

FORMATION OF KYRGYZ STATEHOOD (HISTORICAL AND LEGAL ANALYSIS)

FORMAÇÃO DO ESTADO QUIRGUISTA (ANÁLISE HISTÓRICA E JURÍDICA)

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Abstract

The study of historical and legal aspects of the formation of statehood are the most pressing issues of modern jurisprudence. Identification of the causes and conditions of the formation of statehood allows us to generalize the most typical theories of the emergence of the state. The formation of Kyrgyz statehood has a longer historical basis. But the legal registration as a state can be attributed to the beginning of the 20th century. The purpose of the study is to study the objective and subjective factors of the formation of an independent state, identifying the most significant characteristics of the formation of Kyrgyz statehood. The scientific novelty of the study lies in the fact that the analysis made it possible to identify the most significant characteristics of the formation of Kyrgyz statehood in the context of historical and legal aspects.

Keywords: Statehood. Clan Society. Russian Empire. Customary Law. Colonialism. Kara-Kyrgyz Autonomy. Independence. Sovereignty.

Resumo

O estudo dos aspectos históricos e jurídicos da formação do Estado é uma das questões mais prementes da jurisprudência moderna. A identificação das causas e condições da formação do Estado permite generalizar as teorias mais típicas do surgimento do Estado. A formação do Estado quirguiz tem uma base histórica mais longa. Mas o registro legal como Estado pode ser atribuído ao início do século XX. O objetivo deste estudo é analisar os fatores objetivos e subjetivos da formação de um Estado independente, identificando as características mais significativas da formação do Estado quirguiz. A novidade científica do estudo reside no fato de que a análise possibilitou identificar as características mais significativas da formação do Estado quirguiz no contexto dos aspectos históricos e jurídicos.

Palavras-chave: Estado. Sociedade clânica. Império Russo. Direito consuetudinário. Colonialismo. Autonomia caraquirguiz. Independência. Soberania.



1 INTRODUCTION

There is no doubt that the evolution of the formation of Kyrgyz statehood has a fairly rich history. There are only a few countries in the world that have grown, been destroyed and restored over the course of thousands of years and managed to establish themselves as states. Empires that have an unlimited place in history (Rome, the Golden Horde) ruled for several centuries, but in a certain historical period they were destroyed, and in some cases, completely disappeared from the face of the earth.

The process of formation of Kyrgyz statehood has been widely studied in a number of fields of science, including historical, philosophical and geographical aspects. Historical sciences, in particular, are known as fundamental sciences that study the evolution of the formation of Kyrgyz statehood.

It should be noted that the legal aspects of the formation of Kyrgyz statehood are still in their infancy. We believe that only a comprehensive and in-depth study will help to identify the differences in the formation of Kyrgyz statehood and fill a number of gaps in the science of state and law. We believe that the legal aspects of the formation of Kyrgyz statehood are not only topical issues of our time, but also contribute to the formation of further statehood. That is why through a more in-depth study of historical and legal sources and archival materials, it is possible to fully reveal the legal foundations of the formation of statehood.

2 MATERIALS AND METHODS OF RESEARCH

In the process of writing the article, along with general scientific methods, special scientific methods were used, namely historical-retrospective, comparative-legal, formal-legal, systemic methods, archival materials and chronicles of historians, regulatory acts of the RSFSR.

3 DISCUSSION

A number of leading scientists on the development of historical aspects of Kyrgyz statehood (Bartold V.V. 1927),(Dzhamgerchinov M.B. 1966), (Djumanaliev T. 2009),(Ploskikh V. 2000) and other scientists.

Legal aspects of Kyrgyz statehood It was studied by (Borubashov B.I. Galieva Z.I. 2004), (Kozhonaliev S.K. 2000),(Malabaev J.M. 1996), (Nurbekov K.N. 1999) and others.

It should be noted that the history of the development of Kyrgyz statehood through official regulatory sources is somewhat complex and began to be systematically formalized at the beginning of the 19th century.

The famous Russian lawyer B.I. Borubashev writes: “At present, with the help of research by historians from various fields, many opportunities have opened up before them through the accurate translation of Chinese historical chronicles;

1) it can be assumed that the roots of Kyrgyz statehood go back thousands of years;

2) the historical origin of the eras of Kyrgyz statehood covers a period of more than 2200 years BC. It is shown that it dates back to the 3rd century” (Borubashov B.I.2015)

The famous scientist V.A. Moiseyev writes that "the development of events in Central Asia was largely determined by the balance of power that developed between the state formations that arose and evolved in this region. These were Dzungaria, the Kazakh Khanate, China, Russia and, to a certain extent, Kokand, as well as other states of Central Asia. Each of them was guided in its actions by its own goals"(Moiseev V. A. 1991).

Thus, historical sources and research show that the history of the formation of Kyrgyz statehood goes back several millennia. From a legal point of view, the signs of statehood can be defined as the existence of a territory determined by the presence of political power, the presence of citizens and the collection of uniform taxes.

Marxist theory considers the presence of political power to be the main sign of statehood and the sign that determines its content (Marx K. & Engels F 1955).

There is no doubt that the Kyrgyz people, living in conditions of mutual tribalism, have acquired a culture of self-government. At the same time, it is necessary to have a single political power for more systematic governance.

Such needs were compensated by historical political processes. As is known in the theory of state law, the formation of a state through the conquest of one state by another, unification, political revolutions and coups, as well as sovereignty, is determined by the theory of violence.

Political processes of the late 19th and early 20th centuries The colonial policy of the Russian Empire had a great influence on the countries of the Central Asian region.

The policy of colonization covered the main spheres of public life – from legal and administrative relations to agriculture, production, health care and other areas (Kubilay Atik , Suat Beylur , & Nurlan Kenzheakhmet 2024).

The famous scholar B. D. Dzhamgerchinov notes that the colonial policy of “the annexation of the Kyrgyz to the Russian Empire can be considered a very progressive phenomenon. In his opinion, he says that other empires of the Qing, Afghanistan, Turkey and the Kokon Khanate would have turned the Kyrgyz people into their wealth” (Dzhamgerchinov B.D.1963). Of course, one can agree with this idea.

The interaction between the Kazakh Khanate, the Dzungar Khanate and the Qing Empire in the 18th century is a fundamental object of study in the context of the history of Central Asia. This period is characterized not only by military clashes, but also by intense diplomatic maneuvers that were undertaken by all parties (Sayalbek M., Gizzatov, & Alibek B.Aman , Nursultan N., Oteuov Ainur., Zh. Kalybaeva 2006).

In a sense, the ambitions of the Dzungars to reunite the state under their hegemony and put an end to the anarchic system in Central Asia ended with a new hierarchical order, but in this order there was no place for the Dzungars themselves, and the dominant forces were external entities.

We would like to say that the inclusion of the Kyrgyz into the Russian Empire had an even greater impact on the formation of statehood from a legal point of view.

Because the legal system of the Russian Empire was formed under the influence of the Romano-Germanic legal family and was fundamentally different from the legal teachings of the countries of the East. That is why the inclusion of Kyrgyzstan in the Russian Empire was achieved on the basis of the principles of the right of nations to self-determination, creating significant conditions for its formation as a state.

Evidence of this in the formation of Kyrgyz statehood, including its legal foundations, can be the formation in a few decades, not years, of an autonomous region, then an autonomous republic, and then a union state within the USSR.

Indeed, the legal system of the Russian Empire, which belonged to the Romano-Germanic legal family, was accompanied by such elements as the formation of state authorities, including courts and prosecutors, the adoption of basic laws and the codification of legal acts.

This, in turn, led to the elimination of a number of feudal-legal traditions, accompanied by tribal customs of the Kyrgyz (blood feud, hostages), and the establishment of the principle of equality along with the regulation of institutions of accountability in a more civilized way.

Since Kyrgyzstan was part of the Soviet Union, the history of statehood development can be linked to the development of a unified legal system from the moment of its accession to the Russian state until independence.

Before the October Revolution, it also covers the period from the moment of Kyrgyzstan's accession to Russia, when its legal life was closely connected, and from the Soviet period until independence.

Legal regulation of public relations before joining the Russian Empire was accompanied by customary law. Some aspects of legal regulation include studies of the regulation of public relations during the formation of the Soviet state after the Kyrgyz Revolution of October 1917. Legal studies paid special attention to aspects of administrative regulation.

Famous scientists Ch. Valikhanov, N.I. Grodekov, K.P. Kaufman, I. Kozlov, N. Here we can add Malyshev, V. Nedzvitsky, M. Terentyev, A. Tchaikovsky.

The famous scientist Borubashev B.I. According to the works of these authors, they contain rich empirical factual material and provide a wide opportunity for historical and legal research (Borubashev. B.I. 2009)

With the entry of the Kyrgyz into the Russian Empire, the legal system of the Russian Empire began to operate along with customary law. In the life of the Kyrgyz, environmental relations were mainly regulated, not considered as an independent legal field, but property relations were considered. together in the regulations.

Legal regulation was accompanied by the influence of the lifestyle of the Kyrgyz, their culture, religious and moral norms on customs.

The absence of general norms in customary law provides for liability only for specific actions. Customary law has a casuistic nature and is accompanied by various options for legal regulation. Ordinary law serves as the main source of law.

In the legal regulation of the social life of the Kyrgyz, their entry into the Russian Empire was a great historical event, and the legal system of the Russian Empire began to operate with new conditions in legal regulation, that is, customary law of the Kyrgyz.

In the analysis of the development and evolution of the statehood of Kyrgyzstan, it is more important to approach this through the historical and legal method. Because it is necessary to determine the genesis of the formation of statehood and analyze its further development.

It should be noted that historical and legal research up until the beginning of the last century creates a certain complexity. The general formation of legal regulation, including the formation of statehood, is associated with the customary law of the Kyrgyz people.

That is why the absence of a formal definition of the normative regulation of customary law creates significant difficulties in the study of historical sources.

It is known that the norms of customary law are regulated by unwritten rules and become a habit after repeated repetition. However, it is carried out through archival documents and the works of scientists studying customary law.

An analysis of Kyrgyz customary law suggests that, despite its primitiveness, patriarchal-feudal nature, and lack of systemicity, it contained some modern democratic forms of legal regulation concerning legal theory, criminal law, civil law, and criminal procedure legislation, and these forms have been adopted into the modern legal system of Kyrgyzstan (Zhusupov B.A. & Kushbakov Ch.2016).

Only after the October Revolution and with the formation of the Soviet state, public relations legal acts began to be formally defined and approved at the legal level.

Therefore, in general, it can be considered that the inclusion of the Kyrgyz in the Russian Empire did not prevent its formation as an independent state, but on the contrary, opened a convenient path.

Soon after the victory of the October Revolution, attempts at national and regional separation among the states of Central Asia began to intensify. That is why, by the decision of the second session of the Central Executive Committee of the USSR on October 27, 1924, the Soviet republics of Bukhara, Khorezm and Turkestan were created on the basis of the Uzbek SSR, Turkmen SSR, Tajik SSR and the Kara-Kyrgyz Autonomous Region.

As a result of national statehood, the Kara-Kyrgyz Autonomous Region took control of 75 volosts, 6 cities, 721 villages and 5 farmsteads, including 4 districts.

The population was more than 717 thousand people, including 63.5 percent Kyrgyz, 16.8 percent Russians and 15.4 percent Uzbeks.

Before the formation of state electoral bodies, the powers of temporary management were assigned to the Revolutionary Committee. The tasks of administrative-territorial division were assigned to the Revolutionary Committee to form the apparatus of state administration bodies. The famous person Ishenaly Aidarbekov was elected Chairman of the Revolutionary Committee.

On February 1, 1926, the Central Committee approved the creation of the Kyrgyz Autonomous Republic in the areas defined by the Kyrgyz Autonomous Region.

When the Kyrgyz Autonomous Region is transferred to the Kyrgyz Autonomous Republic, its area will be 1991 square meters. km increased, the population was 2,889,911 people.

On November 18, 1926, at the 12th meeting of the Central Committee of the Republic of Kazakhstan, "Taking into account the political and economic significance of the Black-Kyrgyz Autonomous Region, taking into account its national-territorial integrity and reflecting the will of the working people of Kyrgyzstan, the region took over the management and made a decision to create the Kyrgyz Autonomous Republic within the RSFSR." The first organizational congress of the Kyrgyz Autonomous Republic opened on March 7, 1927 and adopted the "Declaration on the Formation of the Kyrgyz Autonomous Soviet Socialist Republic."

In the history of the formation of the Kyrgyz statehood, the adoption of its Basic Law has a special significance. Such a historical date refers to April 30, 1929. The II Congress of the entire Kyrgyz people adopted the Constitution of the first Kyrgyz Republic.

Article 2 of the Constitution, together with the recognition of Kyrgyzstan as an autonomous republic, in Article 4 the RSFSR had the freedom to determine the state structure on the basis of the Constitutions of the KASSR Constitution of the (Kirghiz Autonomous Soviet Socialist Republic of 1929).

In the theory of state law, there are many opinions of scientists who consider the constitution as an inextricable link with the state. This, in turn, is intertwined with statehood.

The famous theoretical scientist V.E. As Chirkin said, "the state participates in the condition sine qua non of the constitution, it is immanent, and the constitution also participates in the condition sine qua non of the state and is immanent. As a result, the constitution is recognized as a sign of the current state (Chirkin V.E.2001). Another

authoritative scientist S.A. Avyakyan says that “the state is a sign of the constitution, and statehood is its main sign” (Avakyany S.A.2000).

4 RESULTS

Thus, the adoption of the Constitution of the Kirghiz SSR in 1929 was an important stage in the formation of statehood, which means that unity began to be formally defined on a legal basis.

It can be said that the legal approval of the formation of Kyrgyz statehood followed a completely logical pattern. First, an autonomous region, then an autonomous republic, then a union republic, then a sovereign independent republic.

It should be noted that the emergence of Kyrgyz statehood can be explained by the beginning of a full-fledged legal status that was formed in the first years of the Soviet era.

Historical fact shows that Kyrgyz statehood was formed as part of the Soviet state under the influence of the Soviet legal doctrine and has its positive and negative characteristics.

Among the negative features, it is necessary to note such features as a centralized system of public administration, the presence of independent powers of the union republics in all spheres of public life, the superiority of the state monopoly. went down the path to the state.

During the Soviet era, in 1937 and 1978, the Basic Law of the Kirghiz SSR was re-adopted. This, in turn, may be associated with the stages of socio-economic development of Soviet public life. Another important stage in the formation of Kyrgyz statehood may be associated with the political processes of the second half of the 20th century. This period can be considered the final stage in the formation of Kyrgyz statehood. Beginning in the 90s of the last century, slogans of restoration, democracy, human rights and freedoms began to spread, and the path to political pluralism began to open. The monopoly of the Communist Party ended, and a multi-party system was proposed instead.

Such views are supported by a number of domestic scientists. In particular, they confirm that the development of the country, including its legal development, refers to

the period of Soviet construction and the period before independence within the framework of a one-party system (Isakova M.K. 1984).

The collapse of the Soviet state paved the way for the formation of a number of states that were part of it as independent states, including Kyrgyzstan.

It should be noted that the legal family to which it belongs plays a special role in the formation of statehood.

It should be noted that the Soviet legal doctrine was the driving force behind the advancement of the ideology of belonging to the Romano-Germanic, continental legal family, human rights and freedoms, democracy and democratization, and a legitimate state. At the same time, the fact that the young Kyrgyz state did not perceive these phenomena as a strange phenomenon opened the way for it to move towards building a legitimate democratic state. In the second half of the 20th century, with the collapse of the Soviet Union, many republics of the Soviet region began to create their national statehood by gaining political independence, and such changes did not bypass the Kyrgyz state.

The proclamation of sovereignty of the Kyrgyz Republic on December 15, 1990 brought important changes to the sphere of public life.

State sovereignty reflects the will of the Kyrgyz people, ensures human rights and freedoms, and is aimed at ensuring freedom of social, economic, political and spiritual development (Declaration of State Sovereignty of the Republic of Kyrgyzstan 1990).

The Declaration of Independence of 1991 recognized the Republic of Kyrgyzstan as an independent sovereign state (Declaration of State Independence of the Republic of Kyrgyzstan 1991).

Domestic researcher N.Sh. Kolsarieva noted: “With the acquisition of independence by Kyrgyzstan, new problems have emerged that negatively affect its development. Previous mistakes and shortcomings were repeated by the new leadership of the republic, which required a serious revision of the reform strategy it had chosen in a number of areas. This is more relevant for national and state development” (Kolsarieva N.Sh 2014). After gaining independence, Kyrgyzstan was recognized as an independent state as a subject of international law. Thus, having entered the sphere of new social relations, it assumed a number of international obligations as a full-fledged subject of international law.

The United States of America and Turkey were among the first to recognize Kyrgyzstan as a sovereign independent state. On March 2, 1992, at the 4th session of the UN General Assembly, it unanimously became a member of this organization. This is an important historical date, which can also be recognized as the beginning of independent statehood.

Currently, Kyrgyzstan is a member of more than 40 international organizations.

Considering these processes as the last stage of the formation of Kyrgyz statehood, the process of formation of the Kyrgyz Republic as a full-fledged independent state is complete.

5 CONCLUSION

Thus, summing up the article, we can draw a number of conclusions:

- The formation of Kyrgyz statehood is characterized by a rich history and covers a long period of time;

The formation of Kyrgyz statehood was positively influenced by Russia's colonial policy in Central Asia.

- The legal aspects of the formation of Kyrgyz statehood have been formally defined and legally enshrined since the Soviet period;

- The formation of Kyrgyz statehood proceeded in a certain logical sequence and ended with the formation of an autonomous region, an autonomous republic, a republic within a union state and a sovereign independent republic;

- The Romano-Germanic and continental legal families in the legal system had a great influence on the formation of statehood.

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Authors' Contribution

All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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