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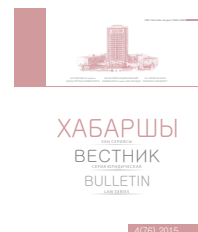
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Ondashuly E., Ondash A.O.

**Legal consequences of the
collapse of the Turkestan
Autonomous Soviet Socialist
Republic**

The author examines the article evolutionary processes of formation, existence, and the reorganization of the Turkestan Autonomous Soviet Socialist Republic in terms of geopolitical changes in the world. The paper presents the various scientific approaches to the definition of political and legal modes of formation and dissociation as Turkestan republic in the USSR, organizational and legal preconditions and consequences of restructuring and changes its status as a subject of international relations in the context of understanding of international law. A result of research author grouped and allocated to the main legal implications of the investigated processes, which were the result of actions of the Soviet leadership in the 20-30 years XX century, revealed the author's vision problems ensuing from these events.

Key words: Turkestan, SSR, autonomy, legal consequences succession.

Оңдашұлы Е., Оңдаш А.О.

**Түркістан АКСР-інің құлауының
құқықтық салдары**

Бұл мақалада автор Түркістан Автономиялық Кеңес Социалистік республикасының әлемдегі геосаяси өзгерістер жағдайында қалыптасу, өмір сүру және қайта құру эволюциялық үдерістері қарастырылады. Бұрынғы Түркістан аумағы әлемдегі қуатқа тәуелді, үнемі этно-ұлттық қақтығыстар болып тұратын аймақтардың бірі. Осы мәселе аталған аймаққа деген әлемдік қызығушылықты туындатып, бұның өз кезегінде белгілі бір ұйымдастырушылық-құқықтық себептер мен атап айтқанда әлемдік жұртшылық пен аймақ үшін құқықтық сипаттағы салдар тудырады. Жұмыста Түркістанның КСРО-дағы республика ретінде қалыптасу және межелі саяси-құқықтық режимдерін анықтаудың, оны қайта құрудың ұйымдастырушылық-құқықтық алғышарттары мен халықаралық құқық контекстінде халықаралық қатынастар субъектісі ретінде оның мәртебесін өзгертудің түрлі амалдары келтірілген. Нәтижесінде автор XX ғасырдың 20-30 жылдарындағы кеңес басшылығы әрекеті салдарының негізгі құқықтық нәтижесін топтастырып, бөліп көрсетеді, осы оқиғалардың нәтижесінде пайда болған проблемаларға авторлық көзқарас білдіреді.

Түйін сөздер: Түркістан, КСР, автономия, құқықтық салдар, құқық қабілеті.

Ондашұлы Е., Ондаш А.О.

**Правовые последствия развала
Туркестанской АССР**

Автор рассматривает в статье эволюционные процессы формирования, существования и реорганизации Туркестанской Автономной Советской Социалистической республики в условиях геополитических преобразований в мире. Территория бывшего Туркестана является одной из наиболее и энергонезависимых регионов в мире, зоной постоянных этно-национальных конфликтов. Именно это обуславливает мировой интерес к этому региону, что в свою очередь имеет определенные организационно-правовые причины и порождает следствия, в частности также правового характера для мировой общественности и региона, в частности. В работе приведены различные научные подходы к определению политико-правовых режимов формирования и размежевание Туркестана как республики в СССР, организационно-правовые предусловия и последствия реорганизации ее и смены статуса как субъекта международных отношений в контексте понимания международного права. В результате исследования автором сгруппировано и выделено основные правовые последствия исследуемых процессов, которые стали следствием действий советского руководства в 20-30 гг. XX ст., раскрыто авторское видение проблем последовавших в результате этих событий.

Ключевые слова: Туркестан, СССР, автономия, правовые последствия, правопреемство.

LEGAL CONSEQUENCES OF THE COLLAPSE OF THE TURKESTAN AUTONOMOUS SOVIET SOCIALIST REPUBLIC

One of the most essential and traditional problems associated with development of the Russian statehood is an ethnic issue. Taking into consideration historically established multinational composition of the population in the Russian state, constructive solution of problems of international relations is one of the most significant factors for its stable and progressive development. On the contrary, the inconsistent state policy in an ethnic issue resulted in collapse of the whole state system as in 1917 and in 1991.

In connection with the above, to develop an effective state policy for an ethnic issue is an extremely urgent strategic task for the current government. Undoubtedly, to solve it is hardly possible if the historical experience is not considered. In this regard not only to develop an effective strategy for the national policy is important, but also to estimate possible risks connected with «national-territorial» building.

For this reason the article is focused upon analysis of legal implications for the Turkestan ASSR delimitation, representing the complicated national composition, most likely the artificial state formation arisen on the ashes of the Russian empire in the Central Asia.

The Turkestan Soviet republic was established on April 30th, 1918 in the result of the constituted Soviet power in all important regions of the Central Asia. Territorially the new state formation was created on the basis of the former Turkestan general governorship including territories of modern Central Asia and Kazakhstan, and a part of the Central Asia populated by the Turkic people. Initially many nationalities lived in Turkestan ASSR, they were on a quite low level of the civilized development, naturally, affecting prospects of its development.

An important feature was the status of the Turkestani republic representing the federation, in a context of mutual relations with the RSFSR. In particular, the approved documents of the fifth regional Congress of the Soviet stipulated that «The Turkestani Soviet Federal Republic, under independent government, shall recognise and shall coordinate own actions with the central government of the Russian Soviet Federation» [1]. As we can see, initially the confederative system of mutual relations with RSFSR was established. At the same time, there were no accurate system of legal relations between the states that caused fragility and vagueness of the republic

state-legal status. The Civil war negatively affected prospects of the development of the new state when Turkestan ASSR was separated from the rest part of the Soviet state for a long.

The indicated characteristics of the Turkestan ASSR development led to the principal decision of the party leaders of the Soviet state on the beginning of the «state-territorial delimitation» of Turkestan on the basis of theoretical principles of the ethnic problem solution according to Marxism-Leninism. In practice it meant the beginning of an artificial formation of union and independent monoethnic units in the region.

The main factor causing the national-state delimitation was noted in the Soviet historiography as caused by the fast social and economic and cultural development of the Central Asian region. An opinion that due to the help of Russia and later of the USSR, this region moved significantly forward, seemed to be fair, however to believe that any appreciable qualitative changes were observed for four years of existence of the Soviet statehood here was hardly right. Thereupon the important factor which caused delimitation in difficult and complicated international conditions of such a huge area, the willing of leading officials and people in Central Asia to create the own national statehood [2].

The initial plan to solve an ethnic problem in Turkestan was developed by V.I. Lenin in 1920. He provided, first, for drawing up of the detailed Turkestan ethnographic map with separation into Uzbekistan, Kirghizia and Turkmenia, secondly, for revealing of conditions for «confluence and partition» of these parts [3]. Thus specific criteria for implementation of such actions were not named.

Formation of the permanent Central administrative commission (CAC) at the Kazakh Central Executive Committee (KCEC) became the first stage of organizational preparation of the Central Asia delimitation on October, 26th, 1921, approved by KCEC Presidium. CAC duties included:

- Consideration of all questions concerning changing of administrative borders;
- Supervision of inadmissibility of borders change in provinces, districts, volosts and auls without informing of People's Commissariat of Internal Affairs and KCEK;
- Issuance of orders, instructions and other guidelines explaining a procedure of territorial delimitation and formation of new administrative units through Kazakh ASSR (KASSR), design of the project for new administrative division into districts of the republic.

CAC was organised under national commissioner of KASSR People's Commissariat for Internal Affairs M.M. Murzagaliev's chairmanship and consisted of representatives of People's Commissariat of food, People's Commissariat of agriculture, Industrial Bureau and Chief of the Central Administration of the State Statistics.

Thus CAC operated mainly in two directions: – decrease in administrative units and their enlargement due to a hard economic situation in the provinces; – development of the plan of division into districts by signs of household, historical and economic conditions of separate areas, taking into consideration the offered reorganisation as district and regional volost units [4].

Despite the Commission was operating for a long, we should agree with opinion that even superficial acquaintance with materials on CAC operation showed absence of any scientific methods at the approach to such complicated question as the national-territorial delimitation [5].

The main problem not allowing to implement the plan for the monoethnic delimitation of the region people in practice was in obvious mismatch of actual ethnographic borders with the state ones.

Thereupon it should be noted that the main ethnic groups of the region – Kazakhs, Uzbeks, Turkmenians and Tadjiks lived not only in Turkestan, but also in Bukhara and Khorosm. Due to this fact, realisation of people «monoethnic autonomism» inevitably would change borders of the existing state formations, and this, naturally, had negative legal consequences. At the same time the Soviet government was not confused with this circumstance. Thus the regional national-territorial delimitation was highlighted by the Soviet propagation as the main condition for effective socialist building.

Thereupon the point of the national-territorial delimitation was in elimination of the administrative-territorial dissociation of the Central Asian people, reunion of the territory of their residing and creation of independent national republic [6].

The process of the national-territorial delimitation in Central Asia passed very quickly. In 1923 the government bodies of Bukhara and Khiva proclaimed their republics to be socialist, then the party bodies of Central Asia agreed that the national-state delimitation was necessary and timely. Central Committee of the RCP (Bolsheviks) approved decisions of the Central Asian authorities.

On January, 31st, 1924 this question was discussed at the session of the Organisational Bureau, of the Central Committee RCP (Bolsheviks).

Since February, 1924 the detailed practical preparation of the process was started.

Obviously only the party structures' position was considered during discussion of this question, consequently most of Turkestan ASSR people were actually isolated from handling the matter. It is indicative that civil initiatives «from below» have been ignored. So the offer to organize the Fergana autonomy, for example, was ignored.

On June, 12th, 1924 the Central Committee RCP (Bolsheviks) Politbureau approved the project of national-territorial delimitation Turkestan ASSR which provided for:

1. Formation of the independent Turkmen republic at the areas where the Turkmen resided in Turkestan, Khoresm and Bukhara;

2. To leave the Khorezm republic in the existent borders after allocation of the territory of residing of Turkmen;

3. To unite the Kirghiz regions of Turkestan with Kirghiz ASSR and to create the Kara-Kirghiz autonomous region as a part of RSFSR and the Tadjik autonomous region as a part of the Uzbek Soviet Socialist Republic [7].

In September, 1924 of the Central Electoral Committee Turkestan ASSR, 5th all-Bukhara and 5th all-Khorezm Kurultai of the Councils, each individually, approved the order on liquidation of the old states and creation of new, corresponding to the region national composition. In October, 1924, the Central Electoral Committee of USSR, discussed these orders, charged to the Presidium to register the formation of new republics according to expression of popular will in Central Asia.

The project was discussed in atmosphere traditional for the Soviet period of artificially high «civil consciousness of people». In all big cities of Turkestan ASSR, Bukhara and Khoresm demonstrations were held to support the approved orders. All necessary legal formalities were observed and the process of Turkestan ASSR national-territorial delimitation was completed to the beginning of 1925.

This resulted in the following changes of a political map of the Central Asian region. Turkestan, Khoresm and Bukhara disappeared, Uzbek and Turkmen republics were created as well as Tadjik ASSR as a part of the Uzbek Soviet Socialist Republic, the Kara-Kirghiz autonomous region as a part of RSFSR, the Karakalpak autonomous region as a part of Kirghiz (Kazakh ASSR), the Kazakh regions of Turkestan were a part Kirghiz (Kazakh) ASSR [8].

Having analysed the process of the national-territorial delimitation in the Central Asian region,

made by Turkestan ASSR liquidation, its legal implications should be studied in details.

Thus we understand the «legal implications» concept as influence of the said process on the state-legal development of the new national formations appeared in the region. An ambiguous character of implications of the national-territorial delimitation seemed to be evident.

Actually results of this process were idealised in the Soviet historiography. Thereupon the statement that «the national-state delimitation of the territories, resided by Uzbeks, Kazakhs, Tadjiks, Turkmens, Karakalpaks, artificially separated before October 1917, resulted in reunion into corresponding Soviet national state formations. The process of the national-state delimitation contributed to involvement of working sections of Central Asia into the Soviet building and the successful solution of the task to build the socialism» seemed to be indicative [9].

Passing from enthusiastic idealization to use of the objective scientific approach, it should be noted that, on the one hand, it is undoubtedly the fact that the national-state delimitation of Central Asia positively affected the region state-legal development as meant reunion of divided people which had a chance to create the national states for the first time in history.

Also, it should be noted that formation of new independent Soviet republics did not lead to separation of Central Asia from USSR. Relations of Central Asian people with all people of the Soviet country got even stronger, moved into a new stage, and accepted a new legal form. Congresses of Councils of Uzbekistan and Turkmenia proclaimed formation of these republics, simultaneously approved orders on their joining to the Soviet Union.

An important legal implication of the specified process was that the superior bodies of the Turkestan ASSR and the Bukharan republic posed the question about destiny of the Tadjik people. They were granted with the right to leave these republics and to form the autonomous region. The Central Committee RCP (Bolsheviks) and the Government of the USSR approved an idea of Tadjiks' autonomy and offered them a higher form – an autonomous republic.

In other words, the people of Central Asia could execute their right to self-determination as a result of Turkestan ASSR liquidation.

Delimitation of Turkestan ASSR allowed for the first time to the Central Asian states to get international legal subjectivity, though its degree of practical realization was not constant and changed according to development of the USSR.

In this sense the statement that initially the Union of the Soviet socialist republics was assumed so that the joint republics used advantages of the union, could fully realize the sovereignty and international personality seemed to be fair. However due to excessive centralization of the Union, it was actually limited.

So, at an initial stage of formation of the Union, representatives from Kazakhstan and Central Asia in all-union bodies tried to seriously discuss and solve foreign policy and external economic problems of the country and their republics.

Besides, autonomous republics (Kazakhstan, Turkestan) in the 1920s supported by the RSFSR and the Union entered in intensive, economic relations with the foreign countries. Extensive foreign trade activity of these republics were promoted by the New Economic Policy, at the same time some republics were transformed from independent into union and all union republics in the region developed later due to strengthening of the Central centralized command system limiting the republics' independence in all spheres, including foreign policy [10].

In other words, during strengthening of the centralized initiatives and growth of mass repressions, discussion and approval of foreign policy by republican deputies began to pass into a «rough, long applause» way. So to say about full realization of the republics' international legal personality seemed to be wrong under such political conditions.

The important negative legal implication of Turkestan ASSR liquidation was stubborn problems in the regional international relations.

These events were caused by the nature of the national-territorial reorganization. In our opinion, academician V.V. Bartold characterized it absolutely right noting that «new leaders hastened with the national-territorial reorganization of Central Asia». Probably, this question would arise later, during ethnic consolidation of certain groups, and accordingly changes in the region political map hardly similar to present ones would be required.

The reorganization a la colonial style accelerated ethnic consolidation processes in some kind, but at the same time also negatively affected the people of Central Asia. Khiva, Bukhara, later – Samarkand and other cities lost their role as political and cultural centers, collapse of all system of historically developed interrelations, disadvantages of the national human resource policy and other consequences of creation of «national» pseudo-republics according to the European sample interrupted the natural

development, created new intensity and conflict points, essentially slowed down the process of the civil society formation. But it was just the beginning of disasters of this ancient land and its inhabitants during building of the socialism, and later of the communism, then return to the «developed» socialism and later – to the market economy, means, capitalism [11].

Thus, namely the artificial, unreasoned «overtheorised» realization of Turkestan ASSR liquidation led to extremely negative legal implications. The main ones are listed below:

1. National-territorial delimitation resulted in liquidation of the long-term developing regional relations between certain ethnoses within the traditional statehood centers – Bukhara and Khiva, and also the proto-state formation – imperial Turkestan. Thereupon it should be said that, as a rule, questions associated with changes of administrative units were not locally detailed, the people's attitude to joining of their residence place to certain administrative units was not always considered.

2. This process resulted in actual, unreasonable inequality of legal statuses of ethnic groups in the region (for example, restriction of Tadjiks' rights comparing to Uzbeks) at the expense of different legal status of the state formations (the Soviet socialist republic, autonomous republic in its structure, autonomous region). These facts were naturally considered as preconditions to formation of the international intensity, where the situation developed and led to the 1991 crisis and collapse of the Soviet statehood.

3. The reorganization of the Turkestan ASSR state system resulted in formation of new legal systems of the state formations with key parameters according to the RSFSR. The said circumstance represented an evident problem as the socialist right under extremely low legal culture of local population, representing an eclectic set of actually processed norms of the bourgeois right at the initial stage of the development, could not be apprehended due to absence of the integrated norms of the common law.

As a result, on the one hand, the socialist right began to be perceived as an alien element and thereupon its efficiency directly depended on an administrative resource of party bodies, and from the other hand – the legal system of the Central Asian countries actually did not get the progressive advance, because of the legal nihilism shown by the most of local people, preferring to regulate the relations by norms of the common and religious right. Undoubtedly, this situation had a potential risk

of occurrence of religious movements oppositional to the Soviet state.

So, to wind up our studying of issues of the state-territorial delimitation of the Central Asian region by Turkestan ASSR «reorganization» in 1924, once again we underline ambiguous legal implications of this process.

Thereupon, considering that many of them were anyhow transformed into factors caused collapse of the Soviet statehood, actually not realization of the considered state strategy should be discussed but poorly thought-out collapse of Turkestan ASSR. Thereupon the modern government should consider this historical experience.

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