



Law in Kazakhstan

Theory of State and Law

Prepared on the basis of the lectures of Zhenis
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Social Norms

- Norms of Law
- Norms of Moral
- Norms of Custom
- Norms of Religions
- Corporative Norms

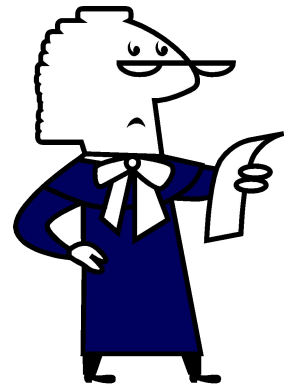
Law

Law is the system of special norms which are set and protected by state and binding for all members of society.



Attributes of Norms of Law

- Norms of law are adopted by state
- Norms of law constitute a system
- Norms of law are binding for all persons
- Norms of law are protected by state
- Violation of norms of law results in juridical liability



Elements of the system of Law

- Norms of Law – rules adopted by state
- Branches of Law – complexes of similar rules



Branches of Kazakhstan's Legal System

- Constitutional law
- Administrative law
- Criminal law
- Land law
- Civil law
- Labor law
- Family law
- Proceedings law: criminal, civil and administrative proceedings law
- Agricultural law
- Environmental law
- Financial law
- etc.

Branches of international law

- International private law
- International public law

Public and Private Law

- Public Law
 - Based on Imperative Method of Regulation (Subordination)
 - Includes Constitutional Law; Administrative Law; Criminal Law; Land Law; Criminal and Civil Proceedings Law; Agricultural Law; Ecological Law; Financial Law; International Public Law, etc.
 - Includes partially also Labor Law and Family Law.
- Private Law
 - Based on Dispositive Method of Regulation (Coordination)
 - Includes Civil Law; International Private Law, partially also Labor Law and Family Law.

Principles of Law

- Equality before the Court and Law
- Combination of Rights and Obligations
- Justice
- Humanism
- Democratism
- Combination of Positive and Natural Law
- Combination of Compulsion and Persuasion

Features of State

State is an organization of the political sovereign power which spreads its jurisdiction over certain territory and population living on it.

- Sovereign State Power
- Territory
- Population
- Legal System
- Tax System

Functions of State

- Internal Functions
 - Protective Function
 - Legal Order
 - Protection of Human Rights and Freedoms
 - Regulative Function
 - Economic Relations
 - Financial Relations
 - Tax Relations
 - Social Relations
 - Cultural Relations
 - Ecological Relations
- External Functions
 - Defense and Security
 - Armed Forces
 - Defense Infrastructure
 - Participation in Military Alliances
 - Foreign Policy and International Cooperation

Forms of State

Various kinds of States may be differentiated according to the following criteria:

- Form of Government
- Form of State Structure
- Form of Political Regime

Form of Government

Monarchy

- Absolute
- Dualistic
- Constitutional



Republic

- Parliamentary
- Presidential
- Mixed



Forms of State Structure

- Unitary State
- Federation
- Confederation



Form of Political Regime

- Totalitarian

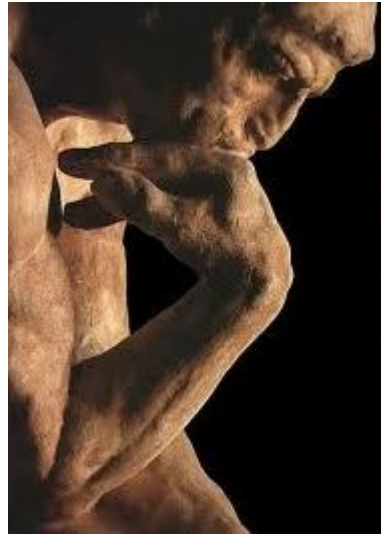


- Democratic



Theories of Origin of State and Law

- Theological Theory
- Contractual Theory
- Organic Theory
- Irrigational Theory
- Theory of Violence
- Economic (Marxist) Theory
- Psychological Theory



Rule-of-Law State

Rule-of-Law State is a state the activities of which are based on the principles of law and the main purpose of which is the observance and protection of human rights and freedoms.

Attributes of Rule-of-Law State

- Recognition of an individual as the highest value;
- Observance and protection of human rights and freedoms;
- Legality (Lawfulness);
- Correspondence of the national legislation to the universal principles of international law;
- Division of Power
- Independent and Effective Judicial Power;
- Public Control over the State Organs, Transparency;
- Political Pluralism;
- Economic Freedom – Inviolability and Protection of Private Property
- Mutual Responsibility of the State and an Individual;
- Civil Society is the Society of Free, Independent, Educated, Politically Active People

