

## **JURISPRUDENCE**

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### **ECONOMIC LAW AS AN INNOVATION IN THE FIELD OF EDUCATION AND SCIENCE**

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#### **Abstract**

Substantial changing directed to «... *first economics!!!*...» noted by the president of the Republic of Kazakhstan N. A. Nazarbayev preparing reform in education which will improve the education system with teaching economic laws is the demand of society. Thus, opening the speciality of economic jurisprudence (law), training of economist-lawyers whose diligence views directed to the economic development of the country is the innovative necessity.

This article opens the meaning of necessity of juridical education connecting with economics; opening the speciality of economic jurisprudence which qualifies market relations; introduction of subjects explaining economic laws into educational process and stop teaching old or non-demanding subjects.

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**Keywords:** jurisprudence, economics, economical jurisprudence, civil law, trade law, economic law.

**Introduction**

The president of the Republic of Kazakhstan N. A. Nazarbayev told: «We should place priorities that one followed another: at first - economics, then – policy»[1].

Well then, this principle shows the meaning of reforming all theoretical-practical educational system relating to economic development of the country.

Now students of universities in Kazakhstan are studying the subject of *criminal law*, where the concept that *everyone makes crime* has been grounded from USSR period. Juridical persons of commercial and non-commercial organizations cannot accept for employment lawyers studied criminal law. Because each juridical person needs economist-lawyers who will protect his/her economic interests and knows law in high level. For example, the subject «Tourism Law» is taught at the department of Tourism, faculty of Economics of Akhmet Yassawi IKTU. The teacher of this discipline is not a lawyer, but an economist as there is no teacher who specialized in economic tourism law. That is to say, that it is impossible to train economist-lawyers or lawyers with economic direction with previous theoretical, administrative, criminal, civil juridical subjects left from USSR period. Therefore, the President of the Republic of Kazakhstan noted, that: «...we should discard outdated or non-demanding subjects, but to develop highly-demanded directions for future» [2]. The value of the project is to bring to a stop juridical educational system causing unemployment in the country. For example, in the USA juridical educational system some subjects as legal theory, history of law are not taught. Notably, from the point of view of philosophy of legal education the American approach significantly differs from Russian (the Soviet E.A.) that does an accent on a practical side of the right (Russian (the Soviet E.A.) – on the theory of law). In the American system it is quite possible that the student will finish legal education, without passing such facultative theoretical-historical subjects as *state and right theory, history of state and law, philosophy of law, the Roman right*, etc., In the American system all subjects are taught in terms of the practical application of the subject, avoiding theory[3].

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Besides, «Civil Law» prepared on the base of «Civil Codex» has still been taught for students of jurisprudence since Soviet period. And this naming («Civil») has been carrying out since Napoleon Bonaparte approved «Civil Codex» of France in 1804. Educated civilian lawyers understand that «Codex» is the same with «Economic Codex». According to the first paragraph of 1-article of the Civil Codex: «... *commodity-money ... and others property relations are regulated with Civil Laws*». Objects related to economic interests have been covered with the objects of civil law. Today students-at-law are studying «Civil Law» as the subject connoting with citizens property, family property, simple buying-selling, inheritance, and gift, as the discipline of protecting personal rights and properties of citizens. Because, «Civil Law» has no direct relation to economic overturn and interest. France, taking into account this condition included «Trade Law» along with «Civil Law». Consequently, we also independently may form «Civil Codex» concerning to such relations as «personal property, inheritance, gift, etc.» In this case, the subject taught on the base of «Economic Codex» will be trained directly relating with economic overturn and interest. Consequently, the speciality of economic jurisprudence will be set up where economist-lawyers, who maintains economic development and will be employed.

« ... *The Soviet Union existed at a rigid command management system, total state ownership on means of production...*», - said the President of the Republic of Kazakhstan N. A. Nazarbayev [4].

According to the first paragraph, 6-article of the Constitution of the Republic of Kazakhstan it is stated that «*the state and personal properties are recognized and protected equally*» [5]. Property is the economic category. Personal and economic interests are protected equally in the country where they are recognized by the law and developed under and out of conditions. It means, that *commodity-monetary regulations, buying-selling and exchange of commodities, renting, and other relations are formed on the base of economic relations. Economic laws regulate economic relations. That's why training economist-lawyers who will protect economic subject interests on the base of economic law is the scientific novelty of the project.*

The first official foundation of ideas as «economic jurisprudence, economic laws» were words «*Economic Cour*» written in Decree by the President of the Republic of Kazakhstan

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«About specialized interregional economic court» with № and 535 dated on 16 January, 2001[6].

The term *economics* comes from the Ancient Greek (management of a household, administration). So, *economy is the state or partial representative managing any economic affairs* [7].

The meaning of the word «Jurisprudence» came via the French identifies «the study of law which comprehends the competence political system and government service of society as a special system of legal organization views and social regulations».

«Thus, Jurisprudence is the legal science, studied law as a special system of social norms, legal forms of organization and activities of the state and political system of the society as a whole» [8].

The International Economic Law Interests Group of the American Society of International Law includes the following non-exhaustive list of topics within the term «international economic law»:

(1) International Trade Law, including both the international law of the World Trade Organization and GATT and domestic trade laws;

(2) International Economic Integration Law, including the law of the European Union, NAFTA and Mercosur;

(3) Private International Law, including international choice of law, choice of forum, enforcement of judgments and the law of international commerce;

(4) International Business Regulation, including antitrust or competition law, environmental regulation and product safety regulation;

(5) International Financial Law, including private transactional law, regulatory law, the law of foreign direct investment and international monetary law, including the law of the International Monetary Fund and World Bank;

(6) The role of law in development;

(7) International tax law; and

(8) International intellectual property law. [9].

Alfred Marshall has defined Economic laws thus: «Economic law or the statements of economic tendencies are the statements which relate to the branches of conduct in which the strength of the motives chiefly concerned can be measured in money price.» If we want to say in the words of Robbins, we should say that

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ECONOMIC LAWS are the laws which govern human motives in satisfying unlimited wants with the limited means.

Comparison of Economic laws with Government Laws:

By comparing the Economic laws with laws of Government, we examined that there is a penalty is attached to the breach of a Government Law. If we break a Government Law, we are subjected to bear penalty to compensate the government for not breaking the law again. But while examining Economic law, we saw that there is no penalty is attached to the breaking of economic law. For example, the consumer is not subjected to bear penalty if he doesn't try to derive the maximum monetary satisfaction[10].

The President of the Republic of Kazakhstan Nursultan Nazarbayev said: «*Unlimited authority of prosecutors caused its intervention to state economics. And it negatively influences on the image of Kazakhstan and taking investment*» [11]. In the end of 2013 the President assigned a task to pass the law where controls preventing economic development are regarded to corruption. In other words, lawyers well-trained in theoretical, administrative, criminal, civil law left from Soviet period have not still taken into account the humane and economic methods.

It is not so simple to ignore punishing criminal jurisprudence from power arena which served as the reason of USSR collapse. The only one makes easier such kind of criminal jurisprudence, the economic jurisprudence on the democratic base. It means that, we should train economist-lawyers in connection with economics and laws which were separated from each other in Soviet period.

According to my work purpose let me open some points about negative influence of Soviet criminal jurisprudence concerning me individually.

Me, Yerali Abdikarim after my serving in Soviet army I worked as patrol force/police at evening from 17:00 till 2:00 pm for 3 years. I was a radio-policeman whose duty was to inform crimes as robbery, car theft, rape, killing, etc. by communication line 02 of city police station.

Then I was employed as a secretary in trial jury which deals with regional cassation criminal affairs of 2<sup>nd</sup> level after graduating technical vocational school in Taldykorgan.

«*Eyes (from Latin oculus) — sensitive organ (body of visual system) of a person ... Man receives about 90% of information from*

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*world around through an eye ...»* [10]. Probably, it will seem surprising, but an eye is ... a part of a brain... Each eye transfers information at once to two cerebral hemispheres... That is eyes settle down «under a brain», and join it by means of chiasma[12].

Some horrible pictures from policy and cases in court in the Soviet period are still in my eyes.

In 1994 when I graduated the faculty of law at Al-Farabi Kazakh State University I preferred to specialize in civil (economic) law despite of my practice in criminal law at regional court. Because, I felt need to get rid of a habit sunk into my mind to see suspicion in everyone by visual reading, seeing and listening.

The theme of diploma work of lawyer student was «Institute of property in Kazakh *habit* law», and the theme of candidate thesis is «Fundamentals of land property law».

Student, trained in subjects of criminal and civil (economic) law and gained good practice has the possibility to choose necessary subjects. Also, it would be a good if students will study higher jurisprudence in his/her 25 ages.

And school leavers of 16-17 ages usually choose criminal law. Because, they have still an advantage of inappropriate physical power.

As well as, it is obvious, that criminal law has priorities in Soviet juridical science while I was defending my candidate dissertation. These opinions were supplemented with the needs of changing the criminal jurisprudence (law) with economic jurisprudence (law) during examining the economic bill in Parliament Senate and Mazhilis apparatus, translating juridical documents of Supreme Court machinery, during practicing in debating the economic bill in the Parliamentary of Nitherland.

It means, that state suffer a lot of financial expenses for prevention of a crime. Then unemployed lawyers well-trained in criminal law, especially criminology and criminalistics will prevent organized crimes. For example, faculties of law show the ways of crime solution by the method of, for example, filling plaster casting on footprints of criminal's shoes. Also, unemployed lawyer-students are trained the methods concerning to crime solution in special higher schools at Ministry of Internal Affairs.

If that's the case, how graduates of faculties of law which do not include military departments are studied in this way?



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Thus, they study “History of the state and theory of rights” at first year without giving any thought to it. For 2 years this subject was changed with the subject of «Civil law – goods, money, pecuniary, non-pecuniary relations» which is confused with economic relations by college graduates. Further, as they cannot come up with correct answer, they imagine becoming a prosecutor, a legal investigator, an officer-policeman investigating any crime, a judge. After, they begin to show interest in subjects of criminal laws. Because, they imagine that investigating corruption, robbery, theft, killing, rape, force and other crimes are interesting process. Teachers lead them to morgues for practicing. They begin to brag as «I have seen dead bodies», «I was not afraid of them». After graduation and receiving diplomas, their imagines are not realized as there is not any military department, future lawyers become an unemployment lawyers, because they were not practically trained in special high schools of law enforcement agencies.

According to the standards given in the law of the Republic of Kazakhstan «About law-enforcement services» supplemented with the law dated on 2008.05.07. and № 63-IV, 15-1 article, 1-paragraph as «*Personal training for Internal affairs organs is managed by the educational organizations of Ministry of Internal Affairs which are formed, reformed and dissolved under the laws of the Republic of Kazakhstan, also by the other educational organizations*» the employment of officer-lawyers graduated from educational schools of the Ministry of Internal Affairs has the high-priority. We consider that the purpose and task of this research are the necessity of training criminal laws at special schools of law-enforcement machineries or in law faculties of state higher institutions which has military departments.

As well as, in accordance with the opinions of the Head of Republic of Kazakhstan, the purposes and tasks of this project are given as the following:

- 1) to train economist-lawyers who will protect person’s interests of economic relations on the basis of economic law;
- 2) to erase old theoretical, criminal-civil juridical subjects left from Soviet Union periods from the list of educational modules and to cancel training of unemployed lawyers preventing modern democratic-economic development process;
- 3) to use the expenses for educational program and learning aids (books) concerning to the training economist-lawyers instead of

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spread for juridical subjects left from Soviet Union periods and training of lawyers;

4) to prepare a scheme of curriculum, hours of subjects, educational-methodological aids, syllabus and other necessary documentations;

5) to organize workshops, master-classes, scientific conferences and other events for projects.

**Expected results:**

1) The ground for training teachers of the economic law in high and special educational institutions will be prepared;

2) businessmen economist-lawyers who will get any kind of business instead of unemployed lawyers will be formed;

3) the specialities of courts, prosecutors, advocates and economist-lawyers will be developed;

4) lawyers of banking systems specialized in bank-credit systems will be trained;

5) citizens graduated in law or economics will bring to a stop learning the second higher education;

6) economist-lawyers necessary for government service, national companies and any juridical persons will be trained;

7) the methods of teaching economist-lawyers necessary for agriculture and other spheres will be developed.

Educating economist-lawyers by changing juridical subjects left from Soviet Union periods with new economic juridical subjects will contribute to spend finances in effective way.

Present day, many ministers, prime-minister and their deputies of the Republic of Kazakhstan, in general, graduated the faculty of law at State Universities of Kazakhstan and after they received second higher education in economics and finance and gained their practices in these spheres.

There are a lot of citizens suffering their time and money to be educated in law after graduating economics or in economics after law.

Therefore, we may prevent these problems by opening the speciality of economic jurisprudence. For example, there is an opportunity of teaching budget law, economical law, law of economical management, economic contingent law, economic bookkeeping right, economic tax law, economic exchange law, economic law regulating auctions, tenders, bankruptcy, banking, tourism, public purchases, right of legislative persons, economic law



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of transports, etc. along with economic innovative economical and economical juridical subjects.

For example, if students studying law be trained in the law equity market connecting with the conception as: *«stock exchange is the organization which object of activity is providing necessary conditions of the normal circulation of securities, definition of their market prices and distribution of information on them, maintenance of high level of professionalism of participants of securities market»* they will be good economist-lawyers or lawyers in economic direction.[13]

It means, that preparation of lawyers becoming unemployed and spending state budget finance for educational program of old theoretical, administrative, criminal, civil legal left from USSR will be brought to a stop.

Non-commercial juridical persons serving for social conditions of children, parents, pensioners, invalids will be provided with social-economic lawyers. Juridical subjects as children's rights, rights of social expenditures, medical rights, passenger's rights, pensioner's rights, invalid's rights, sportsmen's rights and other social-economic juridical subjects will be taught at this department.

For instance, after graduation «Passenger's Rights» social-lawyers got a job as a train conductor who prevents infringement of rights of passengers.

Such kind of lawyers will be also employed in other non-commercial and private companies. In order to implement this project we should establish close relations with the state and international scientific organizations as following:

- Akhmet Yassawi International Kazakh-Turkish University, Faculty of Economics;

- Karaganda Economical University Kazpotrebsoyuz. Faculty of Business and Law, Department of *Legal Regulation of Economic Relations*;

- Moscow Technological Institute (formerly known as World Technological University), Specialization: Juridical Management;

- Beijing Professional Institute of Politics and Law. Faculty of Economic and Trade Law [15].

«The Kazakhstan in the 2000's. primarily due to a high rate of economic growth, abundant natural resources, political stability and inter-ethnic accord in a multinational state, was the clear

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regional leader. The global financial crisis has significantly slowed the pace of development, forced to reconsider some priorities. Currently, the country faces the problem of formation and implementation of the concept of post-crisis development, economic modernization, industrialization of innovation and regulation should actively promote this»[16].

**Offers:**

1. The needs for innovation of the state, the need of opening speciality of economic jurisprudence for training economist-lawyers who will protect interests of persons of economic relations;
2. In order to teach economic law, departments should be oriented in two directions:
  - Department of Economic Law;
  - Department of Social-Economic Legal Subjects;
3. Lawyers in the Criminal law sphere should be trained at special educational institutes of human rights organizations and at faculties of law of state higher institutions with military departments.

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