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## МАЗМҰНЫ

### Редакция бағанасы ..... 8

Қазақстан Республикасы Әділет министрі М.Б. Бекетаевтың  
2017 жылғы 29-30 тамызда Астана қаласында өткен Қазақстан  
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ция және қоғам мен мемлекеттің жаңғыруы» атты халықаралық  
ғылыми-практикалық конференциядағы алғы сөзі ..... 13

### «Жаршынын» мұрағат беттері

**Ғ.С. САПАРҒАЛИЕВ** Мемлекеттік-құқықтық саладағы  
прокуратураның рөлі туралы құқықтық саясат тұжырымдамасы  
(ҚР ЗИ Жаршысы, №4(16)-2009, 5-10 б.) ..... 14

**Б.Қ. НҮРҒАЗИНОВ** Академик Ғ. Сапарғалиевтің  
мемлекеттік-құқықтық саладағы прокуратураның рөлі туралы  
ғылыми жарияланымына қайта оралғанда ..... 21

### Мемлекет және құқық теориясы

**А.С. ТУКИЕВ, К.К. АХМЕТОВ** Қазақстандағы Құқықтық  
сауаттандырудың жаңа тұжырымдамасы ..... 24

**Р.К. ДЖИЕМБАЕВ, О.А. ЛАДЫГИНА** Қазақстан Республи-  
касы ПМ ведомстволық ЖОО-нда білім алушылардың құқықтық  
санасын қалыптастырудың проблемалары туралы ..... 31

### Конституциялық және әкімшілік құқық

**Й. ПУДЕЛЬКА, Й. ДЕППЕ** (Берлин қ., Германия) Орталық  
Азиядағы жалпы әкімшілік құқық даму процесінде ..... 39

**С.Н. ИСАЕВА** Балалар құқықтары жөніндегі уәкіл институ-  
ты: проблемалар және даму перспективасы ..... 50

### Азаматтық және азаматтық іс жүргізу құқығы

**Е.А. ДҮЙСЕНОВ, А.Қ. ЛЯМБЕКОВА** Жаңартылатын  
энергия көздерін пайдаланудағы нормативтік реттеуді жетілдіру  
мәселелері ..... 57

### Қылмыстық құқық және қылмыстық процесс

**А.Н. АХПАНОВ, З.Ғ. ҚАЗИЕВ** Қазақстандық қылмыстық  
процесте «қисынды мерзім» ұғымын пайдаланудың кейбір негізгі  
аспектілері туралы ..... 65

**Н.К. ИМАНҒАЛИЕВ** Бөтеннің мүлкін ұрлағаны үшін  
жауапкершілік туралы қылмыстық-құқықтық нормаларды  
жетілдіру туралы ..... 73

**Б.Қ. НҮРҒАЗИНОВ** Қазақстан Республикасының әкімшілік  
заңнамасына медициналық қателік ұғымын енгізу туралы ұсыныс ..... 80

**К.И. ИСМАҒҰЛОВ, А.А. МҰҚАНБЕТҚАЛИЕВ** Қазақстан  
Республикасының терроризмге қарсы іс-қимыл туралы заңнамасын  
жетілдірудің кейбір проблемалары ..... 89

### Халықаралық құқық және салыстырмалы құқықтану

**А.С. ИРЖАНОВ** Халықаралық терроризм туралы жан-жақты  
қамтитын конвенцияның жобасын әзірлеудің кейбір мәселелері ту-  
ралы ..... 96

**М.Ж. КУЛИКПАЕВА** Цифрлық технологияларды дамыту  
тұрғысында жеке өмірге құқығын қамтамасыз етудің халықаралық-  
құқықтық негіздері ..... 101

### Құқықтық мониторинг

**Е.З. БЕКБАЕВ** Татарстан Республикасы мен Башқұртстан  
Республикасында заңдарды мониторингілеудің шетелдік  
тәжірибесі туралы ..... 109

**Ш.Ж. ТАУКЕБАЕВА** Бұқаралық ақпарат құралдарын  
құқықтық реттеудің кейбір мәселелері («Бұқаралық ақпарат  
құралдары туралы» ҚР Заңына талдамалық анықтама материалда-  
ры бойынша) ..... 117

**А.Қ. ҚАНАТОВ, Е.К. АХМЕТОВ** Құқық қорғау қызметінің  
проблемалық аспектілері. (заңнама мониторингі) ..... 123

А.К. АҚАЙ Қазақстан Республикасында сотталғандықты өтеудің кейбір мәселелері.....	131
---	-----

#### Мемлекеттік тілдегі заң шығармашылығы практикасынан

Е. САФУАНИ Заңнама техникасы мен тілінің кейбір мәселелері.....	138
---	-----

А.К. МАХАМБЕТОВА Агенттік келісім мәселелерін құқықтық реттеу.....	142
--	-----

#### Жас ғалым мінбері

Ф.Р. АХМЕДЖАНОВ Қазақстан Республикасының Қылмыстық кодексінде жазалауды реттеу бөлігіндегі кейбір проблемалар туралы.....	151
--	-----

Е.В. ЕСПЕРГЕНОВА Қазақстан Республикасы ҚК 318-бабында көзделген қылмыстық-құқықтық норманы жетілдіру проблемалары.....	158
---	-----

Р.К. ҚАНАТОВ Фьючерстік шарт ұғымы мен сипаттамалық ерекшеліктері («Туынды құралдар нарығындағы фьючерстік шарттың проблемалары мен перспективалары» атты іргелі және ғылыми қолданбалы зерттеудің талдамалық есебінің материалдары бойынша).....	165
---	-----

Д.Б. АБДИЛЬДИНА Сайлау жүйелері және әйелдердің сайланбалы органдардағы өкілділігі.....	171
---	-----

А. АРЫСТАН Титулдық сақтандыру адал ниетті сатып алушылардың мүддесін қорғау ретінде.....	176
---	-----

#### Ғылыми өмір хроникасы

2017 жылғы 8-9 маусымда Екатеринбург қ. өткен Қазақстан Республикасы Заңнама институтының Еуропа-Азия құқықтық конгресіне қатысуы туралы ақпараттық хабарлама.....	185
--	-----

2017 жылғы 22 маусымда Астана қ. өткен Мемлекеттік тілдегі заң жобалары мен халықаралық шарт жобаларының сапасы және ғылыми лингвистикалық сараптама мәселелері бойынша практикалық семинар туралы ақпараттық хабарлама.....	188
--	-----

2017 жылғы 29 маусымда Астана қ. қоғамдық, ғылыми ұйымдар, жоғарғы оқу орындар өкілдерінің, ғалым-заңгерлердің және практиктердің қатысуымен өткізілген семинар-кеңес туралы ақпараттық хабарлама.....	190
--	-----

2017 жылғы 17-29 шілдеде Германияда өткен Неміс кәсіпкерлік құқығының сегізінші жазғы мектебі туралы ақпараттық хабарлама.....	193
--	-----

2017 жылғы 4-15 қыркүйекте Италиядағы Турин қ. өткен жергілікті көрсетілетін қызметтерді реттеу бойынша XX Турин Халықаралық жазғы мектебі туралы ақпараттық хабарлама.....	195
---	-----

2017 жылғы 12-14 қыркүйекте Катманду қ. (Непал) өткен Қазақстан Республикасы Заңнама институтының Азияның Заң ақпараттық қоғамдастығының халықаралық конференциясына қатысуы туралы ақпараттық хабарлама.....	197
---	-----

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И.М. Умарахуновтың «Международная договорно-правовая практика Республики Узбекистан: вопросы теории и практики» тақырыбындағы монографиясына рецензия, 2017ж.....	200
---	-----

«Государство. Право. Общество в условиях глобализирующегося мира» тақырыбындағы монографияға рецензия, 2017ж.....	202
---	-----

Даналық ойлар.....	204
--------------------	-----





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## СОДЕРЖАНИЕ

### Колонка редакции ..... 9

*Приветственное слово Министра юстиции Республики Казах-  
стан Бекетаева М.Б. на международной научно-практической кон-  
ференции «Конституция и модернизация общества и государства»,  
посвященной Дню Конституции Республики Казахстан, г. Астана,  
29-30 августа 2017 г.* ..... 13

### Архивные страницы «Вестника»

**Г.С. САПАРГАЛИЕВ** Концепция правовой политики о роли  
прокуратуры в государственно-правовой сфере (Вестник ИЗ РК,  
№4(16)-2009 г. стр. 5-10) ..... 14

**Б.К. НУРГАЗИНОВ** Возвращаясь к научной публикации акаде-  
мика Г. Сапаргалиева о роли прокуратуры в государственно-правовой  
сфере ..... 21

### Теория государства и права

**А.С.ТУКИЕВ, К.К. АХМЕТОВ** Новая Концепция правового  
просвещения в Казахстане ..... 24

**Р.К. ДЖИЕМБАЕВ, О.А. ЛАДЫГИНА** О проблемах форми-  
рования правосознания обучающихся ведомственных вузов МВД  
Республики Казахстан ..... 31

### Конституционное и административное право

**Й. ПУДЕЛЬКА, Й. ДЕППЕ (г. Берлин, Германия)** Общее адми-  
нистративное право в Центральной Азии в процессе развития ..... 39

**С.Н. ИСАЕВА** Институт уполномоченного по правам ребенка:  
проблемы и перспективы развития ..... 50

### Гражданское и гражданско-процессуальное право

**Е.А. ДЮСЕНОВ, А.К. ЛЯМБЕКОВА** Вопросы совершен-  
ствования нормативного регулирования использования возобнов-  
ляемых источников энергии ..... 57

### Уголовное право и уголовный процесс

**А.Н. АХПАНОВ, З.Г. КАЗИЕВ** О некоторых ключевых  
аспектах использования понятия «разумный срок» в казахстанском  
уголовном процессе ..... 65

**Н.К. ИМАНГАЛИЕВ** О совершенствовании уголовно-право-  
вых норм об ответственности за кражу чужого имущества ..... 73

**Б.К. НУРГАЗИНОВ** Предложение о введении понятия меди-  
цинской ошибки в административное законодательство Респу-  
блики Казахстан ..... 80

**К.И. ИСМАГУЛОВ, А.А. МУКАНБЕТКАЛИЕВ** Некото-  
рые проблемы совершенствования законодательства Республики  
Казахстан о противодействии терроризму ..... 89

### Международное право и сравнительное правоведе- ние

**А.С. ИРЖАНОВ** О некоторых вопросах разработки проекта  
Всеобъемлющей Конвенции о международном терроризме ..... 96

**М.Ж. КУЛИКПАЕВА** Международно-правовые основы обе-  
спечения права на частную жизнь в контексте развития цифровых  
технологий ..... 101

### Правовой мониторинг

**Е.З. БЕКБАЕВ** О зарубежном опыте мониторинга законов  
в Республике Татарстан и Республике Башкортостан ..... 109

**Ш.Ж. ТАУКИБАЕВА** Некоторые вопросы правового регули-  
рования средств массовой информации (по материалам аналити-  
ческой справки на Закон РК «О средствах массовой информации» ..... 117

**А.К. КАНАТОВ, Е.К. АХМЕТОВ** Проблемные аспекты пра-  
воохранительной службы (мониторинг законодательства) ..... 123

<b>А.К. АКАЙ</b> Некоторые вопросы погашения судимости в Республике Казахстан.....	131
--	-----

### Из практики законодательства на государственном языке

<b>Е. САФУАНИ</b> Некоторые вопросы техники и языка законодательства .....	138
--	-----

<b>А.К. МАХАМБЕТОВА</b> Правовое регулирование вопросов агентского соглашения .....	142
---	-----

### Трибуна молодого ученого

<b>Ф.Р. АХМЕДЖАНОВ</b> О некоторых проблемах Уголовного кодекса Республики Казахстан в части регулирования наказания .....	151
--	-----

<b>Е.В. ЕСПЕРГЕНОВА</b> Проблемы совершенствования уголовно правовой нормы, предусмотренной ст. 318 УК РК .....	158
---	-----

<b>Р.К. КАНАТОВ</b> Понятие и характерные особенности фьючерсного договора (по материалам Аналитического отчета фундаментального и научно-прикладного исследования «Проблемы и перспективы фьючерсного договора на рынке производных инструментов») .....	165
---	-----

<b>Д.Б. АБДИЛЬДИНА</b> Избирательные системы и представленность женщин в выборных органах .....	171
---	-----

<b>А. АРЫСТАН</b> Титульное страхование как гарантия защиты интересов добросовестного приобретателя .....	176
---	-----

### Хроника научной жизни

Информационное сообщение об участии Института законодательства Республики Казахстан в Европейско-Азиатском правовом конгрессе, 8-9 июня 2017 года, г. Екатеринбург .....	186
--	-----

Информационное сообщение о практическом семинаре по вопросам качества законопроектов и проектов международных договоров на государственном языке и научной лингвистической экспертизы, Астана, 22 июня 2017 г. ....	188
---	-----

Информационное сообщение о семинаре-совещании с участием представителей общественных, научных организаций, вузов, ученых-юристов и практиков, 29 июня 2017 года, г. Астана .....	190
--	-----

Информационное сообщение о восьмой Летней школе немецкого предпринимательского права, Германия, 17-29 июля 2017 г. ....	194
---	-----

Информационное сообщение о XX Туринской Международной летней школе по регулированию местных услуг, г. Турин, Италия, 4-15 сентября 2017 г. ....	196
---	-----

Информационное сообщение об участии Института законодательства Республики Казахстан в международной конференции Юридического информационного сообщества Азии, 12-14 сентября 2017 года в г. Катманду (Непал) .....	197
--	-----

### Библиография

Рецензия на монографию И.М. Умарахунова «Международная договорно-правовая практика Республики Узбекистан: вопросы теории и практики», 2017г. ....	200
---	-----

Рецензия на монографию «Государство. Право. Общество в условиях глобализирующегося мира», 2017г. ....	202
---	-----

<b>Мудрые мысли</b> .....	204
---------------------------	-----





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## **CONTENT**

### **Editorial** ..... 11

*Address of the Minister of Justice Beketayev M.B. at the  
international scientific and practical conference «The Constitution and  
Modernization of Society and the State», dedicated to the Constitution  
Day of the Republic of Kazakhstan, Astana, August 29-30, 2017.* ..... 13

### **Archive «Bulletin» pages**

**G.S. SAPARGALIEV** The concept of legal policy on the role  
of the prosecutor's office in the state and legal sphere (Bulletin FM RK,  
No. 4 (16) -2009, p. 5-10) ..... 14

**B.K. NURGAZINOV** Returning to Academician G. Sapargaliyev's  
scientific publication on the role of the Prosecutor's Office in the state  
and legal sphere ..... 21

### **Theory of State and Law**

**A.S. TUKIEV, K.K. AKHMETOV** The new concept of public  
legal education in Kazakhstan ..... 24

**R.K. DZHIEMBAEV, O.A. LADYGINA** On the problems  
of formation of the legal awareness of the students of higher educational  
institutions of the Ministry of Internal Affairs of the Republic  
of Kazakhstan ..... 31

### **Constitutional and Administrative Law**

**J. PUDELKA, J. DEPPE (Berlin, Germany)** General  
administrative law in Central Asia in the development process ..... 39

**S.N. ISSAYEVA** The institute of the children's rights  
commissioner: problems and development prospects ..... 50

### **Civil and Civil Procedural Law**

**Y.A. DYUSSENOV, A.K. LYAMBEKOVA** Issues of improving  
regulation of the use of renewable energy sources ..... 57

### **Criminal law and Criminal procedure**

**A.N. AKHPANOV, Z.G. KAZIEV** About some key aspects  
of the use of concept «reasonable term» in Kazakhstani criminal  
procedure ..... 65

**N.K. IMANGALIEV** On the issue developing criminal norms  
on the liability for theft of property ..... 73

**B.K. NURGAZINOV** Proposal for the introduction of the concept  
of the medical error in the administrative legislation of the Republic  
of Kazakhstan ..... 80

**K.E. ISMAGULOV, A.A. MUKANBETKALIYEV** Some  
problems of improvement of countering terrorism legislation  
of the Republic of Kazakhstan ..... 89

### **International and Comparative law**

**A.S. IRZHANOV** About some issues of the drafting  
of the Comprehensive Convention on International Terrorism ..... 96

**M.Zh. KULIKPAYEVA** International legal basics of providing  
of the right to privacy in the context of the development of digital  
technologies ..... 101

### **Legal monitoring**

**E.Z. BEKBAYEV** About foreign experience of monitoring  
of laws in the Republic of Tatarstan and the Republic of Bashkortostan ..... 109

**Sh.Zh. TAUKIBAEVA** Some problems of legal regulation of mass  
media (Based on the analytical reference to the Law of the Republic  
of Kazakhstan «On Mass Media») ..... 117

<b>A.K. KANATOV, E.K. AKHMETOV</b> Problematic aspects of law enforcement service (monitoring of legislation).....	123
<b>A.K. AKAY</b> Some problems of cancellation of a criminal record in the Republic of Kazakhstan.....	131

### Lawmaking practice in the official language

<b>Y. SAFUANI</b> On some issues of legislative technique and language.....	138
<b>A.K. MAKHAMBETOVA</b> Legal regulation of an agency agreement.....	142

### Young scholar tribune

<b>F.R. AKHMEJANOV</b> On some problems of punishment regulation of the Criminal code of the Republic of Kazakhstan.....	151
<b>Y.V. YESPERGENOVA</b> Problems of improving the criminal law provision in Art. 318 of the Criminal Code of the Republic of Kazakhstan.....	158
<b>R.K. KANATOV</b> Concept and character features of the futures contract (Based on the Analytical Report of the Fundamental and Applied Research «Problems and Prospects of the Futures Contract in the Derivatives Market»).....	165
<b>D.B. ABDILDINA</b> Electoral systems and representativeness of women in elected bodies.....	171
<b>A. ARYSTAN</b> Title insurance as the assurance of good faith purchaser interests protection.....	176

### The Chronicle of Scientific Life

Information note on the participation of the Legislation Institute of the Republic of Kazakhstan in the Euro-Asian Legal Congress, Ekaterinburg, June 8-9, 2017.....	187
Information note on the practical seminar on the quality of draft laws and treaties in the state language and scientific linguistic expertise, Astana, June 22, 2017.....	189
Information note on the seminar with participation of representatives of public, scientific organizations, universities, legal scientists and practitioners, Astana, June 29, 2017.....	192
Information note on the eighth Summer School of German business law, July 17 and 29, 2017.....	194
Information note on the XXth Turin International Summer School on the regulation of Local Public Services, Turin, Italy, September 4-15, 2017.....	196
Information note on the participation of the Legislation Institute of the Republic of Kazakhstan in the international conference of the Legal Information Network of Asia, Kathmandu (Nepal), September 12-14, 2017.....	199

### Bibliography

Review of a monograph of I.M. Umarakhunova «International legal and treaties practice of the Republic of Uzbekistan: theory and practice», 2017.....	200
Review of a monograph «State. Law. Society in a Globalizing World», 2017.....	202

<b>Wise thoughts</b> .....	204
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болашақ Құқықтық ағарту тұжырымдамасын әзірлеудің жалпы тәсілдері анықталған. Бұндай сипаттағы мақсат белсенді, заңға бағынатын, дұрыс мінез-құлықты қалыптастыруды талап етеді, ол өз кезегінде құқықтық ағартудың жалпы әдістері мен міндеттерінде сипат алады.

## НОВАЯ КОНЦЕПЦИЯ ПРАВОВОГО ПРОСВЕЩЕНИЯ В КАЗАХСТАНЕ

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**Ключевые слова:** Концепция; правовое просвещение; правовая культура и государственная политика.

**Аннотация.** Государственная политика в сфере правового просвещения последних лет основывалась на программных и плановых документах без наличия определенного концептуального подхода. При этом данные программы носят преимущественно пропагандистский характер и в целом оказались неэффективными, что связано с наличием ряда системных проблем в реализации государственной политики в сфере правового просвещения.

В современных условиях актуальным является разработка концептуально обновленной государственной политики в сфере правового просвещения, которая базировалась бы на совершенно иных институциональных подходах. Данная модель требует активного участия НПО, предпринимательской среды, а также СМИ. Авторы попытались продемонстрировать критическую значимость участия общественных (гражданских) сил в реализации будущей политики в сфере правового просвещения. Авторы также указали на проблематику механизмов реализации политики в сфере правового просвещения и отметили значимость помимо бюджетных ресурсов альтернативных источников финансирования.

В настоящей статье отражены выработанные коллективом исследователей общие подходы к разработке будущей Концепции правового просвещения, которая ставит перед собой фундаментальную цель – сформировать законопослушного гражданина с высокой гражданской позицией. Цель такого рода требует формирования активных, законопослушных поведенческих установок, что отражено в задачах и общих подходах правового просвещения.

### Introduction

In modern conditions joining Kazakhstan the top 30 most developed countries of the world the establishment of the rule of law, the increasing of the level of legal culture, and other are one the most important governmental tasks, and their achievement is directly related to the effective implementation of the state policy in the field of public legal education<sup>1</sup>.

It is generally accepted that legal education consists of legal advocacy, legal nurturing and legal awareness [1, pages: 153-158], [2, pages: 200-207]. In turn, we believe that at present time legal education and legal issues are also components of legal counseling and assistance, promotion of legal mechanisms.

Recent years the governmental policy in the field of public legal education was based on program and planning documents, such as: Program on law-explaining work, the formation of legal culture, legal education and citizenship education for 2005-2007; Program on law-explaining work, raising the level of legal culture, legal education and education of citizens for 2009-2011; Comprehensive plan to improve the level of legal culture of citizens of the Republic of Kazakhstan for 2012-2014.

The above-mentioned programs were mainly propagandistic in nature and, on the whole, exhausted their possibilities. In this regard, the research team consisting of A. Tukiev, J. Kulzhabaeva, J. Tlembaeva,

<sup>1</sup> Legal education is a complex concept combining elements of legal education and legal propaganda and representing educational and educational activities aimed at the formation of active citizenship among citizens, knowledge of the national legislation, rights and duties of individuals and citizens, and the possibility of obtaining legal assistance.

A. Abylayly, D. Dosmyrza, V. Konusova, V. Kazieva, I. Eleusizova, A. Irzhanov, K. Akhmetov, D. Abdildina, Sabirov K., Kysykova G., Mushanov T. and Sultanova L. have developed a draft Concept on improving the field of legal education, taking into account the best international practice.

According to the research group, the existence of legal nihilism remains one of the most important social and state significant problems. This, among other things, is expressed in the social passivity and disbelief of citizens by virtue of the law, what in future can lead to serious systemic social consequences. According to L. Winterstinger, the most common consequences are poor health associated with stress, loss of income, and in future fear, ill-health and family breakdown. Vulnerability to legal problems is increasing due to low income, age, reduced educational qualifications and poor health [3, pages: 2-3].

At present time the effectiveness of public policy in the field of public legal education is directly related to the presence of a number of systemic problems:

- current model of shaping governmental policy in this field is based on the primary role of the state and primary responsibility of governmental bodies for its effectiveness;

- program activities were mainly informative and propagandistic, which were expressed in the publication of legal acts in the media and clarification of their provisions;

- program activities did not take into account the needs of special target groups;

- procedures for assessing the quality and effectiveness of the implementation of activities in this field were not established.

According to the research, 30% of those people who face civil legal problems are trying to solve these problems on their own. Especially it concerns such areas as consumer complaints or problems with debt<sup>2</sup>.

In addition, the current situation of the national policy in the field of legal education indicates that the formation of a high level of legal education is impossible without the active participation of civil society. Therefore, in this direction, radical changes are needed, which require a serious transformation of the institutional model for the implementation of policies in this field.

It would also be advisable to envisage the role of the mass media and educational institutions in the renewed policy of public legal education, which, in our opinion, should take into account the cultural, historical, gender and other features of the development of

modern society, commitment to human rights and a focus on results that ensure sustainable development of the country.

### **Basic provisions of public legal education**

In our opinion, the new governmental policy in the field of public legal education requires the adoption of completely new tasks and goals that can be reflected in the updated concept in this field. The goal of the state policy in this sphere should be aimed at raising the level of legal culture of citizens characterized by lawful behavior and civic activity. Achieving this goal is possible due to the following tasks:

- 1) providing citizens with legal knowledge, rights and duties of the individual and citizen;

- 2) formation of stable orientation towards lawful behavior among citizens, creating the atmosphere of intolerance to all cases of their violation, the inevitability of responsibility;

- 3) establishment of the rule of law as an immutable social value, respect for it, decisive overcoming of legal nihilism;

- 4) increase of citizens' confidence in public bodies and representatives of state power;

- 5) use of scientific and cultural potential of the country in order to increase the level of legal awareness and legal culture of citizens;

- 6) formation of zero tolerance for corruption, prevention of offenses, eradication of marginal behavior of an individual;

- 7) timely informing citizens about the planned political decisions of public bodies and explaining the objectives of these decisions;

- 8) creation of an effective mechanism of cooperation in the field of public legal education between the state and civil society.

These tasks are aimed at understanding the law and the rights of citizens, which in future can help people to manage with their daily problems more effectively.

### **Approaches, directions and tools of public legal education**

The new governmental policy in the field of public legal education in terms of content should be diverse and offer completely new approaches, directions and tools for legal education. So, in order to increase public confidence in the ongoing activities on legal education, it is expedient to apply the most advanced and modern approaches both to organizing events and interacting with the public. On this basis, legal education should be based on the following approaches:

- 1) orientation to universal human values and the ideals of humanism;

- 2) openness to cooperation;

- 3) autonomy and self-management of

<sup>2</sup> Towards a national strategy for public legal education. A discussion paper. September 2004



stakeholders of public legal education;

4) customer orientation, accessibility for a specific audience and response to the needs of the audience;

5) innovation and creativity;

6) monitoring and control of processes of public legal education.

Public legal education encompasses a wide range of legal and socio-political topics, which to some extent may unevenly or unnecessarily expand activities in the field of legal culture and legal education. In our opinion, this in general can negatively affect the overall effectiveness of the policy in this field. Therefore, the content of public legal education should be supplemented by the following areas:

1) strengthening culture of human rights, which is based on a universal understanding of the value of human rights, cultivating respect for the rule of law, zero tolerance for corruption;

2) provision of information and educational materials to a person regarding the legal problems he is facing or that is common among this circle of persons;

3) (informational) support of people who wish to solve the legal problems independently;

4) providing comments to persons who wish to apply for the relevant legal service;

5) providing information on alternative dispute resolution;

6) training in writing of lawsuits, petitions, etc.;

7) providing information on legal aid centers and on state-guaranteed legal aid;

8) free counseling by practicing lawyers and lawyers of various associations, chambers, collegiums and societies.

### **Means and methods of public legal education**

Means and methods of legal education reflect a list of specific tools that should be aimed at the broadest and at the same time target groups. Taking into account all the multidimensionality of public legal education, as well as the need to increase confidence among the population, it is very important to search for new, more advanced ways of influencing these groups, including interactive communication tools<sup>3</sup>.

We consider it appropriate that legal education and legal information can be provided in various ways with the active or passive participation of the target audience:

1) brochures on specific legal topics - handouts in public places, as well as places of

target group (schools, libraries, service centers, universities, government agencies, correctional institutions);

2) articles and regular columns in newspapers and magazines about existing legal problems - appropriate educational and promotional activities in newspapers, journals about existing unresolved problems in various branches of law, as well as changes in legislation should be conducted in order to prevent misinterpretation of that changes;

3) telephone help lines providing information on legislation and legal services - it is necessary to introduce a telephone reference line, the operators of which could analyze the nature of the problem, provide general information on the algorithm for its resolution, with further redirection to the appropriate authorities or organizations;

4) material provided in the Internet, social networks, which would differ depending on the level of complexity of providing information and target audience - it is necessary to create educational sites on legal topics for as many target groups as possible;

5) guidance and comments on relevant laws on the Internet, specialized legal portals for citizens, providing information on the latest changes in legislation - government websites in addition to the feedback section, should contain a section of frequently asked questions, through which a citizen could find an answer, without waiting for a response from the public body;

6) webinars, teaching free courses on relevant issues - this method covers a wide range of various consultations, seminars, trainings, held both in public places and via the Internet (webinars);

7) activities based on role-playing games, for example, game trial - this method can be used both in schools and universities, and in adult education. This method can also include training in the preparation of statements of claim, petitions and complaints;

8) legal education and legal information on the legal system of the state:

a) within the framework of school education, a curriculum for junior, middle and senior classes should progressively shape students' legal conceptual apparatus of thinking. Schools should be visited not only by law enforcement officials, but also by representatives of the business community (companies providing legal services and advice, etc.).

<sup>3</sup> Information tools of this kind are widely used by UK NGOs (Developing a public legal education programme. Guidance and toolkit. February 2016. The Law society of England and Wales). For example, the creation of a special mobile application (SmartLaw), the development of hand-outs (handbooks, guides) for legal information on specific legal topics, as well as the creation of special educational headings on government websites and social networks (Public Legal Education and Information in Ontario Communities: Formats and Delivery Channels. August 2013. Project head: Julie Mathews).

b) within the framework of higher education institutions, the legal education of students of all specialties should be provided. Law universities and faculties of universities should strengthen the work of legal clinics to provide free legal assistance;

9) active use of television, video and radio programs with strong and informative legal content - within the framework of the television format next methods can be used: social videos about assistance programs, including legal ones; programs to increase the legal literacy of the population, which would cover the offenses and the consequences for their commission; films and TV series that affect legal problems.

Foreign practice indicates that the activities in the field of public legal education are designed specially for the audience and reflect the problems faced by this audience, its knowledge and level of legal capacity, as well as barriers they face<sup>4</sup>.

Thus, measures to increase the legal awareness of citizens should be of a general educational nature. At the same time, they should also be oriented towards certain segments of the population, as the Kazakhstani society differs in diversity according to various criteria. Accordingly, the policy of public legal education should meet the needs of certain segments of society, which include:

1) children and adolescents - shaping a legal conceptual apparatus of thinking from the junior classes of the school, legal education in the field of rights of the child, mechanisms of legal protection.

2) orphans and children deprived of parental care - information support about the rights guaranteed to them by the state and social benefits and programs.

3) students - increasing students' awareness of their own responsibility for committing offenses, consultations in various branches of law, counseling and training in addressing legal aid.

4) women - legal advice of gender equality in employment, in divorce proceedings, payment of alimony, protection of parental rights; counseling and training to address legal assistance in rape, domestic violence, forced marriage and other problems.

5) persons with disabilities - legal education of basic rights of this target group (education, employment, income maintenance and social security), training in legal assistance in case of violation and deprivation of the rights and benefits guaranteed by law.

6) pensioners - the right to medical care and social services, options for supporting

retirees, ways to improve housing conditions, the procedure for registration of benefits and subsidies, and regularly inform the elderly population about the latest changes in legislation.

7) civil servants - shaping the skills and knowledge aimed at effective interaction with the population on legal issues.

8) families and persons below the poverty line - legal education about the benefits provided by the state and special support programs (employment, education), telephones and support organizations for the poor; for children and adolescents - informing about places and telephone lines of legal assistance, conducting trainings and interactive games about the protection of their rights; for women and children - consultations conducted jointly with psychologists, on remedies in case of domestic violence.

9) population of rural areas - general educational activities in the legal system of the state, eradication of corruption in rural areas, cultivating respect for law and the rule of law.

10) oralmen - adaptation to the legal system of the state with the goal of socializing oralmen, advising on their rights and duties as a citizen and as oralmen, conducting trainings and seminars on seeking legal assistance.

11) persons working at hazardous production facilities - legal education of employees in the field of protecting labor rights and in the sphere health, social benefits and other payments.

12) prisoners - informing about their rights and ways of obtaining counseling support or legal assistance.

### Model of public legal education

As it was noted above, the policy in the field of public legal education, based mainly on the efforts of public bodies or administrative resources, is not effective enough, because the tasks to be accomplished in the field of legal education are fundamental for both the society and the state. Therefore, attracting other stakeholders is very important in this area. Moreover, effective implementation of state policy in this field depends on the participation of such stakeholders as NGOs and (legal) business community as a whole.

In particular, the principle of active participation of all civil society institutions is popular in foreign countries. Non-governmental organizations play a pivotal role in providing legal information, as well as in shaping skills necessary for the effective resolution of legal problems in everyday life. In Australia, for example, Legal Aid Queensland actively interacts with government agencies and other

<sup>4</sup> Principles and Guidance. Public Legal Education Network Advice Services Alliance



partner organizations to implement projects and conduct networking events, forums on legal education<sup>5</sup>.

In addition, in the United Kingdom, the United States and Australia, legal education is not limited in advocacy and propaganda methods, but also provides measures to form an active citizenship.

A very significant role is assigned to the allocation of specific target groups that are to some extent in a vulnerable position (pensioners, migrants, victims of domestic violence) due to the low level of legal culture or the lack of accessible channels of legal information.

In our opinion, it is necessary to envisage opportunities for the broadest involvement of civil society institutions: NGOs, educational institutions, the media, business community, etc. into an updated model of state policy in the field of legal education.

#### *Non-governmental organizations*

The activities of NGOs should be aimed at educating and informing residents on the most significant legal issues through various service programs for the general audience, as well as for educational institutions.

The participation of NGOs in the formation of the legal culture of the population will be manifested at various levels of interaction with authorities and the business community in a variety of ways. Coherence and social integration of state policy in the field of legal education will be its important feature.

#### *Mass media*

The cultural, ideological and propaganda influence of mass media is massive, which allows them effectively influence on various social groups, as they are able to create information products that are accessible and easily perceived for the majority of citizens.

Within the framework of legal education, the media should provide certain legal information or information about legal problems that will allow citizens (different social groups) provide solid guidance in socially significant phenomena and problems. Moreover, the media will shape public opinion on the most significant social and legal problems, thereby stimulating active citizenship.

#### *Educational establishments*

Educational institutions should fulfill their primary educational role in providing legal knowledge and certain practical legal competences.

Starting from the preschool age, children should receive basic knowledge in the legal field (familiarization with the rules of the road, fostering good conduct on the street and in public

transport, the formation of primary views of children about their rights and responsibilities).

Educational institutions are providing students with basic legal knowledge, and students are mastering the most significant moral values and norms of behavior. Information of this kind should be organized and directed towards shaping of a law-abiding citizen.

The development of the legal culture of students in educational institutions should be conducted in a sufficiently diverse and effective manner, such as training, master classes, conferences, legal circles, round tables, case study method, discussion of video films or joint legal solutions.

#### *Business community*

(Legal) business community, in addition to direct corporate interest, should pursue non-commercial goals to provide services or conduct activities to enhance the legal culture for philanthropic purposes. At the same time, the state should stimulate business community and mass media in other ways, for example, by providing tax incentives, various kinds of administrative indulgences, etc. Companies that provide legal and consulting services, colleges, chambers and associations should organize seminars, lecture courses on legal issues, free legal assistance to the public.

#### *The state*

Public bodies possess huge administrative and financial resources for effective implementation of public legal education. In addition, the state has sufficient competence to shape the model of legal education for the population through the development of a special governmental policy. This policy assumes the formation of specific directions for the development of legal culture of the population and individual social groups. An important advantage of the activities of public bodies is that they have targeted and systemic character.

### **General Implementation**

#### **Mechanisms**

The formation of an effective system of public legal education is a complex governmental goal, which implies achieving such fundamental state-significant tasks as establishing the rule of law, the development of legal culture and others.

Foreign experience points to the need to create a special body (center) whose activities, first of all, would focus on issues of public legal education. The creation of such center is a strategically important step, which guarantees success in implementing the policy in the field of legal education<sup>6</sup>. Such center could be the National Center for Citizenship and Law under a

<sup>5</sup> Community Legal Education Strategy. <http://www.legalaid.qld.gov.au/files/assets/public/about-us/cle-strategy.pdf>

<sup>6</sup> Developing capable citizens: the role of public legal education. The report of the PLEAS Task Force. July 2007

certain public body that would coordinate public authorities and be responsible for analyzing and monitoring the implementation of state policy in this field.

In addition, in our opinion, successful legal advocacy and issues of raising the legal culture depend on the activities of the whole system of public bodies. In this regard, we consider it appropriate for the government to develop general and targeted programs for public legal education.

A special role in the implementation of policies in this field should be given to State Corporation «Government for Citizens», whose activities are currently focused on the provision of various types of public services.

In this regard, it is necessary that this corporation will be able to expand the range of public services by including free consultations for target groups that fall under the policy of public legal education. In turn, the legal community and NGOs will need mandatory periodic provision of practicing lawyers of various profiles on a free basis.

To achieve large-scale goals of this kind, it will be necessary to search other alternative tools that would stimulate the active participation of NGOs, the commercial sector, and mass media in public policy in this area. In this direction, it is necessary to provide specific funding for each responsible stakeholder of public legal education. The financial basis will be the mechanism of the state social procurement, as well as certain targeted programs.

Implementation of a full-fledged state policy in the field of legal education, in addition to state funding, should also include other alternative sources of funding. In this aspect, the search for additional sources of funding should be very effective. In particular, companies providing legal and consulting services, colleges, chambers and associations could independently organize seminars or trainings on legal issues for the population or students, and the mass media provide reports or special

plots that would be aimed at increasing the legal literacy of the population.

In order to stimulate the participation of NGOs and business community in the activities of public legal education, it is necessary to develop a special rating that would reflect the degree of involvement of certain organizations in the program of improving the legal literacy of the population. The rating can become a kind of reflection of the existence of a high reputation of the stakeholders of legal education in society and the state. In turn, the presence of a high rating would guarantee participation in public funding in other areas.

In addition, this policy will strengthen the intersectoral partnership: developing partnerships between government bodies, universities, the mass media, NGOs and the business community, as well as a strong communication policy that will promote the values of public legal education at the local and national level.

### Conclusion

Thus, the full implementation of governmental policy in the field of public legal education will ensure the popularization of human rights, promote respect for the law, encourage citizens to interact with the legal system, that ultimately will enhance the level of legal culture of citizens characterized by lawful behavior and civil citizenship.

In our opinion, the current situation of the legal culture of the society has become a complex problem for modern Kazakhstan, and its solution is fundamental to our future. In this direction, a radical revision of the views and beliefs about the governmental policy and the place of civil society institutes in the field of legal education is required.

Shaping a new institutional model of legal education is a conceptually different approach to further development of the legal culture of Kazakhstani society. It will be necessary to mobilize all institutions of civil society and introduce new policy principles in this area.

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