



The History of the Alash Party in the Context of the Impact on the Processes of Constitutional Acts

RESEARCH PAPER

 ubiquity press

ALIMA AUANASOVA 

ERKESH NURPEISOV 

KAMILLA AUANASSOVA 

GANIZHAMAL KUSHENOVA 

NURLAN MUKHLISSOV 

**Author affiliations can be found in the back matter of this article*

ABSTRACT

The relevance of a research is caused by necessity to study the first legal acts in Kazakhstan having the constitutional value, since they reflected the tendency to gain state independence through autonomisation, first at the regional level, and then for whole Kazakhstan. The aim of this article is to analyse and give an assessment to normative legal acts of certain regions of Kazakhstan, the Alash and Turkestan Autonomies of 1917–1918 concerning the state-building. The methodological basis of the study became general scientific methods of theoretical knowledge, content analysis of texts of legal acts, a comparative analysis of the results of Kazakhstan and foreign studies on the problems of state-building in the pre-Soviet period, chronic documentary analysis of archival sources. Features of normative legal acts of 1917–1918 concerning the state building were determined. The detailed analysis of the first acts having the constitutional value was presented. It was concluded that the program of the Alash party could become a political platform for the constitution of a democratic federal state.

CORRESPONDING AUTHOR:

Alima Auanasova

Committee of Science of the Ministry of Education and Science of the Republic of Kazakhstan, KZ

auanasova6335@ubogazici.in

TO CITE THIS ARTICLE:

Auanasova, A, Nurpeisov, E, Auanasova, K, Kushenova, G and Mukhlissov, N. 2021. The History of the Alash Party in the Context of the Impact on the Processes of Constitutional Acts. *Ancient Asia*, 12: 14, pp. 1–8. DOI: <https://doi.org/10.5334/aa.234>

For any state in the period of its creation, revival and radical transformations, one of the urgent becomes the problem of creating a basic law, according to which social and state processes should proceed. Clear evidence of this is the relatively recent constitutional reforms carried out in Kazakhstan after the adoption of the 1995 Constitution, caused by the need to liberalise the political regime in the country (Kembayev 2017: 294–295; Knox 2008: 477–479).

Meanwhile, the history of fundamental constitutional reforms in Kazakhstan dates back to almost the beginning of the 20th century. This is evidenced with varying degrees of completeness by documentary materials published both in the Soviet (1917–1990) and post-Soviet (1991 to the present) periods. This is presented in the most detail in the works of A. Bochagov (1927: 7), S. Braynin and Sh. Shafiro (1935: 84). Despite the fact that these researchers adhere to the class approach, the presented materials are of value in the field of studying the history of state-building. Research by S.Z. Zimanov *et al.* (1975) gave an analysis of the Kazakh department of the People's Commissariat for Nationalities of the RSFSR, which was, in fact, a legal institution that influenced the adoption of certain first legislative acts of Soviet Kazakhstan. At present, a number of legal scholars and historians are raising this problem within the framework of the study of the history of the Alash movement in 1917. For example, researcher A.M. Auanassova (2001: 63) in the work "National intelligentsia of Turkestan in the first quarter of the 20th century" examined the activities and programs of political parties in Kazakhstan and Turkestan during the February Revolution and the October coup of 1917–1918. B.G. Ayagan *et al.* (2017) studied the history of the formation of the power of the Soviets and its influence on Kazakhstan through an analysis of the legal reforms of 1917.

The chronological framework of the study covers the period from February 1917, when the Provisional Government of Russia was established, to the end of 1919, marked by the strengthening of the positions of Soviet power in Kazakhstan. This was noted by a number of researchers: "By the beginning of 1920, almost the entire territory of Kazakhstan (with the exception of the northern part of Semirechye was liberated from enemies)" (Zimanov *et al.* 1975: 14–15). Indirectly, this is also confirmed by another source: "Liberation from the White Guard yoke of Kolchak and Denikin of vast areas of the Volga region, the Urals, Siberia, Central Asia and Turkestan and the forthcoming liberation of the Crimea and the North Caucasus will introduce into the RSFSR a number of small nationalities with a peculiar culture, history and grouping of classes" (Resolution of the All-Russian... 1920: 5–12). The purpose of this research is to analyse and give an assessment to normative legal acts of certain regions of Kazakhstan, the Alash and Turkestan Autonomies of 1917–1918 concerning the state-building.

LEGISLATION OF KAZAKHSTAN IN 1917 AND THE GENERAL POLITICAL SITUATION

The Constitution, as a written single Basic Law of the country with supreme legal force, and in general terms prescribing the structure of the state and society, appeared at the end of the 18th century. This is the US Constitution of 1787. Four years later, it was supplemented with amendments that enshrined the legal status of a person, and therefore called the Bill of Rights. But according to the correct remark of S.F. Udartseva, the "phenomenon of an unwritten" or "dispersed" constitution, understood as a system of norms that organise the activities of the state and the protection of the rights of subjects (citizens) and dispersed in many regulatory legal acts, formed even earlier, for example, in Great Britain, especially after the Glorious Revolution of 1688 of the year. Documents of a constitutional nature, but with different names, appeared earlier, in particular in the Middle Ages" (Dossayeva *et al.* 2017: 6). At the same time, the main feature that unites such constitutional acts is that they are of a constituent nature (Seidanov *et al.* 2020: 325–326). "They establish certain state institutions, attributes of the state; system and types of state bodies" (Sagyndykova 1999: 48).

An outwardly similar situation with "scattered" constitutions in Kazakhstan developed at the beginning of the 20th century. The peculiarity here was that, firstly, the legal acts having constitutional significance, coinciding in time of action, had legal force not on the entire territory of Kazakhstan, but on its individual fragments. Secondly, they were not acts of a single state, but of various state entities operating on the territory of Kazakhstan: the Provisional

After the fall of the tsarist autocracy and the proclamation of the Provisional Government in 1917, the colonial “tie” of Kazakhstan to Russia weakened somewhat. Promised by the Provisional Government, and later supported by the Bolsheviks, freedom for the colonial peoples of the outskirts of the tsarist empire intensified attempts of political forces to revive the Kazakh statehood. But the situation was complicated by the fact that the status of Kazakhstan in political and territorial aspects was not clearly defined. Kazakhstan was no longer a colony in the former sense, but it was not proclaimed as an independent or autonomous nation state either. The terms “Steppe Territory”, “Kazakh Territory”, established in political use of that time to some extent marking the ethnic borders of Kazakhstan, did not determine the political boundaries of the residence of the Kazakhs. For the Provisional Government, Soviet power, political parties of Russia of different orientations, the Kazakh territory was considered an integral part of it. Therefore, the fall of the tsarist autocracy did not mean the abandonment of the territory of the empire. Moreover, as the historical path of the USSR shows, the empire was transformed into a neo-empire under the rule of the communist party.

After the February Revolution in Russia, Kazakhstan’s former imperial integration ties with it were destroyed. The Provisional Government, having proclaimed a course towards a democratic parliamentary republic, in matters of territorial structure, showed indecision, leaving their detailed decision at the discretion of the Constituent Assembly (Apakhayev *et al.* 2017: 221–225). Although formally the power of the Provisional Government extended over the entire territory of the former Russian Empire with its colonial increments, in fact, state power, especially at the local level, was structured extremely unsatisfactorily. The commissars of the Provisional Government, not receiving support and overcoming the resistance of the previous state apparatus, had difficulty in building local administrative structures. After the October Revolution, this unsettled power structure was seriously deformed. Due to the fact that “the Soviet power, which won in the centre of Russia, spread to its eastern outskirts, including in Kazakhstan, with some delay” (Zimanov *et al.* 1975: 18), part of the territory of Kazakhstan gradually fell under its jurisdiction.

The situation was aggravated by the civil war that unfolded after the October coup in the territory of the former Russian Empire, including Kazakhstan, when many political forces were aimed at creating autonomous state formations. With such political diversity, a single, historically established country of Kazakhs – Kazakh Eli – experienced a dramatic period in the conditions of a parallel multi-power. A single constitution was impossible under these conditions. And the desire of political forces to constitutionally legitimise their power was a logical step in state building in accordance with the practice of forming the structure of the state emerging by the 20th century. Therefore, a situation arose in the country that outwardly resembled the phenomenon of a “dispersed” constitution, but, in fact, did not coincide with it.

During this period, acts of constitutional significance were adopted, designed to consolidate the legal foundations of various state formations that did not coincide either in the volume of sovereign rights, or in the organisation of state power, or in the social structure of society, or in the political regime, or in the electoral system. The attractive force of such acts was that in them, even in a fragmentary form, a model of the future society and state was set, their strategic goals and objectives were determined. In addition to their legal constitutional value, these acts had an enormous potential of ideological impact on public consciousness, especially during periods of sharp historical turns experienced by the people. One of the first acts of constitutional significance were the decisions of regional and all-Kazakh congresses held in 1917–1918 and dedicated to the establishment of new government bodies on the territory of Kazakhstan and the regulation of their activities. They were ahead of their time and at the same time were guided by the proposed constitution of democratic Russia in the future, which, however, was not adopted in connection with the revolutionary upheavals and the overthrow of the Provisional Government.

On April 2–8, 1917, the Turgai regional congress was held in the city of Orenburg with the participation of representatives of the Akmola, Semipalatinsk, Syr-Darya regions and the Bukey Horde. The congress, supporting the course taken by Russia towards the formation of a democratic, parliamentary and decentralised Republic, decided: “to organise on the ground

civil committees of public safety; aul, volost, uyezd and regional on the following grounds” (Martynenko 1992). At the same time, it was established that “the Regional Committee is an authorised figure and an executive body of the Provisional Government. All disagreements between the regional committee and the commissar are finally resolved by the Provisional Government”. The Ural regional congress of Kazakhs with the participation of 800 people, held on April 19–22, 1917, on the issue of state building took the same position as the Turgai congress. It was noted here that “the Kyrgyz people welcome the idea of a democratic republic, leaving the issue of a national-territorial federation open for the time being”. Since that, the historically correct name “Kazakh” (people) have been used. Along with this, the congress called on the population “to support the Provisional Government in every possible way, while its activities are aimed at implementing the already announced program and protecting the interests of democracy” (Martynenko 1992).

At the congress, a regional committee was formed, the legal status of which was determined as follows: “The regional Kyrgyz (Kazakh) congress authorises the regional Kyrgyz (Kazakh) committee to resolve all issues that arise locally due to a change in the way of government, and, if necessary, the committee should include in agreement with other public organisations and institutions” (Martynenko 1992). The ideas and regulations of these two congresses found a logical development in the decisions of the All-Kazakh Congress held in Orenburg on July 21, 1917. It had a wide representation of the overwhelming majority of the population of Kazakhstan. It was attended by delegates from Akmola, Semipalatinsk, Turgai, Semirechensk, Fergana regions and Bukey Horde.

The congress gave a clearer formulation of the future statehood of Russia: “Russia should have a democratic federal parliamentary republic” (Martynenko 1992). The integration of Kazakhstan with Russia, according to the participants of the congress, was supposed to go along the line of granting the regions the status of autonomy. It was assumed that the local government should belong to the volost zemstvos, which should be created by decree of the Provisional Government. This issue was subsequently resolved by the introduction of zemstvo institutions in the Akmola, Turgai and Ural regions (Abdikenov and Bimoldanov 2019: 426–428). The congress also considered the formation of such state bodies as the armed forces and courts. It was decided to create a people’s militia instead of a permanent army, and instead of “the previous court to create a court, in accordance with the living conditions of the Kyrgyz (Kazakhs)” (Martynenko 1992). Judging by the composition of delegates in the context of regions (7 regions) and the list of candidates for elections to the Constituent Assembly from Akmola, Semipalatinsk, Turgai, Ural, Semirechensk, Syr-Darya, Fergana, S Amarkand regions and Bukey Horde, the congress positioned itself as a legitimate representative of the entire population of Kazakhstan and therefore had the right to adopt legal acts that have constitutional significance.

A month after it, on August 20–25, 1917, the Second Turgai Congress took place in Akmolinsk. In comparison with the First Turgai Regional Congress on the issues of state building, it made more radical decisions. Here, apparently, the decisions of the July All-Kazakh Congress played a role. In particular, in the resolutions of the II Turgai Congress it was emphasised that “Russia should have a democratic federal republic” (Martynenko 1992). It is also noteworthy that the congress decided: “In the field of governance of the Kyrgyz (Kazakh) people, they must demand the introduction of a national-territorial all-Kyrgyz (all-Kazakh) autonomy” (Martynenko 1992). Such a transformation of the political consciousness of the congress participants, literally a month ago satisfied with the autonomous status of the regions, before realising the need to create a general Kazakh autonomy, apparently occurred in opposition to the increased political role of supporters of the establishment of monarchical rule in Russia.

From a legal point of view, the requirement for the autonomy of the whole of Kazakhstan, adopted at the congress of one of the regions, cannot be recognised as legitimate, let alone having constitutional significance. It contains not so much an imperative as an ideological potential, reflecting the tendency of radicalisation of the public consciousness of the Kazakh society. In addition, the decisions of the regional congresses lost their legal force when the Provisional Government was overthrown in October 1917. But this tendency of radicalism was more vividly manifested in the decisions of the Second All-Kazakh Congress, held on December 13–15, 1917 in the city of Orenburg. The representatives of the Bukey Horde, Ural, Turgi, Akmola, Semipalatinsk, Semirechensk, Syr-Darya, Samarkand regions and Altai gubernias took part in the work of the congress (Martynenko 1992).

Not long before that, on November 21, 1917, the program of the Alash party had been published in the Kazakh newspaper. Undoubtedly, it had a great influence on the decision of this, in fact, constituent All-Kazakh Congress, noting the options for constitutional consolidation of the future Kazakh autonomy and becoming a kind of ideological platform for the decisions adopted by the Congress. It is no coincidence that the President of the Republic of Kazakhstan highly appreciated this historical document, stating that “... today it is possible with sufficient reason to assert that even the program documents of the “Alash” government, which operated from 1917–1919, carried more constitutionalism than all the Constitutions of the Soviet modification” (Nazarbayev 1995).

Indeed, the program of the Alash party, proceeding from the realities and expectations of the post-revolutionary period, presented in a laconic form could become the political platform of the constitution of a democratic federal state. The main idea of the program is the creation of an autonomous state within Russia, which must be transformed from an imperial state structure into a democratic federal republic. In this regard, its brief description is given. “Federation is a union of small states. Each individual state in a federal republic is autonomous and is governed by itself on the same rights and interests” (§1). Federal power is exercised on the principle of the separation of state power into legislative and executive powers. The President elected by the Constituent Assembly and the State Duma heads the executive branch. Thus, the Russian Federation, in the view of the Alash party, was to become a parliamentary republic with broad rights and freedoms inherent in it. Equal suffrage was to be granted to all “... without distinction of origin, religion or gender. Elections of deputies are held by direct, equal and secret ballot” (§1).

Regarding the organisation of state power in the autonomy, the Program drew attention to local state power and self-government, for which it proposed to preserve the zemstvos with the condition that the zemstvo administrations were controlled by the people (§2). All these and other progressive ideas and provisions of the Alash Party Program, not only for their time, but also for today, were not taken into account when developing and adopting the Constitution of the RSFSR of 1918 and 1925, according to which Kazakhstan lived until the Constitution of the Kazakh SSR of March 26 1937.

In the decisions of the Second All-Kazakh Congress, it was noted that with the fall of the Provisional Government, Russia lost its power, which enjoyed the people’s confidence and moral authority. This posed a threat of civil war and the spread of anarchy in the territory where Kazakhs live. There is a threat to the life and property of the population. A firm government was needed, which would have been recognised by the entire population of the Kazakh regions. In this regard, the Congress unanimously decided: “I. To form the territorial-national autonomy of the regions of the Bukey Horde, the Ural, Turgai, Akmola, Semipalatinsk, Semirechensk, Syr-Darya, Kyrgyz (Kazakh) districts of the Fergana, Samarkand, Amu-Darya department of the Trans-Caspian region, adjacent Kirghiz provinces (Kazakh) spheres a territory with a dominant population of the Cossack-Kyrgyz (Kazakh) of a single origin, a single culture, history and a single language”. The second point of the congress’s decision was to name the autonomy “Alash” (Martynenko 1992). At the same time, as the leaders of the “Alash” party emphasised: “The autonomy of Alash unites the 6 million Cossack-Kyrgyz (Kazakh) population of the Kyrgyz (Kazakh) region, which has never been part of Siberia and Turkestan regions. Alash Autonomy, like Siberia, occupies an almost circular territory, constitutes a large political unit with a population of 10 million” (Nurmukhameduli 2017).

The autonomous character of Alash was emphasised by the fact that its constitution was subject to approval by the All-Russian Constituent Assembly. The basis of political and economic independence should have been ensured by the fact that “... the territory of the autonomous regions of Alash with all the riches on the surface of the earth, waters, their riches, as well as the bowels of the earth is the property of Alash” (clause III of the Resolution of the Congress). The congress did not bypass one of the cornerstones for any constitution national issue: “Everyone who lives among the Cossack-Kyrgyz (Kazakhs) is guaranteed the rights of the minority. In all institutions of the Alash Autonomy, representatives of all nations should be represented proportionally. Extraterritorial and cultural autonomy is also granted to those who,

without territory, find themselves within the autonomy of Alash” (clause IV of the Resolution of the Congress). At the same time, it was stipulated that 10 out of 25 members of the Provisional People’s Council “Alash-Orda” should be represented by Russians and other peoples living among Kazakhs. Meanwhile, according to some data, their number did not exceed 10% of the total Kazakh population.

Participants of the Congress, elected the supreme executive body – the Provisional People’s Council “Alash-Orda”. Alikhan Bukeikhanov was elected its chairman on an alternative basis. At the same time, it was prescribed in an imperative form: “The Alash-Orda must immediately take into its own hands all the executive power over the Cossack-Kyrgyz (Kazakh) population” (paragraph VI of the Resolution of the Congress). But the relations of the Alash Autonomy with other state structures, which extended their jurisdiction over the parts of the territory of Kazakhstan subject to them, were not easy.

The growing Soviet power did not recognise the principles and model of Kazakhstan’s autonomy, which was proposed by the government of Alash-Orda. Blinded by the ideas of the victory of the proletarian revolution on a world scale, its ideological inspirers were not interested in crushing 1/6 of the land area of the globe that belonged to the Russian Empire, so that the victory of the proletariat in this vast territory could be declared. This, according to their plan, would be a convincing confirmation of the loyalty of the ideas of the world proletarian revolution. And for this it was necessary to preserve the imperial territory of Russia, regardless of the maturity or immaturity of the class contradictions of its individual regions. The class approach to social phenomena, recognising the cause of all social ills only in the confrontation of classes, relegated interethnic, interreligious, intercultural, class and other contradictions to the second, third plan.

Such an ideological orientation of the Bolsheviks, declaratively covered by the proclaimed right of the nation to self-determination, was in fact aimed at preserving the empire in a modernised form, when the role of the metropolis was to be played not by the tsarist autocracy, but by the communist party. Russia found itself under the rule of this totalitarian metropolis. In a relatively short historical period (just over 70 years), this was done, but it became impossible to prevent the collapse of the neo-empire (USSR).

The position of the supporters of the Alash Autonomy was significantly different from such a hidden political ideology of the Bolsheviks, and therefore, despite the negotiations of its leaders with the leaders of the proletariat, Lenin and Stalin, it was not possible to reach an agreement that would satisfy both sides. Already on other grounds, the supporters of the Alash Autonomy did not succeed in obtaining their recognition from the Provisional Siberian Government of autonomous Siberia, established by the Siberian Regional Duma on January 29, 1918 (Shishkin 2011: 112).

Both governments (Alash Autonomy and the Provisional Siberian Government) were established with an interval of one month with the status of the highest body of state power of the autonomous republics within Russia. The initial rapprochement of their positions, due to the struggle against the Bolsheviks, gradually began to fade. Their diverging political trajectories were the result of the principled, multidirectional political value orientations of the leaders and supporters of autonomies. According to the correct conclusion of V.I. Shishkin (2011: 116) “... for the leaders of the Siberian counter-revolution, as well as for their military-political opponents – the Bolsheviks, the national question during the civil war in Russia was not the main one. The main one was the question of state power, while the national question was of secondary importance. The leaders of the Alash-Orda understood the correlation of these fundamental problems fundamentally differently, for whom the issue of national autonomy, which was also interpreted as state self-reliance (independence), was always a priority, and for the solution of which they were ready to cooperate with various political forces in Russia, including even those on different sides of the fronts of the civil war”.

Despite repeated negotiations from July to October 1918 on cooperation and recognition of the Alash Autonomy, the Provisional Siberian Government, under various pretexts, left the issue open. And by the Decree of November 4, 1918 of the Provisional All-Russian Government, the status and functions of which was adopted by the Provisional Siberian Government, it was established: “The government of Alash – Alash-Orda shall be considered as ceased to exist” (Bazilova et al. 2016: 755–756). However, the legal force of the decree is very doubtful,

since the legitimacy of the Provisional All-Russian Government itself, proclaimed on a single territory of Russia during the civil war and simultaneously operating at the same time, the Soviet government, established by the Decree of the Second All-Russian Congress of Soviets of November 8, 1917, was in question. This act testified to the fact that the contradictory relations of the Alash Autonomy with the political forces of Russia (with the Provisional Siberian Government) finally ended, pushing the government of Alash-Orda to a forced rapprochement with the Bolsheviks. The disappearance of the Alash Autonomy from the political map was to a decisive extent due to the gradual Sovietisation of the entire territory of Kazakhstan by 1920, carried out by the Kyrgyz (Kazakh) and Siberian Revolutionary Committees created in 1919 (Auanasova and Nurpeisov 2018; Golosov 2020: 285–287; Sapanov *et al.* 2020: 235–236; Altynbekkyzy and Tleulesova 2019: 1375–1378).

Thus, the stormy awakening of the people, conditioned by the dream of reviving their own statehood, logically grew into the plane of the adoption of legal acts that have constitutional significance, the construction of autonomous state development. But such a legitimate and democratic version of development was interrupted by the Soviet regime. “For a number of historical reasons (lack of confidence in the Provisional Siberian Government and Russian generals, accusations of separatism, a split in Kazakh society into “revolutionaries” and “counterrevolutionaries”, the establishment of Soviet power in Kazakhstan and other factors), the government of Alash-Orda was not destined to translate your ideas into reality” (Ayagan *et al.* 2017).

CONCLUSIONS

Thus, in the pre-Soviet period of Kazakhstan, which ended with the establishment of the Kyrgyz and Siberian Revolutionary Committees of Russia in 1919 on the territory of Kazakhstan, then referred to in official documents as the Kyrgyz (Kazakh) Territory, a number of fateful legal acts of different levels were adopted, aimed at organising state power for its territory after the fall of the tsarist autocracy. This gives grounds to characterise them as legal acts of constitutional significance. Their constitutional meaning consisted in the fact that they were not aimed at structuring public authorities at the will of the population, that is, on a democratic basis.

They testify to a tremendous historical breakthrough that took place in the political consciousness of the educated layers of Kazakhstan. Their desire for national liberation, in a short time, was transformed from the idea of autonomous government at the regional level, then at the level of the whole of Kazakhstan as a whole. This ideological transformation logically grew into the plane of the adoption of legal acts that were the constitutional basis for the state development of Kazakhstan. Acts of constitutional significance, despite their short term of validity, have demonstrated examples of the legitimate solution of issues of state-building even in conditions of revolutionary upheavals and civil war.

COMPETING INTERESTS

The authors have no competing interests to declare.

AUTHOR AFFILIATIONS

Alima Auanasova  orcid.org/0000-0003-1414-8447

Committee of Science of the Ministry of Education and Science of the Republic of Kazakhstan, KZ

Erkesh Nurpeisov  orcid.org/0000-0001-9560-1519

Eurasian Humanities Institute, KZ

Kamilla Auanassova  orcid.org/0000-0001-9935-1377

Miras University, KZ

Ganizhamal Kushenova  orcid.org/0000-0002-8901-7559

L.N. Gumilyov Eurasian National University, KZ

Nurlan Mukhlissov  orcid.org/0000-0003-0276-9529

Turan Astana University, KZ

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TO CITE THIS ARTICLE:
Auanasova, A, Nurpeisov, E, Auanassova, K, Kushenova, G and Mukhlisov, N. 2021. The History of the Alash Party in the Context of the Impact on the Processes of Constitutional Acts. *Ancient Asia*, 12: 14, pp. 1–8. DOI: <https://doi.org/10.5334/aa.234>

Published: 24 August 2021

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