

International acts as part of the current legislation of Kazakhstan: Influence on the country's social policy

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Abstract. The topic is relevant in the light of the current globalisation processes, which promote intensive interaction between international and national norms. This creates a need for a systematic study of this problem. The purpose of this study was to analyse the practice of using international acts as part of the current legislation of Kazakhstan and to investigate the role of international acts in the legal system of the country. To fulfil this purpose, the methods of analysing regulations, the method of comparative analysis of judicial practice, as well as the historical legal method, systemic, and statistical analysis were used. It was found that international acts have a prominent place in the system of national legislation of Kazakhstan, contributing to the adaptation of the domestic legal order to the standards of the international community. The types of international instruments and the level of their implementation in national legislation were examined, together with the ratification procedure. A study of statistical data for the last three years was carried out on the use of international instruments by the courts. According to the results of statistical analysis, it was found that the court of first instance in both civil and criminal cases is the enforcer of international norms, while the courts of appeal and cassation used international treaties in their decisions in isolated cases. A tendency was noted for a steady decline in the use of international treaties in court judgements starting from 2020 to 2022. The analysis of judicial practice showed a restrained use of international

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acts in court judgements. Such use can be of various kinds, such as purely formal references and the intended use of the norms that justified a particular decision. It was concluded that even the formal use of a norm of an international act in the reasoning part of a judgement is a positive practice of human rights promotion. This study can be used to further improve the mechanisms of incorporation, implementation, and application of international acts in the legislation of Kazakhstan, as well as a more profound understanding of their impact on law enforcement in the context of global changes

Keywords: judicial practice; national law; legal integration; legal harmonisation; outside legal influence; law enforcement

Introduction

The legislative system of a country is an integral component of the social order that determines the legal framework and the direction of development. In today's environment of increased integration, international law is becoming an increasingly determining factor in shaping national legislation. One of the key aspects of this interaction is to examine the role of international instruments as a component of legislation. The relevance of the subject under study is conditioned upon modern changes in international relations, which require an innovative approach to the study and implementation of international norms. In the face of complex global challenges such as economic integration, environmental sustainability, and combating transnational crime, it is relevant to consider the mechanisms of interaction between international and national norms in the legal space of Kazakhstan.

Y. Buribayev *et al.* (2023) investigated this topic. The paper analyses the relevance of international labour standards adopted by the International Labour Organisation in the development of state legislation. It was found that international law is valuable in the practice of labour and social disputes. It is argued that, despite its value and universality, international law is still underused by the courts and is particularly underused in the practice of labour disputes. This is explained by the lack of mechanisms and understanding of the correct use of international treaty norms by the courts in their practice. It is recommended to create legal opportunities for judges by providing training and clarification on the application of international law.

This topic was also covered by L. Mohilevskyi (2020). The paper was aimed at investigating the application of international acts in the field of labour law. According to such criterion as legal force, it was found that the international legal act in the hierarchy among other regulations is located in the first place, which is rather conditional under the influence of other factors, but even in the presence of other features determining the hierarchy – the international legal act is still at the highest level. An international legal act as a structural element of the system of sources of labour law is an official act concluded following the legally established procedures between the parties to international law – has acquired the status of part of the current national legislation.

O.N. Safonova (2020) explores the correlation of national and international law in the Constitution of the Republic of Kazakhstan. It was concluded that the Republic of Kazakhstan (RK) in its Constitution fully reflects and enshrines human and civil rights according to international acts. The paper highlights that Kazakhstan is making a long-term international commitment to changes in legislation for the future associated with joining international organisations. At the same time, it is noted that much has already been done since independence to harmonise national legislation with international law, but much work is still to be done to implement democratic principles and humanistic ideals. Overall, the paper emphasises the importance of protecting human

and civil rights in Kazakhstan and points to the need for further efforts to improve the legal system and to translate the principles of international law into national practice.

S.Y. Khon (2022) examines this topic from the standpoint of the enforcement of international instruments in Kazakhstan during the pandemic. The paper highlights the issues of limitation of human rights and freedoms in the conditions of introduction of restrictive measures, specifically the state of emergency in the Republic of Kazakhstan. It was noted that although international law defines standards for the restriction of rights and freedoms, the actions of bodies and officials in some cases did not follow the law and international law. The author emphasises the importance of maintaining a balance between restricting rights and freedoms in times of crisis and ensuring compliance with international human rights obligations. V.P. Klymchuk (2019) also investigated the topic. The paper was aimed at investigating the international legal acts, their classification and application in criminal proceedings. The definition of an international act in the field of criminal procedure was provided and the grounds for classification of such acts were proposed, namely, classification by the ability to influence national criminal legal relations. The conclusion was made that there may be many grounds for classification, and today there is no consensus among scholars on this issue. The classification is also possible based on such criteria as the significance of an international act, its focus and the strength of its impact on relations.

The focus of this study was to highlight the nature and mechanisms of integration of international acts into the system of national law, as well as to analyse their impact on the country's legal system in the context of social policy. The study was aimed at identifying ways and forms of introducing international norms into the national legal system, as well as analysing practical aspects of the application of these norms in the judicial practice of Kazakhstan. The purpose of this study was to comprehensively investigate the mechanisms of interaction between international acts and national legislation of Kazakhstan, to determine their role and influence on the establishment and development of the legal system of the country. Considering the content of Article 4 of the Constitution of the Republic of Kazakhstan (1995), which defines the provisions of an international treaty in national law and prescribes the priority of international treaties over laws, it is important to examine the context and practical implementation of the norms of the Constitution. Furthermore, the goal was to analyse the practical significance of international acts in the law enforcement and interpretation of legislative norms in Kazakhstan.

Materials and methods

The study of the role and influence of international acts on the legal system of Kazakhstan utilised various scientific methods to ensure validity and comprehensiveness. By

analysing case studies, trends, and approaches, key issues in integrating international norms were identified. The induction method was employed to study practical integration examples and patterns in court judgments. Deduction was used to develop a theoretical model of interaction between international acts and national legislation, and to forecast future developments. Hermeneutics facilitated a systematic analysis of international and national legal texts, revealing key norms and practical implementation aspects. Induction and deduction proved crucial in providing a comprehensive understanding of the topic.

The method of comparative analysis was used to compare the decisions of various courts in the context of the application of international acts in domestic legal disputes. By comparing court judgements, it was possible to identify trends and nuances in the interpretation of international norms in the national legal order (On judicial practice of..., 2016; Judicial Collegium on..., 2023; Tukiyeu *et al.*, 2024). The use of historical legal method helped to investigate the context of the development of interaction between international legal acts and acts of national law in retrospect, as well as to consider the development of relations between Kazakhstan and the international community. Analysing the historical stages helped to understand the evolution of this process and to identify patterns. By the method of system analysis, the problem under study was considered as a component of a vast system of legal relations. Using a systemic approach, it was possible to understand the interrelationships and mutual influence of international instruments with other parts of the legal system. The statistical method helped to study the practice of application of international treaties by the courts of the RK in their decisions both by courts of first instance and in appeal and cassation (Normative Decision of the..., 2003). This method also analysed statistics on the use of international instruments in various forms of legal proceedings.

Each of the above methods helped to consider in detail the aspects of interaction between international acts and national legislation of Kazakhstan. Through their combination, a comprehensive understanding of the role of international instruments in the country's legal space was achieved, and the main practical aspects of their implementation and use were identified. The regulatory framework of this study included the Constitution of the Republic of Kazakhstan (1995), Vienna Convention on the Law of Treaties (1969), the Law of the Republic of Kazakhstan No. 11-VII "On International Treaties of the Republic of Kazakhstan" (2023), Universal Declaration of Human Rights (1948), the Normative Resolution of the Constitutional Council of the Republic of Kazakhstan No. 6 "On the Official Interpretation of the Norms of Article 4 of the Constitution of the Republic of Kazakhstan in Relation to the Procedure for the Execution of Decisions of International Organisations and their Bodies" (2009), the Normative Decision of the Supreme Court of the Republic of Kazakhstan No. 5 "On Judicial Decision on Civil Cases" (2003). To ensure a comprehensive analysis of the topic under study, a diverse information base was used, including official reports and annual human rights reviews (2023 country reports..., 2023; More than 1000 people..., 2024; Report of the Ombudsman..., 2024). Also, sources on current human rights issues and their impact on the social and legal situation in Kazakhstan became an important part of the information base for the study (Annual review of the..., 2022).

These sources provided the legal basis and context for the study of the integration of international acts into the legal system of Kazakhstan, as well as a deeper understanding of their impact and application in the national legal order.

Results

Priority of international treaties in Kazakhstan's legal framework. Among many legal instruments, international legal instruments relating to the protection of fundamental human rights, dignity, and security are of particular importance. Kazakhstan's legislation has a so-called "gold standard", which is prescribed in Article 4(3) of the Constitution of the Republic of Kazakhstan (1995), which states that international treaties ratified by Kazakhstan take precedence over its laws. According to part 4 of Article 4 of the Constitution of the Republic of Kazakhstan (1995) all international treaties involving the Republic of Kazakhstan in them must be published. If such an act relates to the rights, freedoms, and duties of a person and citizen, one of the conditions for its application is official publication. This norm is a general principle and is introduced in all legislative acts without exception. This is how the priority of international treaties ratified by Kazakhstan over national laws is fulfilled.

Since the Constitution of the Republic of Kazakhstan (1995) presupposes the term "international legal treaty", the question of its correlation with an international act arises. Notably, scholars have different approaches to this issue, and it is the subject of debate. "International legal instrument" is a more accurate term to describe such human rights standards, which are enshrined in international treaties, conventions, declarations. The term "international legal act" does not fully capture the essence of international legal treaties, and it is emphasised that the term "international treaty" has a clear formal definition, including aspects such as written form, regulation by international law, and independence from the number of constituent documents (Klymchuk, 2019). In addition, in favour of the term "international legal treaty" is the clear legal definition of the Vienna Convention on the Law of Treaties (1969), which defines a "treaty" as an agreement between States in written form approved by international law, regardless of the number of constituent instruments.

It can thus be determined that it is more appropriate to use the term international legal treaty when referring to interstate obligations. An international legal act may be regarded as an independent source of international law. It is a common instrument adopted by two or more states that contains legal rules establishing, modifying or such as terminate rights or obligations between them. An international legal act is also recognised as one of the main sources of international law, which regulates the relationship between states and other subjects of international law (Kostiuk & Iryna, 2024). In practice, different names may be used for an international legal instrument, such as "international treaty" or "international legal treaty", which have the same content and express the essence of the same phenomenon. An international legal act is a general concept that includes diverse types of acts such as conventions, acts, agreements, charters, declarations. Usually, the determination of the title of an international treaty does not affect its legal force, and this issue is decided by the parties themselves to a particular international legal act (Mohilevskiy, 2020).

The classification of international legal instruments has been a problem in international law to date. In researching this topic, it is important to note that there is still no universally accepted classification of international legal instruments. The term “classification” in relation to these acts is interpreted differently by different scholars, and there is no unity and standard approach in this context either. Thus, the classification of international regulations depending on different criteria has more theoretical significance than practical (applied) in the context of the implementation of legal frameworks (Klymchuk, 2019). At the same time, it is also possible to divide the system of international legal acts according to the criterion of importance of application. Thus, international acts can be classified into acts that act as sources of national legislation, e.g., criminal procedural legislation, such as international treaties that have been ratified, as well as the practice of the European Court of Human Rights; acts that contribute to the regulation of organisational aspects that are not sources of legislation, but which are legally binding on member states. This can include international conventions aimed at co-operation between member states, combating crime; other acts, such as principles, charters, recommendations of the UN, as well as the Council of Europe, which are of a recommendatory nature and can be used to improve criminal procedural legislation and the practice of its application.

Highlighting the theoretical aspect of this problem, S. Akhmetzharov and S. Orazgaliyev (2021) proposes a classification of another type, which divides international acts into regulations, i.e., international treaties between two or more countries, and into normative decisions of international organisations binding on all member states of these organisations. In such a context, “international treaties” are the primary form of an international legal instrument. The concept of international organisations and other international obligations of the Republic of Kazakhstan is not clearly defined in the Constitution of the Republic of Kazakhstan (1995) or other legislative acts. However, based on the definitions set out in the Law of the Republic of Kazakhstan No. 11-VII (2023), it is possible to extend the legal regime of international treaties to other international obligations that arise as a result of other circumstances rather than directly from the treaty.

Distinction between international legal terms. Important in this understanding is the Normative Resolution of the Constitutional Council of the Republic of Kazakhstan No. 6 “On the Official Interpretation of the Norms of Article 4 of the Constitution of the Republic of Kazakhstan in Relation to the Procedure for the Execution of Decisions of International Organisations and their Bodies” (2009). It indicates that the decisions of international organisations and their bodies established by international treaties take precedence over national laws and can be directly applied. The precedence of such decisions may apply in cases of conflict with national law. However, this explanation has its limitations: decisions of international organisations cannot prevail if they violate constitutional rights and freedoms of the individual or violate the foundations of the constitution regarding the sovereignty of the republic, its territorial integrity and form of government. Therewith, there is the principle of peaceful coexistence of countries as a key principle of international law. It is reflected in the Constitution of the Republic of Kazakhstan (1995), which supports equality and non-interference in the internal affairs of other states, as well

as the peaceful resolution of international disputes and the renunciation of the first use of armed force (Safonova, 2020).

The key role of international treaties is to support world order and security, the development of international co-operation, the protection of human rights, and to ensure the legitimate interests of subjects of international law and states. International treaties play a key role in many areas of international relations and are the primary source of international law (Golovko *et al.*, 2023). Furthermore, international treaties play an essential role in the cyber security of states and society. Two norms of peacetime international law – the principle of sovereignty and the principle of non-interference in the internal affairs of other states – are used in this light (Moynihan, 2021).

The basic meaning of treaties stipulated by several circumstances. Firstly, the contractual form allows for a clear articulation of the powers and duties of the parties, which facilitates the interpretation and application of contractual rules. Secondly, treaty regulation covers all branches of relations between states, and thus they replace oral customs with treaties between themselves. Thirdly, international treaties ensure harmonisation and correct interaction with the norms of national legislation. Notably, there are no significant differences in the science of international law and the practice of defining the term “law of treaties” and there are no disputes about regulation of this branch. The law of treaties is a system of principles and rules governing the conclusion, termination, and performance of international obligations enshrined in a treaty. This branch of law stays stable and important, and the conventions that have been adopted complement customary law and support the rules of international order. Vital in this aspect is the United Nations Charter (1945), which prescribes the fundamental principles of international law and emphasises that treaties cannot contradict these principles. The domestic law of countries, especially constitutional law, also plays an equally vital role in regulating international treaty relations. Constitutional law defines the procedure for concluding treaties, the competence of state bodies, the types of treaties that need to be ratified. Modern constitutions tend to give priority to ratified treaties over domestic laws. The influence of domestic law is reflected in the creation of corresponding rules of customary international law.

A significant event was Kazakhstan’s accession to the Vienna Convention on the Law of Treaties (1969), which obliged Kazakhstan to implement its norms and harmonise them with other domestic regulations. The norms of the convention have become an integral part of the current legislation of Kazakhstan. States harmonise domestic law with international obligations to a certain extent. The implementation at the domestic level is carried out in two main ways: incorporation and transformation. In case of incorporation, international legal norms are reproduced without change in the laws of the implementing state. Transformation refers to the transformation of the norms of the relevant international treaty while incorporating them into national legislation, considering national legal traditions and standards.

To systematise the conclusion of international treaties in Kazakhstan, relevant documents have been adopted, including Decree of the President of the Republic of Kazakhstan No. 2679 “On the Procedure of Conclusion, Execution and Denunciation of International Treaties of the Republic of Kazakhstan” (1995), which became invalid under the Law

of the Republic of Kazakhstan No. 11-VII (2023). The new law introduces more detailed regulation of the process of concluding international treaties, defining clear procedures for ratification and implementation, which provides greater legal certainty and transparency. It also clarifies the rights and obligations of state bodies participating in international treaties and establishes new requirements for denunciation of agreements, which improves control over the fulfilment of Kazakhstan's international obligations. These regulations govern all stages of the process of Kazakhstan's treaty activity with other subjects of international law. Accordingly, this role was first fulfilled by the decree and then by a separate law. Specifically, the Law of the Republic of Kazakhstan No. 11-VII (2023) defines the procedure for implementing the norms of international conventions and establishes the internal procedure for signing treaties. This Law prescribes the procedure for the conclusion, execution, amendment, and termination of international treaties to which the Republic of Kazakhstan is a party, considering the Constitution of the Republic of Kazakhstan (1995), generally accepted principles and norms of international law, the provisions of the treaty itself and other legislative acts.

According to Article 11 of the Law of the Republic of Kazakhstan No. 11-VII (2023), the following treaties are subject to mandatory ratification: on human and civil rights and freedoms; those, the performance of which requires amendments or adoption of new laws, as well as those that establish rules other than those prescribed by domestic legislation; on territorial delimitation of the Republic of Kazakhstan with other states, including treaties on borders and delimitation of the economic zone and continental shelf; on interstate relations regarding disarmament, international arms control, international peace and security, as well as peace and collective security treaties; on Kazakhstan's participation in associations and organisations (international), if the transfer of partial sovereign rights of Kazakhstan to them is envisaged or if they establish the binding nature of decisions of the bodies of such states or organisations.

Classification and application of international legal instruments. In Kazakhstan, an international treaty may be reviewed for compliance with the Constitution prior to ratification. This makes provision for the right of appeal to the Constitutional Council, which is vested in the President, the head of the Senate, the Chairperson of the Majilis, at least one fifth of the total number of members of Parliament and the Prime Minister. In case of appeal, the ratification period shall be suspended. Before signing an international treaty that is subject to ratification, there is a mandatory scientific and legal expertise. Emphasis is placed on the importance of this approach and the potential need for dual legal expertise. The RK strives to harmonise international treaty law and national law, ensuring their interaction, which contributes to integration processes and strengthens its position in the international arena. Public and political rights have a longer historical path than other categories of rights, and therefore their normative content is usually quite clear and defined. This implies the individual's freedom from state interference as well as their rights before the state. The state's recognition of individual rights and freedoms means that the state is obliged to consolidate these rights in the Constitution, legislation, and the process of law enforcement. The Constitution of the Republic of Kazakhstan (1995) incorporates most of the provisions of the Universal Declaration of

Human Rights (1948) and other major international sources of human and civil rights and freedoms. In December 2003, Kazakhstan acceded to the International Covenant on Civil and Political Rights (1966), and the International Covenant on Economic, Social and Cultural Rights (1966). This confirmed Kazakhstan's intention to introduce democratic reforms. Accession to these covenants obliges a state to guarantee the human rights prescribed in them and to provide effective remedies at the national level.

Certain human rights prescribed in the Constitution of the Republic of Kazakhstan (1995) are not subject to restriction. To ensure the protection of these provisions, the Constitutional Council functions to determine the conformity of laws and regulations with the Constitution. The decision adopted by the Constitutional Council is binding and cannot be appealed (Annual review of the..., 2022). Kazakhstan, as a full-fledged subject of international law, has undertaken to respect and protect human rights and freedoms. The country is a party to multilateral international conventions that regulate various aspects of human rights (Report of the Ombudsman..., 2024). The ratification of the International Covenant on Civil and Political Rights (1966) is a major step in the development of democracy and civil society in Kazakhstan. The growth of the legislative framework at the national level is matched by accession to international treaties. Appropriate mechanisms are needed for this purpose (2023 country reports..., 2023). Many provisions of international conventions have been introduced into the national legislation of Kazakhstan. This contributes to the strengthening of the country's legislative framework and the development of a national system for the protection of human rights (More than 1000 people..., 2024).

The interaction between national and international law is particularly complex in the realm of human rights, a field with a long history of mutual influence. International human rights treaties and their monitoring mechanisms play a crucial role in improving rights protection. States' self-reporting to these bodies enhances practices through four key mechanisms: elite socialisation, training, domestic mobilisation, and legal development. Recent research indicates that such reporting leads to improvements in human rights practices, even from initial imperfect reports. This self-reporting process helps states align domestic policies with international standards and reduces resistance to external influence, turning reports into tools for social pressure and policy learning (Creamer & Simmons, 2020).

In post-Soviet countries, modern constitutions focus on constitutional law and sovereignty. However, the priority of international law is effective, particularly for human rights, which should be universal. International law enables individuals to seek justice at the European Court of Human Rights if national remedies are exhausted, demonstrating its significant influence on domestic affairs. While international law may not always take precedence, it can still shape domestic relations and human rights standards when national laws are lacking. National law must adapt to international legal changes and uphold international human rights principles (Khon, 2022). International treaty standards are integrated into domestic legislation and applied alongside national laws in Kazakhstan. Misapplication of these standards can render investigations or trials unlawful, with legal consequences. Courts frequently reference international treaties, such as the International Covenant on Civil and Political

Rights (1966) and the Convention on Road Traffic (1968), in their rulings. These treaties ensure principles like fair trials and influence decisions, even in appeals where they can justify or overturn previous rulings.

Therewith, there is a practice of mechanical application of international instruments. Under this approach, the norm has no weight, but is purely formally mentioned in the judgement to give it weight. According to the Normative Decision of the Supreme Court of the Republic of Kazakhstan No. 5 “On Judicial Decision on Civil Cases” (2003), the court has a duty and the parties and participants have a right, whereby the judge, when pronouncing judgements, must explain orally why they applied the norm of the international act, what legal consequences, its essence. Proceeding from this, it should be noted that international instruments and the rules contained therein should be used for their intended purpose – when such a rule serves as a justification for a court decision and such a decision is in fact in conformity with that international treaty. Based on an analysis of the practice of the use of international treaties by courts of general jurisdiction, two main lines of such use are identified (Tukiyev *et al.*, 2024).

An analysis of Kazakhstan’s judicial practice shows that international treaties are actively used in resolving various categories of cases, including criminal, civil and administrative. As noted in court decisions, international treaties often become an important source of law alongside national legislation. One of the key international instruments applied in courts is the International Covenant on Civil and Political Rights (1966), especially its Article 14, which guarantees equality of all before the law and the right to a fair and public trial. This provision is fundamental in any human rights case. The application of international norms also covers administrative cases, especially in the area of road disputes. For example, the provisions of the UN Convention on Road Traffic (1968) are actively used in cases related to traffic incidents and often become decisive in court decisions. Notably, appellate courts can overturn lower court decisions if they have failed to take into account the provisions of international treaties or have applied them incorrectly, which emphasizes the importance of the correct application of international law at all levels of the judicial system.

It is important to note that international treaties are used both to confirm and to set aside court decisions. For example, appellate courts can declare a trial unfair due to non-compliance with international norms, even if they were formally mentioned at the previous stages. This demonstrates the flexibility of the application of international treaties and their ability to influence the outcome of trials. Kazakhstan’s judicial practice demonstrates that international treaties have become an integral part of the courts’ law enforcement activities, raising the standards of justice and ensuring more effective protection of human rights (Judicial Collegium on..., 2023). Analysing these practices, it can be said that international treaties are actively integrated into national law, and their application in judicial practice helps to establish higher standards of legal regulation.

First line may include the mere mention of international treaties as sources of applicable law. In such cases, the court concluded that the international treaty governed the domestic legal relations at issue in the individual dispute. However, most often this way of application is characterised by the actual coincidence of the regulatory effect of the norm of

an international contract with the norm of a domestic legal act. The second line of law enforcement by the courts in this matter is the direct application of the norms of international treaties as a legal regulator of legal relations in the case. This choice is usually expressed in the form of a legal assessment of the relevant source of international law and a statement of the prevailing fact of the application of its rules. This conclusion reflects the loyalty of the enforcer to the more common trend within dualist theory regarding the priority of international law over national law. However, in this case, certain important circumstances may still be unaccounted for, such as the legal force and validity of a particular international treaty, the scope of social relations to be regulated by these norms, and the interpretation of the norms of international treaties. Other aspects, albeit of a more theoretical nature, are important for law enforcement practice, since without them it is impossible to determine the possibility or impossibility of regulating the disputed legal relations by an international treaty.

Judicial practice in Kazakhstan’s application of international treaties. The judicial implementation of approved international agreements is demonstrated through several aspects. In judicial procedures, the court acts as a body for the protection of human rights and freedoms, adopting a comprehensive approach using both national and international law. The judicial decision-making process involves the free and independent action of the judge, who is subject only to the law and their own convictions. Thus, the judge’s decisions are formed according to their own convictions, are absolutely impartial, and consider the application of international treaties regardless of the positions of the conflicting parties and authorities. The judicial process also includes an examination of the possibility of using international norms to resolve disputed situations, and the court refers to the content of these norms to inform its judgements (Buribayev *et al.*, 2023). Notably, the organs of a state that has signed international human rights treaties or conventions can refer to such treaties when interpreting domestic law, even if the treaties have not been enacted into national law (Greene, 2019).

The analysis emphasizes that courts of first instance play a dominant role in enforcing international treaties, with fewer references in appellate and cassation courts. In terms of the specifics of the use of international acts, in civil proceedings, when considering the statistics of decisions adopted for 2020-2022, the International Covenant on Civil and Political Rights (1966) stands out in law enforcement, followed by the Convention on the Rights of the Child (1989), which once again proves that the sphere of human rights, including the rights of the child, is the most widespread sphere of interaction between international and national law.

When comparing civil and criminal cases, the use of international treaties is significantly more common in civil cases, as illustrated in the statistical data. The focus in civil matters is often on human rights protections, showing how international treaties have been used to uphold these rights. Criminal cases, however, show a much lower frequency of international treaty application. Despite this, both civil and criminal cases reveal a general downward trend in the use of international legal instruments over time (Judicial Collegium on..., 2023). The emphasis on human rights law, particularly the rights of children and civil liberties, points to the importance of these international treaties in shaping

national legal decisions. The International Covenant on Civil and Political Rights and the Convention on the Rights of the Child are central to the interaction between international and domestic law in Kazakhstan.

Courts have several options for the application of international treaties. In the first choice, judgements may contain a reasoning part in which they refer to international treaties that make provision for a fundamental human right, such as judicial protection (Nam, 2018; Tukiyeu *et al.*, 2024). In the second variant, in the reasoning part one may find references to the norms of international law, which are incorrect, do not relate to the essence of the case, or cannot be applied in this or that dispute at all. For instance, in labour disputes, references to the rule on the right to a fair trial can be found (On judicial practice of..., 2016; Tukiyeu *et al.*, 2024; Legal statistics, n.d.).

The citation of international treaties does not in itself have an impact on the substantiation of evidence or the resolution of a dispute and has little effectiveness in terms of enforcement, but it is important for the promotion of human rights enshrined in international law. In the third choice, the courts as sources of legal regulation of the disputed relations correctly identify international acts and individual norms as sources on the basis of which the essence of the dispute is resolved. In such a case, citations to support the court's findings are valid. The fourth choice refers in court judgements to acts declaring fundamental human rights. For example, the reasoning part of the judgement notes the Universal Declaration of Human Rights (1948), namely the right to a standard of living that is necessary to maintain health or in the event of loss of livelihood.

Article 2 of the European Convention on Human Rights (1950) also states that the law protects the right to life and health. These provisions are also reflected in the legislation of Kazakhstan in Articles 931 and 937 of the Civil Code of the Republic of Kazakhstan (Special Part) (1999), which establish the obligation to compensate a citizen's health in the event of injury. This wording found in court decisions on personal injury compensation is interesting in two respects. Firstly, in this way, the court document correctly reflects the reference to a person's right to reasonable accommodation in case of disability or illness, which is used to support the plaintiff's claims. However, on the other hand, the Court relies on the guarantees provided by the European Convention on Human Rights (1950), which Kazakhstan has not ratified. Thus, in this choice both correctly and accurately applies the norm of the international act, but also such a decision refers to the European universal act, which Kazakhstan has not approved (Buribayev *et al.*, 2023).

The latter practice described in the studies is a strategy of avoiding cases based on international law. Statistics show a decline in the use of international instruments by courts from 2020 to 2022. But this is not to say that there is no force of international law. This indicates that the legislation is consistent with the principles of international law and that it is developed, as judges can be guided more by national law.

Discussion

The subject of the influence of international law on national law has been investigated not only by scholars from Kazakhstan and Ukraine, but also by researchers from the United States of America, India, China, and the United Kingdom. Having analysed the obtained results of this study and

compared them with the findings of other authors, the following can be noted. I. Kalpouzou (2020) explores the possibility of using the language of International Criminal Law (ICL) to analyse migration control policies in the context of Western countries. The author considers the possibility of applying the legal concept of crimes against humanity to issues related to deportations, detention, and deaths of migrants. Critical issues of systemic crime are examined through the lens of international practice. The paper emphasises the role of transnational migration and anti-migration policies in the context of the use of international criminal law. The researcher concludes that the use of the ICL concepts can help to reveal the limitations and potential of this approach to migration policy regulation and emphasises the importance of balancing the use of ICL in strategic litigation. This paper aims to explore the application of international criminal law to situations involving migration control policies. The study analyses how international agreements, conventions and other acts influence the formation and implementation of laws in Kazakhstan. Although both papers explore international legal aspects, they focus on different ideas: one on analysing international criminal law in the context of migration policy, the other in the context of national legal policy.

N.A. Combs (2021) focuses on analysing the phenomenon of "dissent" in the legal systems of national and international courts. The author highlights that dissent was initially negatively received, but over time has become an accepted and laudable part of the judicial system, particularly in the USA and other countries, as well as in international courts and tribunals. Special attention is paid to international courts established to prosecute crimes against humanity, genocide, war crimes. It is also noted that dissent has been under-researched as both an academic and practical topic. It is noted that, for reasons of historical and legal sophistication, some judicial systems allow or prohibit dissent in judgements. It was pointed out that in recent years most European countries have already openly expressed individual opinions in court judgements (Tsvigun, 2024). N.A. Combs (2021) also points out that individual opinions can influence the normative development of international criminal law.

The topic has also been explored by R. Killeen (2021) in the context of the impact of international criminal law in responding to global and national environmental problems. The author discusses the ways in which international criminal law can respond to environmental destruction, including the possibility of introducing a new offence against the environment. The impact of mass violence on the natural environment is examined in detail and ways of dealing with the problem are suggested. The text highlights the need to recognise the harm caused by environmental destruction and the possibility of redress that takes this into account. The evolution of approaches to solving environmental problems in international criminal law is considered. Specifically, the introduction of the concept of "eco-sensitivity" to reparations, the possibility of reparations for environmental destruction, and the application of ecological approaches to "transformational reparations" are discussed. The paper concludes that there is a need to improve international law as opposed to national law, which does not regulate such relationships, including considering the introduction of new rules, considering environmental sensitivity, and providing redress for victims. Both above-mentioned works differ in

that the researcher emphasises the need for greater influence of international law specifically on environmental law, including national law. And this paper considers legislation as a whole, without singling out individual branches.

S.J. Hoffman *et al.* (2022) investigated the level of effectiveness of international treaties and their efficiency. The study addresses issues of the effectiveness of international treaties in addressing global problems. Analysing 224 studies and 82 high-quality studies, the authors conclude that most international treaties have failed to achieve the desired outcome. The exceptions are treaties relating to international trade and finance that have been successful in achieving their intended effects. The study also confirms that treaty performance depends on socialisation and normative processes rather than long-term legal processes. The possibility of improving treaty effectiveness using security arrangements and treaty modification is also pointed out. The authors note that treaties that regulate international trade and finance can indeed be successful because of their design and enforcement mechanisms. However, there are doubts about the value of international treaties that do not deal with trade or finance and that do not include enforcement mechanisms.

C. Perrings *et al.* (2022) analyse the impact of political party and stakeholder polarisation on adherence to and compliance with international treaties. Polarisation is explored as a factor that affects the implementation and use of international instruments in national law. The obligations of signatories to international transactions may change over time in response to changes in the political environment. Positions may be changed after an election loss or an increase in national commitments. Polarisation can affect adherence to international agreements and the ability of states to follow obligations. This can create complex interconnections between political factions, stakeholders, and state obligations in transactions. This interplay between the political dynamics of the domestic sphere and international obligations requires comprehensive consideration to understand how states respond to changes in the treaty environment and how this affects international co-operation (Umbetbayeva *et al.*, 2022). The researchers' study looks at the influencing factors on compliance, implementation, and utilisation of international treaties, something the present paper has not explored. This paper notes the level of utilisation and dynamics but does not explore the causes. A common thread is the study of the use of international instruments in various aspects.

Apart from the principle of priority of international law, there is also the principle of doing no harm. M. Tignino and C. Bréthaut (2020) discuss the "do no harm" principle in the context of international water governance. It is noted that this principle is defined in various international conventions, but its understanding is still ambiguous. The text analyses six court cases that deal with this principle and identifies four aspects. The first aspect indicates a concern for territorial integrity, the second for equitable and reasonable use of water. The third dimension discusses the importance of impact assessment, counselling, and insurance in the context of understanding harm. The fourth dimension looks at the prevention of harm due to the use of appropriate interventions. The conclusions emphasise the role of international case law in shaping the understanding of the "do no harm" principle. Analyses of different cases indicate that the understanding of harm has changed over time and under the influence of socio-political change. The "do no harm" principle

is key to the utilisation and protection of transboundary water resources, and its explanation depends on different contexts and historical circumstances (Getman *et al.*, 2021).

The study by P. Paiement and S. Melchers (2020) explores the use of codes of conduct as a tool for regulating working and production conditions in multinational garment enterprises. Codes of conduct usually contain a reference to public international law, but their analysis shows that they are more focused on instruments regulating public authorities than on private sector obligations. The study expresses doubts about the legitimisation of the role of international law when transposing it into a private governance context. The analysis shows that part of the codes of conduct address state obligations. The conclusion of the study shows the inconsistency between references to international and national law in codes of conduct. The study points to the need for further research on labour rights and worker empowerment in the context of global supply chains and addresses alternative strategies for worker empowerment that are not necessarily limited to the literal application of international law. Both works deal with international law and its impact on the national legal system. However, certain differences in the subject matter and direction of these studies are clear. The first paper analyses the use of codes of conduct as a tool to regulate working and production conditions in multinational enterprises in the garment industry. The second paper explores international acts in labour law specifically in Kazakhstan without reference to the type of labour relations. The first paper focuses on corporate practices and codes of conduct in global supply chains. This paper examines the impact of international instruments on Kazakhstan's domestic legal system, their role and significance for national law.

G. van Ert (2020) examines the role of international treaties in the context of Canada's constitutional obligations and Parliament's powers regarding legislation on peace order and good government (POGG). The Supreme Court of Canada is conducting an analysis on how to properly utilise international agreements to handle POGG cases. It is emphasised that international obligations have an impact on issues of national interest and constitutionality. The importance of the role of international obligations in the context of parliamentary jurisdiction is highlighted, given that the application of this approach can be complex, the principles are clear and consistent with Canadian federalism. The author explores the use of international treaties in the context of Canada's constitutional obligations and notes the importance of the role of international obligations in determining national legal issues.

All of the above studies explore different aspects of international law and its impact on national law, but the studies deal with detailed aspects, while the present one explores international acts in national law in general, only drawing attention to examples in different branches of law, but does not conduct a detailed study of each aspect.

Conclusions

The findings of this study confirm the diversity of approaches to defining and categorising diverse types of international acts. The practice of implementing international instruments into legislation may vary depending on the context and specifics of each area. Interpreting international norms and adapting them to national laws is a key element of this process. As a result of this study, an important aspect of the

interaction between international and national law in the field of human rights and labour disputes was discovered and analysed. Analysis of the judicial decisions and statistics studied confirms the resonance between international norms and their implementation at the national level. The study found that courts use references to international instruments as an additional argument to justify their judgements, especially when it supports and protects the rights and interests of individuals. Courts use international acts in many ways in their judgements, both in the motivation part, purely formally for reference, and as a norm justifying the decision, especially if such decisions concern universal human and civil rights. At the same time, there is a tactic of avoiding the full application of international norms in resolving labour disputes. Courts have favoured national legislation, not always giving international norms concrete legal force. This practice may indicate a lack of full understanding of the relevance and binding nature of international norms in the domestic legal order.

The practical value of this study lies in the fact that it identified trends and highlighted aspects of the use of international norms and their correlation with national legislation, which can serve as a basis for further reforms in the

field of law and order, judicial reform and human rights. The practical aspect also lies in the possibility of optimising the implementation mechanisms of international instruments, specifically by ensuring that they are more accurately considered and adapted to national realities. The results note the need for further research on this topic. One of the areas may be an in-depth analysis of the implementation of international norms in national legislation and the practice of their application in judicial practice. It is also important to consider the impact of international norms on a particular legal industry and in the enforcement of law in that industry. This study can serve as a basis for further work towards improving mechanisms for implementing international norms into national legislation and ensuring their effective and appropriate interpretation in legal science.

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Conflict of interest

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Міжнародні акти як частина чинного законодавства Казахстану: Вплив на соціальну політику країни

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Анотація. Тема є актуальною у світлі сучасних глобалізаційних процесів, які сприяють інтенсивній взаємодії міжнародних і національних норм. Це зумовлює необхідність системного дослідження цієї проблеми. Метою цього дослідження було проаналізувати практику використання міжнародних актів як частини чинного законодавства Казахстану та дослідити роль міжнародних актів у правовій системі країни. Для досягнення цієї мети були використані методи аналізу нормативно-правових актів, метод порівняльного аналізу судової практики, а також історико-правовий метод, системний і статистичний аналіз. Встановлено, що міжнародні акти посідають чільне місце в системі національного законодавства Казахстану, сприяючи адаптації вітчизняного правопорядку до стандартів міжнародного співтовариства. Розглянуто види міжнародних договорів та рівень їх імплементації в національне законодавство, а також процедуру ратифікації. Проведено дослідження статистичних даних за останні три роки щодо застосування судами міжнародних договорів. За результатами статистичного аналізу було виявлено, що суд першої інстанції як у цивільних, так і в кримінальних справах є виконавцем міжнародних норм, тоді як суди апеляційної та касаційної інстанцій використовували міжнародні договори у своїх рішеннях у поодиноких випадках. Починаючи з 2020-2022 років спостерігається тенденція до стійкого зниження використання міжнародних договорів у судових рішеннях. Аналіз судової практики засвідчив стримане використання міжнародних актів у судових рішеннях. Таке використання може бути різним: як суто формальне посилення, так і використання за призначенням норм, якими обґрунтовувалося те чи інше рішення. Зроблено висновок, що навіть формальне використання норми міжнародного акту в мотивувальній частині судового рішення є позитивною практикою просування прав людини. Це дослідження може бути використане для подальшого вдосконалення механізмів інкорпорації, імплементації та застосування міжнародних актів у законодавстві Казахстану, а також для більш глибокого розуміння їх впливу на правозастосування в контексті глобальних змін.

Ключові слова: судова практика; національне право; правова інтеграція; правова гармонізація; зовнішній правовий вплив; правозастосування