

Rustem Bektrumov¹, Bagysh Gabdullina²

¹ Doctoral student Political Science Department
of L.N. Gumilyov Eurasian National University,
e-mail: rkaz07@gmail.com

<https://orcid.org/0009-0004-4321-7485>

² Acting Associate Professor of the Department of Political Science of
the L.N. Gumilyov Eurasian National University, PhD in Political Science,
e-mail: bagish68@yandex.ru

<https://orcid.org/0000-0003-0058-5849>
(Astana, Kazakhstan)

PROSPECTS FOR THE DEVELOPMENT OF THE INSTITUTION OF MEDIATION

Abstract. This article explores the prospects for the development of the mediation institution in Kazakhstan amid global challenges and ongoing social transformation. The author analyzes the key advantages of mediation, such as flexibility, confidentiality, and focus on consensus-building, while also identifying the main barriers to its effective implementation. Particular attention is given to the need to raise public awareness, improve mediator training, strengthen the legal framework, and enhance state support. The methodological basis of the study includes content analysis of scientific literature and comparative analysis. The article argues for the significance of mediation as a vital tool for ensuring social harmony and sustainable conflict resolution in a multiethnic society.

Keywords: mediation, conflict, Kazakhstan, interethnic relations, alternative dispute resolution, social harmony.

Рустем Бектрумов, Бағыш Ғабдулина МЕДИАЦИЯ ИНСТИТУТЫНЫҢ ДАМУ ПЕРСПЕКТИВАЛАРЫ

Андатпа. Мақалада жаһандық сын-қатерлер мен әлеуметтік трансформация жағдайында Қазақстандағы медиация институтын дамыту перспективалары қарастырылады. Автор медиацияның икемділік, құпиялылық және ымыраға келуге бағытталу сияқты негізгі артықшылықтарын талдай отырып, оның тиімді жүзеге асуына кедергі келтіретін негізгі мәселелерді атап көрсетеді. Халықтың хабардарлығын арттыру, білікті медиаторларды даярлау, заңнамалық базаны күшейту және мемлекеттік қолдау қажеттілігіне ерекше көңіл бөлінеді. Зерттеудің әдіснамалық негізін ғылыми әдебиеттерге жүргізілген контенттік талдау мен салыстырмалы талдау құрайды. Мақалада медиация институтының көпұлтты қоғамдағы

қоғамдық келісім мен тұрақты дауларды шешудің тиімді құралы ретіндегі маңыздылығы дәлелденеді.

***Түйін сөздер:** медиация, қақтығыс, Қазақстан, этносаралық қатынастар, дауларды баламалы шешу, қоғамдық келісім. қақтығыстар.*

Рустем Бектрумов, Бағыш Габдулина **ПЕРСПЕКТИВЫ РАЗВИТИЯ ИНСТИТУТА МЕДИАЦИИ**

Аннотация. Статья посвящена исследованию перспектив развития института медиации в Казахстане в условиях современных глобальных вызовов и социальной трансформации. Автор анализирует ключевые преимущества медиации, такие как гибкость, конфиденциальность и ориентация на достижение компромисса, а также выявляет основные барьеры, препятствующие её эффективному внедрению. Особое внимание уделяется необходимости повышения уровня информированности населения, подготовки квалифицированных медиаторов, усиления законодательной базы и государственной поддержки. Методологическую основу исследования составляют контент анализ научной литературы, а также сравнительный анализ. В статье обосновывается значимость института медиации как инструмента обеспечения общественной гармонии и устойчивого разрешения конфликтов в полиэтническом обществе.

***Ключевые слова:** медиация, конфликт, Казахстан, межэтнические отношения, альтернативное разрешение споров, общественная гармония.*

Introduction

In the context of growing global turbulence accompanied by increasing socio-political tensions, the institution of mediation is gaining strategic importance as an effective instrument for the peaceful resolution of conflicts. The modern world faces a range of interconnected challenges — from large-scale migration and urbanization to transformations in political systems, economic instability, and interethnic tensions. These processes underscore the need to identify alternative, non-violent mechanisms for conflict resolution that contribute to the strengthening of social stability. The relevance of this study stems from the necessity to institutionally reinforce mediation as a tool for de-escalating tensions and preventing conflicts amid ongoing sociocultural transformations. In Kazakhstan, as in other post-Soviet countries, mediation remains a relatively new phenomenon despite the existence of a legal framework and requires adaptation to national realities. Mediation, as a form of alternative dispute resolution, is aimed at achieving consensus between parties through voluntary and structured dialogue facilitated by a neutral third party — the mediator. Although its effectiveness has been widely recognized at the international level, the institution of mediation in the post-Soviet space, including Kazakhstan, is still in the process of formation and adjustment to local conditions.

In a previous article, “The Relevance of Mediation in Resolving Political Conflicts in Kazakhstan”, an analysis was conducted on the state of mediation in the country, examining its regulatory and legal foundations as well as international experiences in the application of mediation procedures [1]. The primary focus was placed on identifying the advantages of mediation and the institutional barriers hindering its development. The present study builds upon this foundation and seeks to explore the prospects for the further development of mediation, including its strengthening and the mitigation of existing limitations. By analyzing the potential for expanding the application of mediation, this research highlights the need for increased governmental support, enhanced professional training for mediators, and improved public awareness regarding the significance of this mechanism.

Research Methods

The research methodology is based on a qualitative approach that includes a content analysis of media publications and academic literature related to mediation, allowing for the identification of key trends, conceptual frameworks, and practical applications. Additionally, a comparative analysis was conducted to examine international mediation practices and contrast them with the current Kazakhstani experience. This approach enabled the identification of relevant strategies and techniques that could be effectively adapted and integrated into the national context to enhance the functioning of the mediation system.

Main Body

Examining the origins of conflicts invites us to consider the works of prominent scholars such as Noam Chomsky and Alvin Toffler, who analyzed the nature of social contradictions and proposed frameworks for their resolution. Chomsky, in his study of social conflicts, highlights that many are rooted in structural issues such as social inequality and political manipulation. In his book "Manufacturing Consent", he demonstrates how media constructs public opinion by supporting existing power structures and deepening conflicts through information campaigns that divert society's attention from real issues [2]. Chomsky argues that instead of suppressing social movements, it is necessary to reform the system itself, creating a more democratic society with universal access to information. Mediation, alongside other alternative forms of conflict resolution, fosters a society oriented toward dialogue.

Alvin Toffler, in his book "The Third Wave", also addresses societal transformations by identifying three stages of societal development — agrarian, industrial, and informational [3]. In the information age, conflicts shift from material to informational resources, necessitating new approaches to dispute resolution. Traditional coercive methods lose effectiveness, making it imperative to focus on flexible approaches such as mediation, negotiation, and consensus, which align with the complexity and fluidity of contemporary social conditions.

The idea of peaceful dispute resolution and maintaining harmony is deeply rooted in Kazakhstan's history, as reflected in the works of prominent figures

such as Salyk Zimanov. Zimanov, exploring the nature of the institution of aksakals (wise elders), emphasized the importance of figures like Tole Bi, a renowned judge and sage, who advanced principles of justice and mutual respect. Tole Bi underscored the value of mediation as a tool for peaceful conflict resolution between clans and tribes [4]. His approach to dispute resolution laid the foundation for the cultural and moral aspects of mediation, which remain relevant today. Salyk Zimanov, a distinguished Kazakh legal scholar, public figure, and statesman, was also an advocate for mediation, viewing it as a means of maintaining stability in Kazakhstan's multiethnic society. According to academician Zimanov, the development of mediation in Kazakhstan is necessitated by the need to consider the country's cultural and ethnic diversity, as well as the aim to reduce the burden on the judicial system by enabling parties to peacefully resolve disputes and reach mutually beneficial compromises.

The institution of mediation offers a range of unique advantages that make it an effective tool for conflict resolution in contemporary society. It provides an alternative path to dispute settlement that allows parties to avoid lengthy and costly litigation processes. This is particularly relevant in conditions of heavy caseloads within the judicial system, where case proceedings can be significantly delayed. Unlike litigation, mediation enables the prompt resolution of disputes, helping to save resources and enhance the efficiency of law enforcement by alleviating the burden on the courts.

One of the key strengths of mediation lies in its focus on achieving mutually beneficial outcomes [5]. Whereas in court proceedings the final decision is imposed by a judge, mediation allows the parties to retain control over both the process and the outcome. Voluntary and equal participation fosters an atmosphere of trust, in which each party can actively assert their interests and propose constructive solutions. This makes the mediation process more flexible and personalized, increasing the likelihood of reaching a sustainable and balanced compromise that meets the needs of all participants. Confidentiality is another important advantage of mediation. Unlike public court hearings, mediation sessions are conducted in private, which is particularly important when dealing with matters involving personal, commercial, or other sensitive issues. This approach helps protect the business reputation of the parties, safeguard confidential information, and mitigate potential moral risks.

Mediation is also distinguished by its high level of adaptability. Taking into account the individual characteristics of the parties, the mediator can apply a variety of approaches and techniques aimed at facilitating constructive dialogue. This is especially valuable in a multiethnic and multicultural society such as the Republic of Kazakhstan, where ethnic, linguistic, and cultural differences can significantly affect the dynamics of conflict [6].

The flexible nature of mediation allows these factors to be considered and the process to be tailored to the specific social and cultural context. Mediation is oriented toward preserving and restoring relationships between the parties, which is particularly important in cases where the conflict participants are engaged in long-term or ongoing interactions. This applies to family, labor, business, and

other types of disputes. In such situations, mediation facilitates the rebuilding of trust, the strengthening of interpersonal and professional connections, and the establishment of a foundation for future productive cooperation [7].

The economic aspect of mediation is also of great significance. Mediation does not require substantial procedural costs or prolonged procedures, making it more accessible to a wider range of participants. This is especially important for representatives of small and medium-sized businesses, as well as for individuals with limited financial resources. Thus, mediation serves as an effective mechanism for legal interaction, contributing not only to the resolution of disputes but also to the strengthening of social stability and legal culture within society.

In Kazakhstan, the institution of mediation has been legally formalized and enjoys state support, underscoring its importance in conflict resolution systems. The Law of the Republic of Kazakhstan “On Mediation” (2011) provides the legal framework for applying mediation in civil, labor, and certain criminal cases [8]. This law establishes the principles and procedures of mediation, defining the rights and responsibilities of mediators. However, despite the existence of this legal foundation, the practical implementation of mediation remains limited, which diminishes its impact on social and legal processes. The primary reasons for this are insufficient public awareness and a lack of trust in mediation, which has not yet achieved widespread recognition in Kazakhstan. For many citizens, the judicial system is still perceived as a more reliable method of dispute resolution.

Since gaining independence, the Republic of Kazakhstan has encountered various political conflicts in which mediation methods could have played a significant role. These include the clashes in the Kordai district in 2020, protests against land reforms, restrictions on political opposition, and disputes over the management of natural resources [9]. These cases underscore the urgent need to develop the institution of political mediation as a tool for the peaceful resolution of internal contradictions. International experience demonstrates the effective application of mediation in diverse contexts: in the United States — as both a domestic and foreign policy tool for political settlement; in ASEAN countries — as a mechanism for regional dialogue; in South Africa — during the transition from apartheid to democracy; and in Northern Ireland, Colombia, and Sudan — in the resolution of armed conflicts [10]. These cases highlight the importance of institutional frameworks, mediator training, civil society involvement, and mutual trust between parties. Their analysis makes it possible to adapt best practices to the Kazakhstani context. Unlike many countries with established traditions of political mediation, Kazakhstan is currently in the process of forming the necessary infrastructure. This presents both challenges and opportunities for the integration of international experience into national practice.

The prospects for institutional strengthening of mediation in Kazakhstan appear promising. Government support — reflected in the adoption of specialized legislation and the implementation of programs aimed at fostering

a culture of peaceful dispute resolution — creates favorable conditions for the further expansion and adoption of mediation practices. The authorities regard mediation as one of the key tools for maintaining interethnic and social stability, which is particularly relevant given the multiethnic composition of the population. The further development of the mediation institution in Kazakhstan may proceed along several strategic directions.

Firstly, enhancing educational and outreach initiatives to inform the public about the principles and benefits of mediation is essential. Regular informational campaigns and educational programs can help shape a positive perception of mediation, ultimately increasing its usage. Secondly, advancing professional standards in the field of mediation is vital [11]. Introducing specialized courses and certification programs for mediators will foster a professional community equipped with the necessary knowledge and skills for effective dispute resolution. This is particularly important in the context of interethnic conflicts, where mediators must possess not only legal expertise but also cultural and ethnic competencies. Thirdly, further development and refinement of the regulatory framework for mediation are necessary [12]. Strengthening the legal regulation of mediation could involve adopting additional laws and bylaws regarding its use in various areas of public and legal life. For instance, mandating mediation at the pre-trial stage for certain types of disputes could promote its wider application and reinforce its significance. Finally, integrating digital technologies into the mediation process represents a promising avenue. The introduction of digital platforms and online services for conducting mediation could significantly enhance accessibility, particularly for residents of remote regions. Thus, leveraging information technology would not only make mediation more accessible but also improve its efficiency and flexibility [10]. Strengthening the institution of mediation may become an important step towards building a more harmonious society in which conflicts are resolved through respect, mutual understanding, and compromise.

Despite its clear advantages, the mediation system in Kazakhstan faces a number of challenges and limitations that hinder its full-scale implementation and widespread adoption. One of the key issues remains the lack of public trust: mediation is not yet perceived as a fully-fledged alternative to the judicial system, and many citizens still prefer traditional legal mechanisms, viewing the court as a more reliable and definitive method for resolving disputes. This mistrust stems from the fact that the institution of mediation is still in its formative stage, and the lack of convincing examples of its successful application at a level comparable to court proceedings leads many to bypass mediation and go directly to court [13].

Another limiting factor is the low level of public awareness about mediation, its goals, and principles. Although a legal framework exists, mediation remains largely unfamiliar to the general public, which complicates its popularization and reduces demand. Educational programs and public information campaigns could help raise awareness and foster a positive attitude towards mediation, yet such initiatives remain insufficient in Kazakhstan.

A further serious obstacle is the shortage of qualified mediators. Effective mediation requires professionals with a high level of competence, but there is a notable lack of trained mediators in Kazakhstan, especially in complex cases such as interethnic and political conflicts. Variations in the training and professional skills of mediators may negatively impact the quality of mediation services. The absence of unified standards and certification programs makes it difficult to ensure a high standard of mediation and increases the risk of ineffective outcomes. The insufficient regulation of this field also raises concerns about the legitimacy and professionalism of mediation practices [14].

The existing challenges facing the practice of mediation in Kazakhstan highlight the need for a comprehensive approach to its development. It is essential to implement measures aimed at increasing public trust, conducting awareness campaigns, improving training standards for mediators, and providing government support. These efforts would help overcome current obstacles and establish mediation as a sought-after and effective conflict resolution mechanism.

Raising public awareness of the benefits and capabilities of mediation is a critical step. Educational and informational campaigns should focus on clarifying how mediation differs from judicial proceedings, emphasizing its speed, accessibility, and confidentiality. The active use of mass media and social networks, along with the organization of lectures, seminars, and webinars, would enable the public to better understand the contexts in which mediation can be especially beneficial. Moreover, integrating mediation into academic curricula, particularly in the fields of law and social sciences, could contribute to educating a new generation with a comprehensive understanding of the potential and significance of mediation as a tool for conflict resolution.

Another key direction is the establishment and development of a national school of mediators. To maintain a high level of professionalism in the field of mediation, it is necessary to develop specialized educational programs and certification courses aligned with international mediation standards and sensitive to Kazakhstan's cultural and ethnic diversity. The introduction of state certification for mediators would help create unified training standards, thereby increasing trust in both mediators and the mediation institution itself. Continuous professional development and advanced training will ensure that mediators are equipped to respond to contemporary challenges, including the resolution of interethnic and political conflicts [15].

The full-fledged functioning of the institution of mediation requires active state support and enhanced regulation in this field. The development of a robust legal and regulatory framework governing the activities of mediators and mediation procedures would help solidify its status as a mandatory stage in certain categories of disputes, such as labor and family conflicts. State support in the form of financial assistance, the establishment of specialized funds, or subsidy programs could significantly increase the accessibility of mediation, particularly for socially vulnerable groups. This, in turn, would contribute to

the popularization and practical application of mediation as an effective conflict resolution tool.

Integrating mediation into the judicial system and the operations of local government bodies is another crucial development direction. Introducing mediation as a mandatory pre-trial stage for specific categories of disputes will not only reduce the burden on courts but also strengthen trust in this tool. Local government bodies can play an important role in disseminating information about mediation and providing consultations to citizens, promoting the perception of mediation as a vital conflict resolution tool at the community level.

The development of digital platforms for mediation can also positively impact its accessibility, particularly for residents of remote areas. Creating specialized software solutions and mobile applications for conducting mediation remotely will accelerate and streamline the process. Leveraging modern technologies will also enhance the transparency and efficiency of mediation, offering new opportunities for data analysis and quality monitoring, thereby increasing trust in mediation and ensuring high standards of service delivery.

Encouraging the private sector and non-governmental organizations to use mediation can play a significant role in its advancement. The state could design incentive programs for companies actively employing mediation to resolve labor disputes, including tax benefits, as well as support NGOs promoting mediation as a means of addressing social and interethnic conflicts. Active involvement of the private sector and civil society organizations can accelerate the adoption of mediation, improve its accessibility, and establish it as a sought-after tool for resolving various conflicts in Kazakhstan, ultimately fostering social stability and interethnic harmony [16].

Conclusion

The conducted analysis indicates that the institution of mediation in the Republic of Kazakhstan has significant potential for development and for strengthening its role in ensuring public harmony and stability. This is supported by both theoretical foundations and the practical results of implementing mediation mechanisms across various spheres of life.

Firstly, as the analysis of the legal framework has shown, Kazakhstan is consistently expanding the legislative boundaries for the use of mediation. The adoption of the Law of the Republic of Kazakhstan “On Mediation” and subsequent amendments demonstrate the state’s recognition of the importance of alternative dispute resolution mechanisms. The relevant legal acts cover both judicial and pre-trial practice, thereby broadening the scope of the procedure’s application.

Secondly, the analysis of mediation practice in Kazakhstan reveals a growing interest in this procedure from both government structures and civil society. In recent years, mediation has been increasingly applied in a variety of areas: from civil and family disputes to labor conflicts and even some elements of interethnic disagreements. The number of mediation centers is growing, the pool of trained

mediators is expanding, and the population's legal and mediation literacy is improving. All of this reflects a gradual formation of positive public perception of mediation as an effective and humane method of conflict resolution.

Thirdly, the study of the activities of ethnomediators and public councils under akimats has revealed that mediation is also being successfully applied in interethnic conflicts. This is especially important given Kazakhstan's multiethnic population. Cases of successful conflict resolution in ethnically diverse regions such as South Kazakhstan and Zhambyl regions demonstrate the potential of applying flexible mediation strategies at the local level.

Based on the conducted research, the following well-founded conclusions can be drawn:

1. Mediation serves as an effective mechanism for relieving the burden on the judicial system, particularly in socially sensitive categories of cases. This is supported by statistical data and regional examples provided in the study.

2. The high level of confidentiality and voluntariness of the procedure makes it especially relevant in the context of growing demand for preserving social capital, mutual trust, and reputational integrity.

3. The potential of mediation in interethnic and political conflict resolution remains underutilized. However, early successful cases demonstrate that, with proper mediator training and government support, this mechanism could become a key component in conflict prevention and the strengthening of civic unity.

However, to fully realize the potential of mediation, targeted efforts are necessary, focusing on:

- Raising public awareness;
- Enhancing the professional training of mediators;
- Strengthening legislative and financial support from the state.

Implementing these measures will facilitate the institutionalization of mediation, solidifying its status in society and making it accessible to all segments of the population. In Kazakhstan, mediation has the potential to become not only a mechanism for conflict resolution but also a significant factor in fostering unity and consensus within society. Mediation can help create a sustainable social climate based on mutual respect, dialogue, and compromise, thereby ensuring long-term stability and harmony.

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