into American military and occupation policy. Ike moved from the traditional suspicion of the Soviet government by most American army officers to seeing the Soviet army an essential ally in the attempt to destroy Nazism. After the end of the war, Ike frequently expressed hope the Soviets would be a valuable partner in securing global peace, before finally moving towards Cold War hostility towards the regime in Moscow, although later than many other American military, diplomatic, and political leaders.

Key words: Eizenhauer, Soviet Union, World War II, Cold War, "Berlin question", Nazis.

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Екінші дүниежүзілік соғыстағы Генерал Дуайт Эйзенхауер және Кеңестік альянс

Дуайт Дэвид Эйзенхауэр 1952 жылы президенттікке үміткер болған кезде, ол өзінің демократиялық қарсыласы Адлай Стивенсонмен бірге теледидар роликтерін жасаған алғашқы президенттікке үміткер болды. Соның ішіндегі ең маңыздыларының бірі – 1945 жылы Берлиндегі Кеңес маршалы Георгий Жуковтың жанында тұрған Эйзенхауэр, диктор көрерменді сендірген кезде: «Ике орыстармен қалай күресу керектігін біледі» және ол «қырғи қабақ соғыста» Америка үкіметін тиімді басқарады. Бір қызығы, Эйзенхауэрдің ресейлік әскери және үкімет басшыларымен жасаған алғашқы тәжірибесі, Екінші дүниежүзілік соғыс кезінде АҚШ пен Кеңестік Ресей одақтас болған кезде пайда болды. Бұл эссе Екінші дүниежүзілік соғыстың алдындағы, одан кейінгі және одан кейінгі жылдардағы Кеңес Одағына деген күрделі көзқарастарды, сондай-ақ оларды американдық әскери және басқыншылық саясатқа аударады. Американдық армия офицерлерінің көпшілігі Совет үкіметінің дәстүрлі күдіктерінен Кеңес әскерінің нацизмді жою әрекеті кезінде маңызды одақтасқа айналды дегенге көшті. Соғыс аяқталғаннан кейін Ике Кеңес Одағының АҚШ-тың көптеген әскери, дипломатиялық және саяси жетекшілеріне қарағанда, Мәскеудегі режимге қарсы қырғи қабақ соғыстың дұшпандығына қарсы өтуіне дейін жаһандық бейбітшілікті орнатуда құнды серіктес болады деген үмітін жиі білдірді.

Түйін сөздер: Эйзенхауэр, Кеңес Одағы, Екінші дүниежүзілік соғыс, қырғи қабақ соғыс, «Берлин мәселесі», нацистер.

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Генерал Дуайт Эйзенхауер и советский альянс во время Второй мировой войны

Когда Дуайт Дэвид Эйзенхауэр баллотировался на пост президента в 1952 году. Он и его конкурент-демократ Адлай Стивенсон были первыми кандидатами в президенты, и сделали рекламные ролики для телевидения. На одном из них – Эйзенхауэр, стоящий рядом с советским

маршалом Георгием Жуковым в Берлине в 1945 году, при этом рассказчик заверил зрителей: «Айк знает, как обращаться с русскими», и что он эффективно возглавит американское правительство в «холодной войне». Интересно, что почти весь первоначальный опыт Эйзенхауэра с российскими военными и правительственными лидерами пришелся на то время, когда Соединенные Штаты и Советская Россия были союзниками во время Второй мировой войны. В этой статье рассматривается сложное отношение Айка к Советскому Союзу до, во время и после Второй мировой войны, а также их трансляция в американскую военную и оккупационную политику. Айк перешел от традиционного подозрения в отношении советского правительства со стороны большинства офицеров американской армии к тому, что советская армия стала важным союзником в попытке уничтожить нацизм. После окончания войны Айк часто выражал надежду, что Советы станут ценным партнером в обеспечении глобального мира, прежде чем, наконец, двинуться к враждебности холодной войны по отношению к режиму в Москве, хотя и позже, чем многие другие американские военные, дипломатические и политические лидеры.

Ключевые слова: Эйзенхауэр, Советский Союз, Вторая мировая война, холодная война, «берлинский вопрос», нацисты.

Introduction

The Background to December 1944: Eisenhower's Early Views of the Soviet Union and his efforts to keep the Soviet Army in the War. Until the early 1940s, Eisenhower had paid little attention to the Soviet Union, or its potential as an American military ally against the Germany. Given his Republican political sympathies, Eisenhower accepted to the general anticommunist political consensus in much of American politics, although that did not lead to any public statements attacking the Soviet regime. However, from 1929 to 1939 Eisenhower served directly under two of the most outspoken anticommunist officers in the United States Armed Forces, General George Van Horn Moseley from 1929 to 1931 and General Douglas MacArthur from 1931 to 1939, both men frequently were prone to making lengthy diatribes against Communism in general and the Soviet Union in particular, and Ike, if not agreeing whole-heartedly with them, certainly did not offer any strenuous objections, despite his disagreements with his superiors on other matters. Indeed, Moseley spend considerable time and effort with his staff planning for how the US Army could be used to crush a potential Communist revolution in the United States (Ambrose, 1983, p. 399). Despite his own anticommunism, he supported FDR's decision to extend Lend-Lease aid in the Soviet Union following the Axis invasion of that country in June 1941, which Ike actively supported from his position as Deputy Chief of the US Third Army, now a Brigadier General following his success at the massive army maneuvers in Louisiana in that summer (Smith, 2012, p. 183).

Following the formal entry of the United States into the Second World War in December 1941, the chief designers of military policy for the United States were President Franklin Roosevelt and his Chief of Staff General George Marshall were as follows. Their central priorities were: 1. The defeat of Germany had to take priority over the defeat of Japan 2. The resources of the US Armed Forces on Air, Land, and Sea would pursue military, as opposed to political objectives.

The Soviet Union would be kept in the war against Germany at all costs by American support. These priorities did not always coincide with America's British allies, despite the creation of a unified command structure following a two-month summit between FDR and Churchill from December 1941 to January 1942. Eisenhower, until the ultimate surrender of Germany three years and four months later, fully accepted and shared these sentiments, despite his own limited contacts with Soviet military and political leadership until 1945. As early as December 1941, Eisenhower privately criticized Lend-Lease Aid to the Soviets has not being adequate enough (Ambrose, 1983, p. 147).

Unlike Churchill and his principle military advisor Field Marshall Alan Brooke, who wanted to postpone a Cross-Channel invasion until 1943 or preferably 1944, Eisenhower wanted one as soon as possible, and argued the reason for specifically in terms of aiding the Russians. His diary entry on January 22 1942 contains the following:

We've got to go to Europe and fight, and we've got to quit wasting resources all over the world and still worse, wasting time. If we're to keep Russia in, we've got to begin slugging with air at Western Europe, to be followed by a land attack as soon as possible (Ferrel, eds., 1981, p. 44).

Eisenhower continued this critique in his diary entry on February 17, arguing that the "slow, indecisive, laborious form of warfare currently being pursued by us will prevent us from coming to Russia's

aid on time." (Ferrel, eds., 1981, p. 48) Two days later, he made this point even more strongly: "We must build up our land and air forces in England and use them to go after Germany's vitals and we've got to do it while Russia is still in the war, in fact, only by doing it soon can we keep Russia in. The trickle of supplies we can send through Basra and Archangel is too small to help her much." (Ferrel, eds., 1981, p. 48).

This set that stage for an early dispute on Eisenhower and Marshall on one side and Churchill and Brooke on the other, concerning Operation SLEDGEHAMMER. The plan called for a cross-channel invasion of northern France, targeting the ports of Cherbourg and Brest, by British, American, Canadian, and Australian soldiers who would attack and hold them in the late summer or early fall of 1942. They would then break through to Paris in the spring of 1943 after they were reinforced by further landings. Marshall and Eisenhower explicitly argued for the plan as necessity because it would force Hitler to divert his military strength away from the Eastern front and alleviate pressure on the Red Army. Feeling the landing would be premature and end disastrously, Churchill strongly objected to SLEDGEHAMMER, instead calling for a series of Allied invasions to the "soft underbelly" of Nazi-dominated Europe, starting in North Africa in the fall of 1942 and continuing to Sicily and Italy in 1943. Brooke agreed with Churchill on this proposal, and ultimately won over FDR as well. Neither Marshall nor Eisenhower were happy with this decision, Marshall admitting that even if SLEDGEHAMMER failed it was necessary for aid the Soviets, and Eisenhower wrote to him, "if we lost the support of 8,000,000 Russian soldiers due to our delays, it would be a military disaster (D'Este, 2002, p. 289).

Following the success of Operations TORCH, HUSKY, and AVALANCHE from November 1942 to September 1943, Churchill and Brooke finally agreed to Marshall and Eisenhower's cross-channel invasion of northwestern France for the summer of 1944. Ike was placed in charge of the Allied Expeditionary Force in December 1943 as opposed to his superior George Marshall, whom FDR insisted stay in Washington DC. The AEF which would launch the invasion at Normandy, and, having succeeded in doing so, would destroy Germany's military strength in the West. While planning for the invasion, the importance in maintaining the alliance with Soviets was never far from Ike's mind. While Winston Churchill's tendency to view military planning during the Second World War with an eye on containing the advance of Soviet armies and the European political situation after the war is well known, another military commander whom Ike dealt with on a regular basis who shared these views was the chief of the Third Army, General George S. Patton, which led to continual clashes between the two men that lasted until the end of the war. One of the first examples of this was Patton's statement at the beginning of April 1944, when Patton, at an opening ceremony for a club for American servicemen in the village of Knutsford, England, made remarks that the United Kingdom and the United States were destined to dominate the postwar world in general, explicitly leaving out the Soviet Union. The remarks provoked an angry reaction among many American newspapers and congressmen, and Patton was privately yet strongly rebuked by Eisenhower for his remarks a week later (Smith, 2012, p. 340).

Even on the eve of D-Day, in Eisenhower's diary entry for June 3, 1944, Ike mentioned one of the necessities of not only the success of Operation Overlord and also to make sure it was not delayed any longer, was the disastrous effect it might have on the Russians, especially given the fact that the landings in North Africa, Sicily, and Italy, while successful, had not achieved the objective of drawing German soldiers from the Eastern front (Ferrel, 1981, p. 120). Following the success of the invasion by the AEF, and the subsequent liberation of Paris and battles of the Huertgen Forest and the Bulge in the fall of 1944, Ike made the decision, with Marshall's approval, to send his deputy commander of the Allied Expeditionary Force, British Air Marshall Arthur Tedder to Moscow to coordinate plans with the Soviet government for the final defeat of Germany in the spring of 1945. This marked the beginning of a more formal collaboration between the Americans, British, and the Soviets that would last until the end of the war (Eisenhower, 1948, p. 366-367).

Relevance

January 1945 to September 1947: The Race to Berlin and the Hope of a Permanent Peace Between East and West. Thus, the race for Berlin was officially on, in the minds of Churchill, Patton, and Montgomery, but not, by this point, for Eisenhower, who continued to prioritize the destruction of Germany's Armed Forces and to prevent the creation of a "Nazi redoubt" in the Bavarian and Austrian Alps. It would not be accurate to say, however, that Eisenhower did not have his own concerns about dealing with the Soviets after the war. In May 1944 he wrote to one his deputies Walter Bedell Smith that it would

be a mistake to give Britain and America separate occupation zones in Germany, because the Soviets might try to play off one against the other. In a letter sent to Marshall in September 1944, Eisenhower also expressed concerns that postwar occupation of Germany with the Soviets might create considerable difficulties (Charus, 1999, p. 59-82). Throughout the autumn of 1944, Ike worried about what would potentially happen when the AEF and the Red Army finally did link up and had encouraged Patton and General Mark Clark to "seize as much of Austria as you possibly can." He also assured Montgomery "if I could take Berlin with minimal cost, and do it quickly, I would not hesitate to do so." (D'Este, 2002, p. 692) It was clear by March 1945 that taking Berlin "quickly and cheaply" would certainly not be the case, and Ike was moving towards destroying Germany's remaining military strength as opposed to taking its capital. Despite his own German ancestry, Eisenhower had developed a profound hatred of the Germans in general and the Nazis in particular, not only because of their ruthless persistence in fighting a hopeless war, but also due to the horrors he witnessed at liberated Nazi concentration camps. In addition, despite his own suspicion of the Soviets and his conservative political views, he was determined that the alliance between Washington and Moscow needed to be maintained until unconditional surrender of Germany, and hopefully afterwards, and thus he would do nothing to endanger it (Ambrose, 1983, p. 400).

Therefore, Ike made the controversial decision to contact Stalin directly on March 28 with a personal letter. Eisenhower informed Stalin that after the AEF destroyed the remaining German forces in the Ruhr valley, it would focus its next efforts southwest of Berlin, with the ultimately goal of linking up with Soviet forces in the Erfurt-Leipzig-Dresden area. This effectively gave a green light to Stalin and Zhukov to take the German capital. In sending this letter, Eisenhower had completely bypassed the Combined Chiefs of Staff, in an unprecedented manner. Montgomery and Brooke were furious, as was Churchill, not only because Ike had ignored them, but also because they believed Berlin could still be taken by the AEF as opposed to the Red Army. Churchill sent telegrams to both FDR and Marshall questioning Eisenhower's decision and urging them to still consider Berlin to be a viable military target, especially given the political significance of the German capital. Eisenhower, with the backing of both Marshall and FDR, and with the knowledge of the agreements made at the Yalta conference a few months before, stood his ground on this issue, and ultimately Churchill deferred to Ike's judgment, writing to FDR, "The only thing worse than fighting with Allies is fighting against them." (Smith, 2012, p. 428-429)

Theoretical-methodological base

This was not only controversy of the war's ending days, as Eisenhower found himself in another controversy with Patton and Churchill, over the possibility that the AEF could liberate Prague and perhaps all of Czechoslovakia before the arrival of the Red Army. On May 1, Patton, backed by Churchill and British Chiefs of Staff, asked Eisenhower for formal permission to liberate the Czech capital. Churchill contacted the new American President Harry Truman as well to compel Eisenhower to allow the US Third Army to move into Czechoslovakia. Truman passed the question to Marshall, who once again backed Eisenhower's decision to leave Prague, where the Czech population revolted against the Nazi occupiers, to liberation by the Red Army. Marshall, later wrote regarding Prague, that he would be "loath to risk Allied lives at the end of the war for purely political objectives." (D'Este, 2002, p. 699)

In his new role as the US military governor of Germany, Eisenhower at times found himself at odds with official policy set by Washington, although at other times strictly enforced it. On one hand, Eisenhower removed Patton from command of the Third Army and as military governor of Bavaria for his refusal to implement denazification policies. At the same time, both Eisenhower and his chief deputy in occupied Germany, General Lucius Clay, believe the Morgenthau plan to dismantling much of Germany's industrial potential, especially given the desperate humanitarian situation in the country, was madness (Ambrose, 1983, p. 425). Nevertheless, Eisenhower also strove to assure the Soviets that there was no risk of what Ike correctly knew was their greatest fear, the possibility of America and Britain immediately reviving German military strength and directing it against the USSR. Eisenhower continued to believe at this point that there was no fear that the United States and Soviet Union could not live together in peace, as "the alternative was too horrible to contemplate." Eisenhower fully supported a separate unconditional surrender ceremony between the Soviets and the Germans on May 8, and soon afterwards began to turn over German soldiers who had fled westward to avoid surrendering to the Russians. Eisenhower also scrupulously followed a policy of repatriating Soviet POWs and

other Soviet citizens who had fled to the west with the Germans at the end of the war (Ambrose, 1983, p. 428).

In August, Eisenhower received a personal invitation from Stalin to visit Moscow, which Ike accepted. The commander of the Soviet zone of Germany and the primary architect of the Red Army's victory, Marshal Georgi Zhukov, escorted Eisenhower from Berlin to Moscow and served as his host during Ike's visit. On August 12, Eisenhower stood on top of Lenin's tomb with Stalin, Zhukov, and other high-ranking Soviet military and government officials to observe National Sports Parade. In his memoirs on the Second World War, Eisenhower noted how he had never seen a spectacle like this in his entire life, noting the various colored costumes and thousands of performers from different nationalities all moving in unison for a performance that lasted hours (Eisenhower, 1948, p. 461). What followed including a long meeting with Stalin, who had an endless series of questions for Eisenhower about American military, scientific, industrial, and educational achievements, as well as optimistic requests for American financial aid with the resumption of Lend-Lease. Ike also had a chance to view a soccer match in Moscow in Zhukov's company and to attend a massive reception at the American embassy with Soviet and American officers, where news of Japan's unconditional surrender came in, leading to a joyous celebration. Eisenhower then visited Leningrad, as he wanted to view the site of "the greatest siege in history" before his ultimate return to Berlin (Eisenhower, 1948, p. 463-465).

A few months later Eisenhower returned to the United States to replace Marshall as the Army Chief of Staff. Before his departure he urged his replacement General Lucius Clay to try to compromise with Zhukov and the other Soviet authorities in Germany about the question of reparations from the Western zones, perceptively arguing that this was the main issue that could divide the British, French, and Americans from the Soviets going forward (Ambrose, 1983, p. 430). He remained for the most part optimistic in 1945 and 1946 regarding American-Soviet relations. He informed a congressional committee soon after his official appointment in Washington that "There is no one thing, I believe, that guides the policy of Russia more today than to keep friendship with the United States." A few months later, in a speech to American veterans, Ike continued in the same manner, arguing that the very different nature of the American and Soviet governments was not an insurmountable obstacle for maintaining peaceful relations, and that the United States government would make every effort to ensure peace was maintained between the two great powers (Charus, 1999, p. 60).

Discussion

September 1947 to November 1952: The End Grand Alliance and the Emergence of a Cold Warrior. By the fall of 1947, as the Cold War had begun in earnest, Ike's public and private statements about the Soviets began to change. In his diary entry on September 16 1947, Ike, in a manner not dissimilar to FDR before his own death in April 1945, despaired of maintaining a cooperative relations with the Soviets. Pointing to actions in the Baltic States, Hungary, Bulgaria, Romania, and of course Poland, Eisenhower that Russia seemingly wanted to "communize the world", and that the two systems now seemed destined to "fight until the extinction of them." The best long-term solution was to prevent Russian aggression by "direct conquest and pressure" and "by infiltration." Then the West could win back all of territory that was overrun at the end of the Second World War, and finally create a true peaceful accord that could "end war for all time." (Ferrel, eds., 1981, p. 145)

By 1952, following his securing of the Republican nomination for the Presidency, Eisenhower critiqued Truman's containment policy as not doing enough to deter Soviet aggression, and instead campaigned on "Rollback" of communism. He was still dogged by the question of failing to secure Berlin first before the Red Army, arguing the political decisions made by FDR and Churchill at Yalta basically took the matter out of his hands and thus it was not worth American and British lives when they would have to return to the agreed-upon borders of the occupation zones anyway. He also treated many of his optimistic pronouncements in 1945 and 1946 with considerable embarrassment (Ambrose, 1983, p. 533).

Conclusion

While most Americans saw Eisenhower's relations with the Soviet Union in a positive light, driven by necessity of defeating the Nazis, the "Berlin question" continued to dog him until almost the end of his life. On February 11 1965, four years before his own death, he wrote a letter to Virginia Senator A. Willis Robertson, who an asked him for a full inquiry on the US Army's actions at the end of the Second World War. Eisenhower repeated the same arguments he made almost twenty years earlier,

arguing the objective of the AEF was to destroy Germany's military strength, not to take certain targets, including its capital. He also noted how the Yalta agreements left Berlin 150 miles in the Soviet zone, and thus it would be foolish to risk American lives to take a city that they would inevitably have to withdraw from anyway a few months later, pointing out how American forces did take Leipzig and Weimar but were then had to withdraw from them as well. Eisenhower concluded by stating that it was not as if FDR refused him permission to take Berlin, but the political and diplomatic decisions made at the end of the war which closed the German capital off from the AEF (Eisenhower, 1967, p. 313).

Despite his own political conservatism and anticommunism, Eisenhower effectively buried those sentiments once America joined the Second World War in favor of keeping Soviet Russia in the war and maintaining the military alliance with them. Despite his own occasional misgivings about problems with the Soviet government that might emerge after Germany was defeated, Ike, like his bosses FDR and Marshall, resisted entreaties from those like Churchill, Montgomery, and Patton who wanted to make military decisions based on political calculations of what Europe would be like after the war ended. His pragmatism towards the Soviet alliance continued to the end of the war and afterwards, as he hoped Moscow and Washington could establish a genuine partnership to keep the peace in the world after the surrender of the Axis powers. Although

Eisenhower's views on the Soviets ultimately darkened, which was partially the product of his own conservative political views as well as the Soviet actions in Eastern Europe, his decision as President to maintain Truman's policies of containment in Cold War as opposed to "rollback" points back to his WWII pragmatism with regards to America's alliance with the Soviet Union.

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AN INTERDISCIPLINARY APPROACH TO DIASPORA STUDIES

The necessity of Diaspora Studies is rising fast in recent academia because of brand creation of diaspora culture, reinforcement of diaspora identity, building of cultural and economic networks, understanding of multicultural phenomenon, and development of experts in the global era. Diaspora studies need collaboration and networking with various academic disciplines for the time being.

Moreover, there are four characteristics diaspora studies as an academic discipline. First, the diaspora studies is a comprehensive science. Subject matters of diaspora studies are a wide range of areas of diaspora phenomena; like international migration, identity, political rights, multiculturalism and global networks. Second, Diaspora Studies is an applied science. An applied science solves matters, such as Diasporas' human rights and conflict, appearing in diverse and sophisticated diaspora phenomena. As an applied field of individual science, a study on diaspora phenomena through application of advanced theories on the various fields of study; such as politics, sociology, anthropology geography, etc. Third, Diaspora Studies is an empirical science. After building, a hypothesis with theses acquired from diaspora phenomena experienced in verity of explaining theory and interpret the facts, and then construct a theory. Fourth, Diaspora Studies is a normative science. A science of targeting norms, as a subject of study within value-laden approach to judge what is a desirable value practical implication of theory, breaking down false consciousness or critical social science and political characteristics.

Key words: global diaspora, international migration, global network, identity, diaspora studies.

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Диаспоратану ғылымын зерттеудегі пәнаралық тәсілдер

Соңғы жылдары диаспораны зерттеу қажеттілігі диаспора мәдениетінің брендін құруға, диаспораның ғылымдық ұғымын нығайтуға, мәдени және экономикалық желілерді құруға, мультимәдениеттілік құбылысын түсінуге және жаһандану дәуіріндегі сарапшылардың санының өсуі мен дамуына байланысты маңыздылығы жылдам арта бастады. Қазіргі уақытта диаспора саласындағы зерттеулер әртүрлі академиялық пәндермен өзара әрекеттесуді және ұштасуды қажет етеді.

Сонымен қатар, академиялық пән ретінде диаспора саласын зерттеудің төрт сипаттамасы қалыптасты. Біріншіден, диаспораны зерттеу – бұл жан-жақты ғылыми тәсілдерді қамтиды. Диаспораға қатысты зерттеу бағыттары халықаралық көші-қон, бірегейлік, саяси құқықтар мен мультимәдениеттілік және жаһандық нетворк сияқты диаспора құбылысымен тікелей ұштасатын көптеген салаларын қамтиды. Екіншіден, диаспораны зерттеу – бұл қолданбалы ғылым болып табылады. Қолданбалы ғылым диаспораның әртүрлі және күрделі құбылыстарында туындайтын диаспора құқығы мен қақтығыстар сияқты мәселелерді шешеді. Диаспоратану қолданбалы саласы ретінде әр түрлі зерттеу салаларындағы озық теорияларды қолдана отырып, диаспора құбылыстарын зерттеу, мысалы, саясат, әлеуметтану, география, антропология сияқты әлеуметтік ғылымдармен ұштасады. Үшіншіден, диаспоратану саласындағы зерттеулер – бұл эмпирикалық ғылым болып табылады. Диаспора құбылыстарынан алынған тезистермен гипотеза жасағаннан кейін, олар теорияны және фактілерді түсіндірудің ақиқатын сыни тұрғыдан объективті түрде тексере отырып, құбылысты түсіндіретін тиісті теорияларды құра алады. Төртіншіден, диаспораны зерттеу – бұл нормативті ғылым болып табылады. Нормативті ғылым шеңберіндегі зерттеу нысаны ретінде, нормаларға бағдарланған, теорияны іс жүзінде қолдану, немесе бұрмаланған негізсіз тезистерді ғылыми тұрғыдан жоққа шығарып, сыни әлеуметтік ғылымдар мен негізді саяси сипаттамаларды қалыптастыруға мүмкіндік береді.

Түйін сөздер: жаһандық диаспора, халықаралық көші-қон, ғаламдық желі, бірегейлік, диаспоратану ғылымы.

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Междисциплинарный подход в изучении диаспороведения

Необходимость в изучении диаспоры в последнее время быстро растет в связи с созданием бренда культуры диаспоры, укреплением идентичности диаспоры, созданием культурных и экономических сетей, пониманием феномена мультикультурности и развитием экспертов в глобальную эпоху. Исследования диаспоры в настоящее время требуют сотрудничества и взаимодействия с различными академическими дисциплинами.

Более того, существует четыре характеристики изучения диаспоры как учебной дисциплины. Во-первых, изучение диаспоры является всеобъемлющей наукой. Предметом изучения диаспоры является широкий спектр областей явлений диаспоры, как международная миграция, идентичность, политические права, мультикультурализм и глобальные сети. Во-вторых, изучение диаспоры – прикладная наука, решающая такие вопросы, как права и конфликты диаспор, возникающие в разнообразных и сложных явлениях диаспоры. Как прикладная область индивидуальной науки, изучение феноменов диаспоры путем применения передовых теорий в различных областях исследования, таких как политика, социология, география антропологии и т. д. В-третьих, исследование диаспоры – это эмпирическая наука. После создания гипотезы с тезисами, полученными из явлений диаспоры, автор испытал истинность объяснения теории и интерпретации фактов, а затем построил теорию. В-четвертых, изучение диаспоры является нормативной наукой, ориентированной на нормы, как предмет изучения в рамках ценностного подхода, позволяющего судить о том, что является желательной ценностью, практическое применение теории, разрушение ложного сознания или критических социальных наук и политических характеристик.

Ключевые слова: глобальная диаспора, международная миграция, глобальная сеть, идентичность, диаспораведение.

Introduction

The necessity of diaspora studies is considered as vigorous movements of capital, labor, and technology by a generalization of transnationalism emphasis on tradition, identity, differences and rise of identity politics, and increasing the role of diaspora in global era. The role of diaspora can be viewed of taking a development role in the world economic trade, contributing to increase of free international migration and network making multi-cultural, multi-ethnic in global cities and enhancing the competiveness of migration labors forming among multi-identities as well as a positive contribution to the de-territorialization in the social identity.(Cohen 1997,157-167)

A win-win development of the world diaspora communities try to create a branding of diaspora culture for reinforcement of diaspora identity to build up cultural and economic networks for understanding of multicultural phenomenon and development of experts in the international servitude. It is necessary to make an academic systematization, which may theorize and investigate the specific research objects and methods of diaspora phenomenon to establish it as an academic discipline. The objectives of this study are examining the academic systematization of diaspora studies and exploring the formation of diaspora studies and academic development for the future.

Diaspora Studies as a Science.

1. Establishment Requirements of Science.

Science is a knowledge, which processed and organized according to certain principles and awareness system. The term of "science" comes from Latin "Scientia", which means 'knowledge, a knowing'. In German "wissenschaft", it means also "a knowing". According to dictionary, 'science' means clarify of generalities, structured system of linkages, and systematization of knowledge and awareness. (Hansson, 2017)

Diaspora studies needs four requirements for becoming a systematic academic discipline. First, a specific and independent research filed and research objects. The research objects of diaspora studies are international migration, political identity, global network, and multiculturalism, international asylum-seekers and refugees, and international movement of capital, labor, goods etc. In addition, case studies of research objects illuminate the similarities and differences of global diasporas.

The second one is the research approach, the research methodology or perception system. The

research methodologies of diaspora studies are classified as positive approach to pursue scientific logic about diaspora phenomena, interpretive approach to observe, record, and state the meaning of the diaspora phenomena in subjective consciousness, symbolic interaction, etc. and critical approach to highlight the social participation and the real problems improvement.

Third, the technical methods of research those are the rules or laws to keep in process of observation on research object, description, explanation, and understanding. The rules are utilized to reconstruct diaspora studies properly from existing social science methods like experimental, survey, documentary, observation, case study, comparative research etc. Fourth, forming an academic curriculum in which academic community theorizes the research objects, approaches, and methods, etc.

2. Academic Characteristics of Diaspora Studies

1) Definition of Diaspora

The term *diaspora* comes from an ancient Greek word meaning 'dia' (over) + 'speiro' (to sow) = 'diaspora' (scatter) "to scatter about."(Yun 2004, 5) And that is exactly what the people of a diaspora do they scatter from their homeland to places across the globe, spreading their culture as they go. Traditional Definition of diaspora is similar with Jewish and Greek history and ethnic scattering or ethnic dispersion.

William Safran mentions that the concept of a diaspora can be applied when members of an 'expatriate minority community' share several of the following features:

(1) They, or their ancestors, had been dispersed from an original 'center' to two or more foreign regions;

(2) They retain a collective memory, vision or myth about their original homeland including its location, history and achievements;

(3) They believe they are not and perhaps can never be fully accepted in their host societies and so remain partly separate;

(4) Their ancestral home is idealized and it is thought that, when conditions are favorable, either they, or their descendants should return;

(5) They believe all members of the diaspora should be committed to the maintenance or restoration of the original homeland and to its safety and prosperity; and

(6) They continue in various ways to relate to that homeland and their ethno-communal consciousness and solidarity are in an important way defined by the existence of such a relationship.(Safran 2005, 7)

2)

Table-1 – Cohen's Ideal types of diaspora, examples and notes

Main types of diaspora	Main examples in this Book	Also mentioned and notes
Victim Diaspora	Jews, Africans, Armenians	Also discussed: Irish and Palestinians. Many contemporary refugee groups are incipient victim diasporas but time has to pass to see whether they return to their homelands, assimilate in their host lands, creolize or mobilize as a diaspora.
Labour Trade Diaspora	Indentured Indians	Also discussed: Chinese and Japanese; Turks, Italians, North Africans. Many others could be included. Another synonymous expression is 'proletarian diaspora.
Imperial Diaspora	British	Also discussed: Russians, colonial powers other than Britain. Other synonymous expressions are 'settler' or 'colonial' diasporas.
Trade Diaspora	Lebanese, Chinese	Also discussed: Venetians, business and professional Indians, Chinese, Japanese.
Deterritorialized	Caribbean peoples, Sindhis, Parsis	Also discussed: Roma, Muslims and other religious diasporas. The expressions 'hybrid', 'cultural' and 'post-colonial' also are linked to the idea of deterritorialization without being synonymous.

Cohen then analyses each type of diaspora in turn, starting with the original Jewish diaspora and showing, very interestingly, that it is not as simple a story as is often assumed. After the destruction of the Temple in 586 BC, the key Jewish leaders were taken to Babylon in captivity, and Babylon after that became a code word for exile and alienation for Jews and subsequently Africans. However, Cohen points out that Babylon is where the embryonic Bible took shape, where the Talmud was written,

where synagogues were formed. When some Jews began to return to Jerusalem and rebuild the Temple, the main centers of Jewish thought and culture were still in the communities at Alexandria, Antioch, Damascus, Asia Minor and Babylon. When the second Temple was destroyed in AD70, "it was Babylon that remained as the nerve- and brain-center for Jewish life and thought. (Cohen 1997, 10-11)

But the word *diaspora* is now also used more generally to describe any large migration of refugees, language, or culture, as people from the same nation living scattered in abroad with the same belief and a strong community identity.(Cohen 1997, 11-12) So it can be said that 'Diaspora' is a comprehensive concept including international migration, asylum-seeker, refugee, labor migration, national community, cultural difference, identity, etc.

3) Characteristics of Diaspora Studies

We can consider the academic characteristics of diaspora studies. First, the diaspora studies as a comprehensive science. Subject matters of diaspora studies are a wide range of areas of Diaspora phenomena; like international migration, identity, political rights, multiculturalism and global networks. Multilateral approach of varied studies of such phenomena: politics, sociology, journalism, economics, anthropology, geography and literature, etc. (interdisciplinary study).

Second, Diaspora Studies as an applied science. An applied science to solve matters, such as Diasporas' human rights and conflict, appearing in diverse and sophisticated diaspora phenomena. As an applied field of individual science, a study on diaspora phenomena through application of advanced theories on the various fields of study, such as politics, sociology, anthropology geography, etc.

Third, Diaspora Studies as an empirical science. After building a hypothesis with theses acquired from diaspora phenomena experienced in verity of explaining theory and interpret the facts, and then construct a theory.

Fourth, Diaspora Studies as a normative science. A science of targeting norms, as a subject of study within value-laden approach to judge what is a desirable value practical implication of theory, breaking down false consciousness or critical social science and political characteristics.

Research Objects of Diaspora Studies

The research objectives demonstrate in especially for diaspora Phenomena including international migration, identity, political rights, multiculturalism, global networks, etc.

The Research field can be broaden in the worldwide where including Korean diaspora (Jewish, overseas Chinese, overseas Indian, etc.)

1. International Migration

Meaning of International Migration

Migration is the movement of population, and it can be temporary or permanent geographical resettlement, for new geographical exploration and territorial expansion. International migration bring huge migrant burden called as migration bag to society and culture of another countries to create social identities, a set of beliefs and ritual systems, relative organizations, related standard and value systems, food, custom, languages, and etc. The reasons that people migrate would be due to push and pull factors.(Seok 2000, 28-30) Push and Pull factors are forces that can either induce people to move to a new location or oblige them to leave old residences; they can be economic, political, cultural, and environmentally based. Push factors are conditions that can drive people to leave their homes, they are forceful, and relate to the country from which people migrate.

Type of International Migration.

It should be clear from the foregoing that migration is too diverse and multifaceted to be explained in a single theory. This time present theory of P. Stalker. Stalker's International Migration types divided into 6 categories:

(1) Labor (Legal labor migration, illegal labor migration).

(2) Victim (Asylum seeker and refugees).

(3) Investment (Autonomous migration for the purpose of business, studying abroad, etc.).

(4) Family (Family-based permanent migration, for creating a new life abroad).

(5) Female (Female migrants, through international marriage).

(6) Professional (Professionals engaged in IT industry, financial industry, accounting industry, etc.).(Stalker 2008, 15-18)

3) Theories of International Migration

There are two general theories representative the International migration. First, an actor- centered theory and structure-centered theory. An actor-centered theory includes itself a two theory.

(1) New Classical Economics Theory: It is a migration theory that based on the individual choice of labor migrants for enlarging their practical benefits. The New Classical Economics Theory is divided into two types according to its range. There are macro and micro range of new classical economics theory.(Stalker 2008, 22)

– Macro-perspective (Balance Theory, Push and Pull Theory): Regional differences of Labor

demand and supply of migration from countries with plenty of labor resources but insufficient capital → Countries with abundant capital but lack of labor resources. Labor movement reduced the regional difference. Economic balance status → the end of migration.

– Micro-perspective (Human Capital Theory): Investing on Human capital (education, experience, language skill, etc.), calculating the costs and benefits, which make the migrants move to the region with a high pure profits.

(2) New Migration Economics: It is not individual decisions; made by the family or the small or medium scale community. Actor-centered International Migration is carried out to decrease the economic danger of family, household and community. The total family income increases, and the income sources are diversified. Economic statuses of exporting countries are the main cause of international labor migration (structural) Economic Action Theory is expanding into groups (Analysis unit: individual → group).

There are three theories explain the structure-centered theory.

– Relative Surplus Population Theory: This theory centered on the social structure that influenced by International Labor Migration. By theory observes the market, society, country and world system. Some system uses potential labor. Labor migration forces to control workers and curb. One of the points is the requirement of increasing income. The reserve labor forces swarm into centered areas (population introduced country).

– World System Theory: Alone with the relative surplus population theory, the development of capitalism is the original motivation of international labor migration. Capitalists of centered countries permeate in the surrounding countries to look for cheaper farmland, raw materials, labor and consumer market.

– Labor Market Segmentation Theory: Introducing the reason why migration occurs through the economic structure of migrant country. Mainly incurred by the labor requirement of developed countries (migrant labor force). Labor market of capitalism segments as the first type (capital-intensive) and the Second type(labor-intensive), => capitalists employ cheap labors to get the greatest interests, high salary workers are excluded out of low salary labor market, => low salary laborers are discriminated by high salary laborers and then contradiction occurs among ethnic groups, race groups.(Jeon 2008, 262-264)

Diaspora phenomenon occurred under the perspectives of neo-classical economics and historical structure. Decisions of individual and family migration are made under the influence of macro, structural variables and their interaction.

2. Identity

1) The concept of Identity

Identity is a derivation of Latin item 'Identification' and means 'same things,' 'real identity'. One may define identity as the distinctive characteristic belonging to any given individual, or shared by all members of a particular social category or group. (Lim 1999, 317) Identity may be distinguished from identification; identity is a label, whereas identification refers to the classifying act itself. Identity is thus best construed as being both relational and contextual, while the act of identification is best viewed as inherently processual. The term is a definition of a human is the answer to the question 'Who am I?' It also includes meanings as continuity, a sense of belonging and a sense of unity. Process of identity formation includes the process of distinction between oneself and other people or groups. (Shin 1997, 36) The distinction is a natural process and the differentiation creates manmade differences through distinction. Everybody knows 'who I am?' and identifies own existence and status in the society through identity. If people did not have an identity, they would lack the means of identifying with or relating to their peer group, to their neighbors, to the communities.

2) Main Features of Identity

As we mentioned above, every individuals and groups have identity. Situationally, individuals can redefine their sense of belonging. Individuals and groups have multiple identities, asserting different identities in different circumstances. And also the importance of alternative identity for individuals and groups can be change according to situation. Though Identity is regulated on one's own, it is also occurred along with the communication with others.

3) Types of identity

There are different types of Identity. Identity can be personal or individual, which means that identity is concerned with the question 'Who am I?' – how individuals define themselves, what is important and matters to them, how they see themselves as individuals different from other people, and the things that give them their own unique personal or individual characteristics. The individual identity is a subjective aspect of identity. The group identity considers as an objective aspect of individual identity. The group or collective identity means a shared sense of belonging to group. In addition, it refers as a collective identity. A group or collective identity is an identity shared by a social group,

and involves elements of both personal and social identities, but differs from both as it involves considerable elements of choice by individuals in that they actively choose to identify with a group and adopt the identity associated with it. The group identity also considers nation, race, religious, and region identities. (Lim 1999, 317)

3. Global Network

1) Meaning of Network

According to M. Castells, network is a set of interconnected nodes. A node is the point where the curve intersects itself. Also nodes form in the cross point of link in which nodes interconnect each other. The term of 'network' also used as 'social network'. A social network is a structure of relationships linking social actors, or the set of actors and the ties among them. Relationships or ties are the basic building blocks of human experience, mapping the connections that individuals have to one another. (Castells 2004, 4-6) The network relationships among the network members can be directional and non-directional, symmetric and non-symmetric etc.

2) Features of Network

Networks are complex structures of communications constructed around a set of goals that simultaneously ensure unity of purpose and flexibility of execution by their adaptability to the operating environment.(Kim 2008, 46-47) They are programmed and self-configurable at the same time. Their goals and operating procedures are programmed, in social and organizational networks, by social actors. Their structure evolves according to the capacity of the network to self-configure in an endless search for more efficient networking arrangement. There are three main features of a network.

(1) Flexibility: reconfiguring to changing environments

(2) Scalability: Expanding or shrinking with little disruption

(3) Survivability: resisting attacks on the nodes. Network does not collapse, even though it's cut off by somebody. It's like a lizard's tail. (Kim 2008, 4-6)

The internal structure of network has an asymmetric hub. The network was built and operated according to the axiom of verticality and integration.

4. Multiculturalism

1) Concept of Multiculturalism

Multiculturalism, the word "multiple" combined with "culture" describes multiple groups' life styles, and it means coexistence, acceptance of multiple cultural traditions within a single jurisdiction or country, usually considered in terms of the culture associated with an ethnic group. The word 'multiculturalism' is different according to actual conditions of countries, so it is impossible to make a common definition. Scholars in this field still debate on concept of multiculturalism, which means term is still developing. According to Soysal, it is the method to include people who have no nationality and illegal sojourners basing on wide support of human rights in the era of globalization. Zizek claims that multiculturalism is often used in general multicultural society to legally acknowledge and protect the rights of ethnic, racial, religious, cultural groups. W. Kimlicka argues that in the system of agreement, multiculturalism is a protection for special living rights of various cultural subjects under the precondition as supporting freedom and democracy. (Kymlicka 2005, 62)

2) Criticism of Multiculturalism.

Several scholars criticize the multiculturalism. They contend that multicultural policies lead to separatism. Such policies, they maintain, isolate ethnic groups, enforce an inward-looking mentality, and lead to strong divisions between groups inside the country. The multicultural society is minority centered, the cause of contrast feeling of majority to actively protect multicultural immigrant minority. Multiculturalism can lead social contradiction problem that hinder the social relation and rise the anxiety of disjunction and social contradiction. If cultural relativism rises to a peak, all kinds of culture and customs will be acknowledged and part of individual body can be destroyed.(Ji et.al. 2009, 113)

Research Methodology

Research methodology is a systematic way to solve a problem. It is a science of studying how research is to be carried out. Essentially, the procedures by which researchers go about their work of describing, explaining and predicting phenomena are called research methodology. It is also defined as the study of methods by which knowledge is gained. Its aim is to give the work plan of research.

1. Positive

Technical and practical method verifies scientifically to search the main objective (clarity, accuracy) in anything perspective to development of human knowledge on the mythical to religious stage and metaphysical to speculative stage and finally to the scientific empirical stage.(Kim 1989, 8) As such as the explanation of empirical phenomenon through generalization and systematization: scientific logic = deduction + induction

2. Analytic

Idealism, phenomenalism, structural theory, symbolic interactionism investigation into internal and subjective factors of actor (a subject of study) forming social phenomena are considered as the important to comprehend the motive causing behavior and purpose of intention in the phenomenology of taking a serious view of practical universe, inter the subjective relations.

3. Normative

Value-laden approach judge norms as a subject of study, what is a desirable value practical implication of theory, breaking down false consciousness of critical social science and political characters as well as dialectic, critical theory and humanism theory.

Conclusion

As mentioned above, the necessity of Diaspora Studies is rising fast in recent academia because of brand creation of diaspora culture, reinforcement of diaspora identity, building of cultural and economic networks, understanding of multicultural phenomenon, and development of experts in the global era. Diaspora studies need collaboration and networking with various academic disciplines for the time being. Now it is possible to consider to Diaspora Studies as an independent academic discipline. There are four components for it.

First, a specific and independent research filed and research objects. The research objects of Diaspora studies are international migration, political identity, global network, and multiculturalism, international asylum-seekers and refugees, and international movement of capital, labor, goods etc.

Second, the research approach that is the research methodology or perception system. The research methodologies of Diaspora Studies are classified as positive approach to pursue scientific logic about diaspora phenomena, interpretive approach to observe, record, and state the meaning of the diaspora phenomena in subjective consciousness, symbolic interaction, etc. and critical approach to highlight the social participation and the real problems improvement.

Third, the technical methods of research those are the rules or laws to keep in process of observation on research object, description, explanation, and understanding. The rules are utilized to reconstruct Diaspora Studies properly from existing social science methods like experimental, survey, documentary, observation, case study, comparative research etc.

Fourth, forming an academic curriculum in which academic community theorizes the research objects, approaches, and methods, etc.

Moreover, there are four characteristics diaspora studies as an academic discipline. First, the diaspora studies is a comprehensive science. Subject matters of diaspora studies are a wide range of areas of diaspora phenomena; like international migration, identity, political rights, multiculturalism and global networks. Multilateral approach of varied studies of such phenomena: politics, sociology, journalism, economics, anthropology, geography and literature, etc. (interdisciplinary study).

Second, Diaspora Studies is an applied science. An applied science solves matters, such as Diasporas' human rights and conflict, appearing in diverse and sophisticated diaspora phenomena. As an applied field of individual science, a study on diaspora phenomena through application of advanced theories on the various fields of study; such as politics, sociology, anthropology geography, etc.

Third, Diaspora Studies is an empirical science. After building a hypothesis with theses acquired from diaspora phenomena experienced in verity of explaining theory and interpret the facts, and then construct a theory.

Fourth, Diaspora Studies is a normative science. A science of targeting norms, as a subject of study within value-laden approach to judge what is a desirable value practical implication of theory, breaking down false consciousness or critical social science and political characteristics.

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ҚҰТТЫҚТАУ
CONGRATULATIONS
ПОЗДРАВЛЕНИЯ

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ДОСТОЙНЫЙ ПРОДОЛЖАТЕЛЬ РОССИЙСКОЙ ШКОЛЫ МЕЖДУНАРОДНОГО ПРАВА

(65-летний юбилей известного российского юриста-международника, профессора В.М. Шумилова)

Исполнилось 65 лет Владимиру Михайловичу Шумилову – известному российскому юристу-международнику. Выпускнику МГИМО (1980 года), доктору юридических наук, профессору, заведующему кафедрой Всероссийской академии внешней торговли (ВАВТ) Министерства экономического развития Российской Федерации.

Он родился в городке Нижнеудинске Иркутской области. Затем семья на несколько лет переехала в г.Пермь, где жила вся родня мамы. Оттуда все, включая родившегося брата, переехали опять в Сибирь, так как там жила вся родня отца. Строитель Михаил Шумилов поехал строить новый город на Байкале – Байкальск: там прямо в тайге на берегу озера начиналось строительство Байкальского целлюлозного завода.

Семья приехала в Сибирь зимой 1961-го года, а в 1962-ом случилось несчастье: погиб отец Владимира Михайловича. В 1971-ом году семья переехала в город Зиму (Иркутской области). Там начиналось крупное строительство Зиминского химкомбината. Последний, 10-й класс Владимир окончил в Зиминской средней школе N7. Оттуда осенью 1972 года пошёл в армию, служил в Читинской области, в учебной части, а потом в Монголии, в пустыне Гоби. В 1975 году поступил в МГИМО.

Я знаю Владимира Михайловича по работе в Министерстве внешней торговли СССР и Министерстве внешнеэкономических связей России. В тот период 1990-1992 г.г. я работал начальником договорно-правового отдела Государственного комитета по внешнеэкономическим связям Казахской ССР, а в дальнейшем Министерства внешнеэкономических связей Республики Казахстан. У меня были хорошие дружеские отношения со всеми коллегами-юристами Министерства внешнеэкономических связей России. В тот период мы практически каждый месяц встречались в Москве на различных совещаниях.

В 1989 – 1993 гг. Владимир Михайлович работал в Торговом представительстве СССР, а в дальнейшем Российской Федерации в Италии. Принимал участие в разработке российских законов и в переговорах по подготовке и согласованию международных договоров. Осуществлял

официальное взаимодействие с Международным институтом по унификации частного права (УНИДРУА) в г.Риме и проводил работу по вступлению СССР, а затем и России в эту международную организацию.

В разное время В.М. Шумилов выступал в качестве консультанта и эксперта в Конституционном суде РФ, Комитете по экономической политике Государственной Думы РФ, Министерстве образования РФ, Счетной палате РФ, Торгово-промышленной палате РФ.

В.М. Шумилов член научно-экспертного совета Постоянной комиссии по правовым вопросам Межпарламентской ассамблеи ЕврАзЭС. Эксперт Рабочей группы Российского союза промышленников и предпринимателей (РСПП) по вступлению России во Всемирную торговую организацию (ВТО). Он состоял членом Международно-правового совета при МИД РФ. Руководил внешнеторговыми предприятиями. Принимал участие в разработке российских законов и других нормативных правовых актов, а также в переговорах по подготовке и согласованию международных договоров. Занимался исследованиями, направленными на правовое обеспечение процесса вхождения России в мировую экономическую систему, адаптацию российского законодательства к нормам Всемирной торговой организации (ВТО).

В.М. Шумилов возглавлял группу ученых, подготовившую экспертный проект Договора о Евразийском экономическом союзе (ЕАЭС), который был положен в основу действующего Договора. Он эксперт Российской академии наук. Член Экспертного совета по защите инвестиций за рубежом (в рамках службы Уполномоченного при Президенте РФ по защите прав российских компаний и предпринимателей). Член Российской ассоциации международного права, редколлегий нескольких юридических журналов, диссертационных советов. Третейский судья, арбитр международного коммерческого арбитражного суда (МКАС). Лауреат премии А.Н. Косыгина Петровской академии наук и искусств (2014г.). Член Союза писателей РФ.

Указом Президента Российской Федерации В.В. Путина от 28 июля 2016 года Владимиру Михайловичу Шумилову присвоено звание “Заслуженного юриста Российской Федерации” за личные заслуги: в развитии юридических наук на базе отечественных юридических школ, направленном на достижение общесоциального прогресса, и за подготовку квалифицированных юридических кадров.

У Владимира Михайловича крепкие дружественные связи с казахстанскими учеными и университетами. Он почётный профессор трех казахстанских вузов: Казахского национального университета им. аль-Фараби (г.Алматы); Евразийской юридической академии им. Д.А. Кунаева (г.Алматы); Международного университета информационных технологий (г.Алматы). Почетный член Казахстанской ассоциации международного права, член редакционной коллегии казахстанского журнала «Экономика и право Казахстана».

Заметным явлением в науке международного права СССР и СНГ стали диссертации, успешно защищенные В.М. Шумиловым. В частности, кандидатская диссертация на тему «Принцип наиболее благоприятствуемой нации в международном праве: Проблемы теории и практики» (1986 г.), докторская диссертация «Международное экономическое право в контексте глобализации мировой экономики: Проблемы теории и практики» (2001 г.).

В.М. Шумилов автор научных трудов и публикаций в России, Казахстане и за рубежом по вопросам теории государства и права, сравнительного правоведения, международного права. Среди них – книги: «Международное экономическое право» (2020 г.); «Марракешское соглашение об учреждении Всемирной торговой организации (сборник)» (в соавторстве, 2018 г.); «Введение в правовую систему ФРГ» (2001 г.); «Международное экономическое право в эпоху глобализации» (2003 г.); «Правовая система США» (2003 г., 2006 г.); «Международное финансовое право» (2005 г.); «Правоведение» (2006-2011 г.г.); «Всемирная торговая организация: право и система» (2006 г.); «Международное право» (2007-2011 г.г.) и другие.

Владимир Михайлович разносторонне талантливый человек. Он не только замечательный ученый-юрист и практик, но и прекрасный поэт и писатель. Как известно, ещё в 1856 году Николай Алексеевич Некрасов в своём стихотворении «Поэт и гражданин» писал следующее: «Поэтом можешь ты не быть, но гражданином быть обязан». Однако, во Владимире Михайловиче сочетаются и патриотизм, и поэтические дарования. Он автор книги «Литературные опыты в духе русского экзистенциализма» (М., 2007) и сборника философских стихов (М., 2010). Имеет свою страничку на общероссийских сайтах «Стихи.ру» и «Проза.ру».

Я рекомендую своим коллегам и студентам на этих сайтах следующие сборники стихов

В.М. Шумилова: «Земля, где живут Иван да Марья», «Размышления о русском характере», «Баллада о новомученике русском», «В сказочной стране», «Звуки жизни», «Уездногородские картинки», «Из окна поезда».

Владимир Михайлович по-настоящему талантливый поэт. Мне как сыну поэта Сырбая Мауленова – Народного писателя Республики Казахстан, Лауреата Государственной премии имени Абая, Лауреата премии имени Александра Фадеева очень хорошо знаком нелегкий труд поэта. Ряд стихотворений Владимира Михайловича заставляют нас задуматься над своими действиями в нашей повседневной жизни. Например, это стихотворение – «Гонка за счастьем».

Так расположена судьба.
Плетётся по тропе арба.
Верблюд шагает по пустыне.
Возок завяз в густой трясине.

На бричке мчится господин
не то в Париж, не то в Пекин.
По тракту прётся таратайка,
в ней развесёлая хозяйка.

А следом дрожки с мужиком –
набиты скарбом и добром.
Гонец с депешей – в дилижансе.
Чиновник тащится – весь в трансе –
в повозке-тройке по земле
с понурой клячей во главе.

В санях, телегах, тарантасах,
в драндулетах, на пегасах –
за грани видимых пространств,
в Австралию, в Сибирь, в Бердянск,

кто – голышом, кто – кувырком,
гужом, пешком, гуськом, бегом,
в дубравы, дебри, за жар-птицей,
чтобы блистать в Москве-столице,

за счастьем гонится народ.
Сменяется за родом род.

* * *
А я смотрю на них в окно:
Ведь счастье – рядом, вот оно…

Очень философское по содержанию стихотворение В.М. Шумилова «Мы далёкое любили».

Мы далёкое любили[1],
Мы смертельному смеялись.
Мы родное позабыли,
Одинокими остались.

Нас высокое манило,
Светлое звало в дорогу.
Суетою раздавило,
От лежалого – изжога.

Нежное щеки касалось,
Тёплым душу наполняя.
Лишь остывшее досталось –
Переполненным до края.

Люди доброму учили,
Злое делать не велели.
Наставления – зарыли,
От учений – очумели.

Сущее окинем взглядом.
Тайное судьбе открыто:
Жалкое, с потертым задом,
Спит у разбитого корыта.

В 2007 году я проходил два месяца научную стажировку в Шотландии, в городе Абердине, в университете имени Роберта Гордона и невольно обратил внимание на цикл стихотворений Владимира Михайловича об этой замечательной стране.

В Шотландии

По воле злого драматурга, –
не на коне (не так красиво), –
очнулся в пабе Эдинбурга
за пинтой пенистого пива,
с бутылкой, что для нас не диво,
ядрёных виски, и в окурках.
Зудит заливисто волынка.
Закуски нет, и хаггис[2] съеден.
Надену килт[3] и по Ордынке –
пардон, по Ройал Миль[4] – поедем
гулять куда-нибудь к соседям
по развесёлой, по старинке.
А лучше, чем иным двуногим,
овечкой сытой, с голым торсом,
щипать зелёные отроги,
поросшие травою-ворсом.
Страна, прославленная Бёрнсом!
И будем вечными, как боги…

Очень интересна и познавательна литературная книга В.М. Шумилова «Трудно только первые двадцать лет: Беллетризованная автобиография на основе воспоминаний, дневников и

[1] Строчка из стихотворения Н.Гумилёва «Сада-Якко»

[2] Шотландское блюдо, напоминает ливерную колбасу.

[3] Мужская юбка.

[4] Главная историческая улица Эдинбурга.

писем. Из архивов семьи Шумиловых», опубликованная в 2016 г. На основе обобщения детских и юношеских дневников, писем и воспоминаний 20-летний автор делится историей пока короткой жизни, впечатлениями, чувствами и размышлениями. Получился «почти-роман» о мироощущении мальчика, становлении его внутреннего мира, превращениях и трансформациях души, о начинающейся судьбе молодого человека. Автор с 14 лет вёл короткие дневниковые записи, сочинял первые неумелые стихи, которые вплетены в текст издания. Переезды, пребывание в Перми, дом бабушки, строительство нового города на Байкале, смерть отца, мама, школьные годы, наконец – служба в армии и тяжёлые воинские будни; поступление в МГИМО – вот те события, которые постепенно складываются в общую картину на фоне переживаемого страной времени. Самостоятельный выбор своего пути и неуклонное движение к цели – отличительная черта «литературного героя». Может показаться, что перед нами лишь частные факты конкретного человека, достойные только семейного архива и не имеющие общественного значения. В каком-то смысле так оно и есть: книга-архив посвящена детям, внукам, потомкам. Но, с другой стороны, в ней отражены закономерности эволюции личности, внутренняя работа интеллекта и сердца, переплетения отношений и интересов, а переживаемая советская эпоха раскрывается в деталях и «мазках», которые помогают понять то время в целом. И в таком ракурсе представляемые «записи» могут быть интересны не только любителям автобиографической беллетристики, а всем, философски относящимся к жизни людям, настроенным на размышления и обобщения.

Современным казахстанским студентам будет очень полезна книга В.М. Шумилова «МГИМО – И ДАЛЕЕ…: Автобиографическое повествование на основе воспоминаний, дневников и писем» вышедшая в 2017 г. Перед читателями вторая часть беллетризованной автобиографии известного юриста-международника, представляющая собой самостоятельное повествование. На основе обобщения дневников, писем и воспоминаний автор раскрывает перипетии студенческой жизни в знаменитом вузе – в МГИМО, в который он поступил в 1975 году. Внутренний уклад и взаимоотношения молодежной элиты страны оказались не совсем такими, как представлялось издалека. Перед читателем проходит ряд портретов бывших студентов, картины учебы, общежитского быта, поездок и встреч, размышлений и споров на острые темы общественной жизни. Меняются герои, меняется мировоззрение, подспудно меняется страна, несмотря на внешний «застой». Получился симбиоз художественной литературы и личного архива, что придает произведению определенное своеобразие. Книга рассчитана прежде всего на родных и близких автора; тех, кто окружал его в стенах института и в последующем, но, думается, привлечет внимание и сегодняшних МГИМОвцев, любителей автобиографической беллетристики, всех философски мыслящих и интеллектуально подготовленных людей.

За свои литературные произведения Владимир Михайлович в 2020-м году награждён медалью им. Чехова – за вклад в русскую литературу. Это заслуженная и высокая награда присуждается Союзом писателей России. В Республике Казахстан В.М. Шумиловым совместно с К.С. Мауленовым профессором, доктором юридических наук опубликовано учебное пособие «Международное экономическое право» (в 2011 г. и два издания в 2012 г.). В 2014 г. Министерство образования и науки Республики Казахстан присвоило данному учебному пособию гриф учебника для специальностей: юриспруденция, международное право, экономика, финансы, менеджмент и другие. В.М. Шумилов совместно с С.Ж. Айдарбаевым, профессором, доктором юридических наук опубликовал в республике учебное пособие «Международное право» (2013 г.).

Блестящее владение итальянским, английским и французским языками украшает научные труды по юриспруденции, написанные В.М. Шумиловым. Он перевел (в сотрудничестве с другими юристами-учеными) книгу-учебник французских юристов Д. Карро и П. Жюйара «Международное экономическое право» (2002 г.), а также выступил редактором этого издания.

Владимир Михайлович настоящий педагог и пользуется большим авторитетом среди профессорско-преподавательского состава и студенчества Всероссийской академии внешней торговли. Он пользуется огромной любовью и уважением своих студентов и выпускников. Вот только некоторые отзывы студентов о своем учителе: «Преподаватель нового современного типа», «Его новые концепции направлены на защиту интересов России международно-правовыми средствами в глобальной экономической системе», «Гордимся, что по его книгам занимаются в России и в СНГ», «Преподаватель с добрым Сердцем и широкой Русской Душой!» и другие.

Владимир Михайлович замечательный муж, отец и дедушка для своих любимых внуков. Су-

пруга – Елена Васильевна, преподаёт в Московском лингвистическом университете (бывший институт иностранных языков им. Мориса Тореза) французский язык. Она заведует секцией французского языка на факультете вторых иностранных языков. Сын Олег окончил МГИМО, кандидат юридических наук, руководит юридической службой крупного предприятия. Второй сын – Юрий окончил ВАВТ, кандидат юридических наук, работает начальником юридической службы крупного холдинга. Супруги Шумиловы всегда рядом со своими внуками-школьниками: Димой и Пашей, а также двухлетней Анечкой.

Владимир Михайлович истинный друг казахстанских юристов. Он оппонировал в разные годы несколько кандидатских и докторских юридических диссертаций, защищенных в Казахстане, соавтор первых казахстанско-российских учебников по международному праву и международному экономическому праву, участник многих казахстанских научно-практических конференций. Его замечательные лекции прослушали тысячи студентов, магистрантов, докторантов и преподавателей в казахстанских вузах.

В 2020 г. республиканский общественный Фонд имени Бауыржана Момыш-улы – Героя Советского Союза наградил его медалью «100-летие Бауыржана Момыш-улы – Героя Советского Союза» за укрепление вечной дружбы между Казахстаном и Россией.

Мне хотелось бы пожелать дорогому Владимиру Михайловичу крепкого здоровья, долгих лет жизни (казахи желают минимум достижения возраста Великого поэта Джамбула Джабаева – 100 лет! Больших новых творческих успехов на благо процветания Независимой России!

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