

ANNOTATION

of Zh.R. Temirbekov's thesis on competition of degree of Philosophiae Doctor in the specialty 6D030100 - "Jurisprudence" entitled "The concepts of law-based state, rule of law and the problems of forming a strong state: foreign and Kazakhstan experience"

The relevance of the research.

In today's world, it is difficult to find a country on the political map of our planet that is not in a cycle of exchange of information, experience and achievements in both the technological and legal spheres. To be successful in terms of law and economic development of the state, it is not enough to comprehend and use internal experience and resources. The necessity of integration into the world space determines the importance of studying, researching the knowledge and experience that has been accumulated in the world for many millennia. At the same time, an important role is played by the ability to keep up with the times, i.e. to strive for those best heights that others have achieved. All of the above is true for law.

At present, the rule of law is the worldwide ideal of ensuring rights and freedoms. Therefore, considering the tendency of the development of the political and legal sphere of recent years in Kazakhstan, as well as the little attention paid to this topic in the domestic legal science, the analysis of the foundations of the concept of the rule of law seems to the author to be relevant in theoretical and practical aspects. This work is able to draw attention to the concept of the rule of law, which, in our view, is a worthy reference point in the process of protecting human rights and freedoms in the modern state.

The doctrine of the law-based state (Rechtsstaat) and the corresponding practice of organizing constructive political power and ensuring human rights and freedoms refers to the significant legal achievements of the world, and in particular German political and legal thought. Such properties of the law-based state as the separation of powers, the written constitution, constitutional control, the rule of laws made a significant contribution to the political and legal development of many states around the world. In this regard, it seems interesting and relevant to carry out a comparative analysis of the concept of the rule of law and the doctrine of the law-based state (Rechtsstaat). In the thesis, among other things, differences in the origin of these concepts are explored, the experience of their practical application is studied, and their similarities are noted.

The realities of the 21st century are such that humanity faces such challenges as financial crises, urban overcrowding, environmental disasters, terrorism and extremism, various epidemics, global warming, etc. It is natural that in such conditions any state will search for the most effective ways of combating such challenges and ensuring the basic needs of its population. Indeed, one of the main reasons for the existence of the state is precisely to protect its citizens, their health and property. Perhaps, the above is the reason that in recent times, in the political and legal thoughts of the world community, a strong state is increasingly being mentioned. At the same time, along with the growing popularity of the idea of a strong state, the scientific community is discussing the relative basic features of such

a state. Consequently, the study of the phenomenon of a strong state, its basic properties and attributes in modern conditions is an actual direction. The importance of researching the properties of this phenomenon is also due to the fact that, in accordance with the Kazakhstan-2050 Strategy, our country has taken a course toward building a strong state.

In the light of the study of a strong state, it is urgent to study the influence of the rule of law on the formation of a strong state. In particular, revealing the specifics of how the protection of property rights, personal security, corruption, independence of the judiciary and democracy affect the political and legal development of the state, is of practical value in the formation of a strong state.

The degree of scientific development and the range of sources used.

The thesis is based on the research of foreign and domestic specialists in the field of the history of the state and law, state and law theory, the history of political and legal thoughts, constitutional law, sociology and philosophy of law, political science and economics.

Achieving the goal set in the dissertation research, required the reference to the works of such Kazakhstani scientists as Abaideldinov E.M, Abdrasulov E.B., Aitkhozhin K.K., Amandykova S.K., Baimakhanov M.T., Baimakhanova D.M., Beisenova A.U., Busurmanov Zh.D., Zhakaeva L.S., Zhalairi O.S., Zhanuzakova L.T., Ibraeva A.S., Kalyuzhny V.A., Karaev A.A., Malinovsky V.A., Mataeva M.H., Maulenov G.S., Narikbaev M.S., Sapargaliev G.S., Tlepina Sh.V., Turetsky N.N., Udartsev S.F., Chalykh D., Shamgunova A.B., as well as Russian and other foreign authors Baranov V.F., Barenboim P., Vetyutnev Yu.Yu., Zatonsky V.A., Kalamkaryan R.A., Kerimov A.D., Kozhenko Ya.V., Kotlyarevsky S.A., Leist O.E., Litvinova E.A., Malko A.V., Marchenko M.N., Migachev Yu.I., Miroshkina O.I., Miryasheva E.V., Ponkin I.V., Sokolov A.N., Allan T.R.S., Barro R., Bingham T., Bogdanor V., Bonfeld M., Dicey A.V., Dick Howard A.E., Drago R., Duguit L., Dworkin R., Frandberg A., Fukuyama F., Haggard S., Hallberg P., Heper M., Herlitz N., Jowell J., Letourneur M., Mauro P., Migdal J., Mortimer N. S. Sellers, Stansel D., Swaleheen M., Thompson D., Tiede L., Treves G., William H. Dunham and others.

At the same time, despite the availability of scientific literature on the specific features of the rule of law,¹ the relationship between the rule of law and the

¹ See, for example: Dicey A.V. Introduction to the Study of the Law of the Constitution. 10th ed. London: Macmillan, 1959; Dworkin R. Popular sovereignty, the rule of law, and the "rule of judges" in the United States // The Rule of Law History, Theory and Criticism. Brunella Casalini / ed. by Pietro Costa and Danilo Zolo. The Netherlands: Springer. 2007; Allan T.R.S. In Defence of the Common Law Constitution: Unwritten Rights as Fundamental Law // The Law, Society and Economy Working Papers. 2009. № 5. Pp. 1-18; Baimakhanov M.T.-M. The right in the global world: the principle of the rule of law and the actualization of traditional principles and principles (theses of the report to undergraduates and students) // Bulletin of KazNU. The series is Legal. № 3. 2011. Pp. 13-14; Jowell J. The Rule of Law Today // The Changing Constitution / edited by Jeffrey Jowell and Dawn Oliver. Oxford: Oxford University Press, 2011; Bingham T. The Rule of Law. London: Penguin Books, 2011; Loughlin M. The British Constitution. A Very Short Introduction. Oxford, Oxford University Press. 2013; Hallberg P. Prospects for the development of the rule of law in Central Asia: Trans. with English. Dushanbe: Ares, 2013; Sellers M.N.S. What is the rule of law and why is it so important? // The Legal Doctrines of the Rule of Law and the Legal State (Rechtsstaat). Ius Gentium: Comparative Perspectives on Law and Justice. Switzerland: Springer International Publishing. 2014.

economy,² the law-based state³ and a strong state,⁴ aspects of the essence and understanding of international meaning of the rule of law, the relationship between the concept of the rule of law and the doctrine of law-based state, the peculiarities of the formation of a strong state as a state of "rule of law" and a law-based state.

The goals and objectives of the research are to reveal the peculiarities of the formation and content of the concept of the rule of law, to reveal the characteristic features of the doctrine of the law-based state (Rechtsstaat), to carry out a comparative analysis of the concepts of the rule of law and the doctrine of the law-based state (Rechtsstaat), to identify the main features and properties of a strong state, to define the role of the rule of law (In the conditions of Kazakhstan - the law-based state) in the process of forming a strong state.

² See, for example: Barro R. Rule of Law, Democracy and Economic Performance // 2000 Index of Economic Freedom. New York: Heritage Foundation. 1999; Swaleheen M., Stansel D. Economic freedom, corruption, and growth // *Cato Journal*, 2007. № 3, Pp. 343-358; Haggard S., Tiede L. The Rule of Law and Economic Growth: Where are We? // *World Development*. 2011. Vol. 39, No. 5, Pp. 673-685; The rule of law as a factor of the economy / international collective monograph; Edited by E.V. Novikova, A.G. Fedotova, A.V. Rosenzweig, M.A. Subbotina. Moscow: Thought, 2013.

³ See, for example: Beisenova A.U. The Rule of Law: Power, State, Law // *Izvestia of the Academy of Sciences of the KazSSR Series of Social Sciences*, 1989. No. 5. Pp. 34-35; Malinovsky V.A. The Rule of Law and Direct Democracy // *Izvestiya AN KazSSR Series of Social Sciences*, 1989. № 5. Pp. 44-47; Udartsev S.F. Law understanding and the formation of a lawful state (to the problem of the evolution of the state) // *Izvestiya AN KazSSR Series of Social Sciences*, 1989. № 5. Pp. 28-32; Nersesyans V.S. History of the ideas of legal statehood. *Otv. Ed. : Slavina M.M. M.: Izd-iGiP of the Russian Academy of Sciences*. 1993; Maltsev G.V. Understanding the law. Approaches and problems. M., 1999; Ibrayeva A.S. The idea of a law-based state as a new paradigm of a civilized society // *Vestnik KazNU. al-Farabi*, 2000. No. 2; Pp. 139-150; Baymakhanov M.T., Ayupova Z.K., Ibraeva A.S. The formation of the rule of law and the constitutional process in the Republic of Kazakhstan: Monograph. Almaty, KazGYuA, 2001; Udartsev S.F. The rule of law: the semantic aspects of the doctrine (from the history of the philosophy of law) // *Scientific works "Adilet" (Almaty, HSL "Adilet")*. No. 1 (9), 2001. Pp. 5-35; Tusupov E.O. Legal state and some features of its formation in the RK // *Bulletin of KazNU. al-Farabi*, 2002. № 2. Pp. 70-72; Matyukhin A.A. Stages of formation and topical issues of the rule of law (Introductory speech) // *Scientific works of the HSL «Adilet»*, 2003. No. 1. P. 134-135; Adambekova A.D. On the nature of law and the rule of law // *Bulletin of KazNU. Al-Farabi*, 2010. № 3. P. 33-34; Barenboim P. The ratio of doctrines of the Rule of Law and the Rule of Law as the main issue of the philosophy of law and constitutionalism. Moscow: LUM, 2013; Frandberg A. From Rechtsstaat to Universal Law-State. Springer International Publishing. Switzerland. 2014; Zorkin V.D. The right of power and the power of law // *Journal of Constitutional Justice*. No. 5, 2015. Pp. 1-12.

⁴ See, for example: Migdal J. Strong societies and weak states: state-society relations and state capabilities in The Third World. Princeton, NJ: Princeton University Press, 1988; Anokhin P.V. The concept of a "strong state": Historical experience and problems of incarnation in the conditions of modern Russia: Dis. ... Dr. jurid. sciences: 12.00.01 SPb., 2002; Zatonsky V.A. Strong state and active personality: the theoretical and legal aspect / Ed. prof. A.V. Malko. Saratov: Sarat Publishing House. 2005; Acemoglu D. Politics and economics in weak and strong states // *Journal of Monetary Economics*. 2005. № 52. Pp. 1199-1226; Fukuyama F.A. Strong State: Governance and World Order in the 21st Century: [trans. from the English.] / Francis Fukuyama. Moscow: ACT: ACT MOSCOW: THE GUARDIAN, 2006; Miroshkina O.I. The "Strong State" Concept under the Current Conditions of Political and Legal Globalization: Theoretical and Legal Analysis // *Bulletin of Taganrog Institute named after A.P. Chekhov*. 2010. № 2c. Pp. 303-308; Narikbaev M.S., Udartsev S.F. Formation of a strong, effective, democratic state and the Constitution // Perfection of legislation in the light of the concept of the legal policy of the Republic of Kazakhstan for the period from 2010 to 2020: Proceedings of the International Scientific and Practical Conference November 19, 2010 I volume. Astana: State Institution "Institute of Legislation of the Republic of Kazakhstan", 2010. Pp. 48-70; Fukuyama F. The Origins of Political Order: From Prehuman Times to the French Revolution. New York: Farrar, Straus and Giroux. 2012; Busurmanov Zh.D. Strong state: a return to the problem // Proceedings of the scientific conference. Astana, December 10, 2013 ("Actual problems of the state and law"). Issue. 2.) / KAZGUU University. Institute of Legal Policy and Constitutional Law, Astana: KazGUU Consulting LLP, 2014; Tsygankov A.P. A Strong State: Theory and Practice in the 21st Century // *Russia in Global Politics*. 2015. № 3. Pp. 2-3; Udartsev S.F. Formation of a strong state: the Kazakhstan model // Proceedings of a scientific conference. Astana, January 20, 2016 ("Actual problems of the state and law"). Issue. 4.) / KAZGUU University. Institute of Legal Policy and Constitutional Law, Astana: KazGUU Consulting LLP, 2016. pp. 8-18; Kerimov A.D. Strong state as the determining factor of social progress: monograph / A.D. Kerimov, I.N. Kuksin. M.: Norma, INFRA-M, 2017.

Proceeding from this goal, it is necessary to solve the following research tasks:

- Explore the features of historical development and modern understanding of the concept of the rule of law in the examples of Great Britain, the United States, and also at the international level;
- To consider the specific features of the doctrines law-based state in Germany, France, Italy, and also in some countries of Northern Europe through connection with the concept of the rule of law;
- Conduct a comparative analysis of the concept of the rule of law and the doctrine of the law-based state (Rechtsstaat);
- To study modern approaches to understanding and forming a strong state and the features of the concept of a strong state;
- Identify the basic concepts and methods of limiting a strong state;
- Investigate the role of the rule of law in the forming of a strong state;
- To consider the role and place of the doctrine of the law-based state in the formation of a strong state in Kazakhstan.

The subject of the study are:

- Ideas and concepts on the rule of law in political and legal thought and political and legal monuments of Great Britain, the USA, international documents;
- Ideas about the law-based state (Rechtsstaat) in political and legal thought and political and legal monuments of Germany, France, Italy and some countries of Northern Europe;
- the difference and similarity of the concept of the rule of law and the doctrine of the law-based state (Rechtsstaat).
- features and signs of a strong state, as well as options for limiting it;
- the influence of the rule of law on building a strong state;
- the role of the doctrine of the law-based state in building a strong state in the conditions of Kazakhstan.

Methodological basis of dissertation research.

In determining the methodology of the dissertation research, the author proceeded primarily from the multilayeredness of the subject of research. Taking into account that the problems considered in the dissertation work are essentially interdisciplinary and touch upon questions of economics, political and legal thoughts, constitutional law, sociology. In this connection, the author used a wide range of methods during the research. The methodological basis of the thesis was historical-legal, narrative-analytical, the comparative legal, statistical and mathematical approaches to the object and subject of research.

When writing the dissertation research, formal legal, linguistic, systemic methods were also used.

Scientific novelty of the study.

In the thesis, dissertator is carried out:

- depth historical and theoretical study of the processes of genesis, development and realization of the concept of the rule of law;

- a comparative analysis of the concept of the rule of law and the doctrine of the law-based state (Rheshtsstaat) as alternative but interrelated variants of the political and legal justification for an ideal socio-political system;
- modern views on a strong state both in foreign and in Kazakhstan political and legal thought are studied;
- based on the use of extensive empirical (according to the data of international agencies, the dissertator compiled comparative and correlative graphs, and also the mathematical correlation analysis was performed) and theoretical material the influence of the rule of law on building a strong state was considered;
- Theoretical conclusions are drawn and some concrete practical recommendations are formulated to optimize the development process in Kazakhstan of the rule of law and the formation of a strong law-based state.

Highlighting the selected topic, the author also shows the theoretical significance of the concept of the rule of law for the development of domestic understanding of the phenomenon of law-based statehood. There is a new additional impulse for the continuation of the practical construction of law-based statehood in the Republic of Kazakhstan.

This work is one of the first in the modern domestic legal literature studies of the influence of the rule of law on building a strong state.

The provisions for protection:

1. The basic principles of the "classical" concept of the rule of law, formulated by the British professor Albert Venn Dicey, have undergone some changes both in modern Britain and in the United States. In the current UK, the main features of the rule of law are: the legal order, limiting the discretion of public authorities through a clear definition of their powers, interpreting the rule of law as a set of legal values: legality, justice and the denial of arbitrary power. As for the United States, in American political and legal thought the "classical" concept of the rule of law was supplemented by a written constitution, an institution for the separation of powers, and a system of formally defined basic human rights.

2. The content of the rule of law in the scientific literature and international documents is treated differently, existing definitions of this concept are often incomplete or one-sided. In this regard, we propose the author's definition of the rule of law, which, in our opinion, most fully reflects the essence of this concept: *the rule of law – is the state of society and the state when individuals and legal entities, bodies and institutions of states, as well as international organizations, act on the basis of law, which is the highest value and corresponds to the principles of justice, freedom, equal rights.*

3. The closest analogue of the Rule of law concept in France is the doctrine of Etat de droit, in Italy - the doctrine of Stato di diritto, in the Nordic countries - the doctrine of Rattstaat. All these doctrines of the countries of continental Europe are based on the German doctrine Rechtsstaat. At the same time, both the concept of the Rule of law and the Rechtsstaat doctrine are scientific and ideological variants of an ideal political and legal system of society.

4. As a result of the analysis of modern political and legal literature on a strong state, it can be argued that in the 21st century, any strong state for its functioning based on law and sustainable development should have the following features:

- High level of rule of law;
- Effective and competent management;
- A dominant role in regulating and controlling the distribution of the country's GNP;
- Assistance in the development of the economy;
- Ability to quickly mobilize economic, military, organizational, information and human resources.

5. At the same time, the need to limit power of a strong state by law is dictated by historical experience. In the scientific literature, there are three main ways to limit power of a strong state:

- self-restraint of the state by legislation (the state limits itself by the distribution of power and responsibility between state bodies, primarily, but not only, through the constitution);
- restriction of the state by civil society (mechanisms of direct democracy, active, daily struggle for the protection of human rights and fundamental freedoms of a person and citizen);
- restricting the state through representative democracy (through the formation, development and effective functioning of democratic representative institutions).

At the same time, to effectively limit a strong state, all of the above methods must be applied together, in combination.

6. As a result of the study of the political and legal views of the expert scientists, the construction of comparative and correlative graphs, as well as the performance of mathematical correlation analysis by the author on the totality of the countries studied, it can be asserted that the progress achieved in the areas of protection of property rights and reduction of corruption most of all influences on the improvement of the rule of law. In the conditions of Kazakhstan, the development of the rule of law is most influenced by positive achievements in the areas of independence of the judiciary, protection of property rights and reduction of corruption.

As for the economic growth, for the whole of the countries studied, the most beneficial effect on its growth is achieved by the success in the sphere of combating corruption, improving the security of the individual and strengthening the independence of the judiciary. Improvements in the sphere of the security of the individual have a positive impact on the pace of economic growth in Kazakhstan.

At the same time, it is obvious that the rule of law and economic development are interconnected and can cause each other.

According to the research results, the rule of law and the rate of annual GDP growth depend little on the level of political rights.

7. We believe that taking into account the following recommendations will contribute to the further development of the rule of law, law-based state in the country, and as a result, will have a positive impact on building a strong state:

- The legal literacy of the population must be comprehensively improved, including by introducing special courses on the protection of human rights in the educational sphere at different levels of education and developing a system of providing free legal assistance to socially vulnerable groups of the population;

- For more effective legal protection of the rights and freedoms of citizens, establish administrative justice and adopt for its functioning an administrative procedural code that exists in almost all countries with a high legal culture; the process of introducing administrative justice into the judicial system of Kazakhstan can be phased in;

- Make more active use of e-government resources to create additional opportunities to realize the right to freedom of assembly and freedom of peaceful associations, create a single Internet portal for virtual meetings. Such a portal could serve as a convenient platform where people could express their opinions on a particular issue, create groups and bring their consolidated views to the Government. In addition, it is necessary to adopt a special law that would regulate the functioning of the portal, additionally guarantee the safety of its visitors from the illegal threat of pressure from certain officials and their subordinates, other individuals and organizations. With all this, the activity of portal visitors should not go beyond what is permitted by law;

- To expand the competence of the Commissioner for Human Rights in terms of conferring on him the right to appeal to the Constitutional Council of the Republic of Kazakhstan to verify the current legislation and the right to initiate criminal proceedings. The main task of the Ombudsman is the protection of human rights and freedoms, in case of violation by any state body (including law enforcement) or officials. The Ombudsman should be able to initiate criminal proceedings against government officials or law enforcement officers suspected of gross violations of fundamental human rights and freedoms. At the same time, the process of expanding the competence of the Ombudsman should be carried out in stages, taking into account the legal, economic, and political features of the Republic of Kazakhstan.

The theoretical and practical significance of the thesis is that it has an interdisciplinary character and contributes to the theory of law and the state, the philosophy of law, the constitutional economy, the history of political and legal doctrines, comparative jurisprudence. Promotes the development of the concept of the rule of law and the doctrine of the law-based state, as well as the formation of the concept of a strong state. The results of the dissertation research can be used in scientific research, in the formation of the concept of legal policy, the teaching of the above courses in the preparation of bachelors and masters of jurisprudence, economics and political science. Also, the dissertational results can be considered in a certain way in the process of further scientific research of foreign political and legal doctrines and institutions.

The theoretical significance of the dissertation research is also in the formation, based on the study of the processes of genesis and the development of doctrines on the rule of law and the law-based state, scientific conclusions and recommendations for translating them into practice. A comprehensive study of the general theoretical

and practical problems of ensuring the mutual responsibility of the state and the individual, limiting the right to state power, has made it possible to formulate conclusions and proposals that will contribute to the development of the concept of the rule of law and the doctrine of the law-based state.

The study of a strong state also has important theoretical and practical significance, since this phenomenon acts as one of the ways to understand the role and place of the state in the modern world. At the same time, the thesis draws conclusions that can contribute to the formation of the Kazakhstan concept of a strong state. In addition, a comprehensive study of the relationship between the rule of law and a strong state has led to conclusions that are of practical importance.

The provisions of the dissertation research can be used with appropriate adjustments to improve the Kazakh doctrine of the law-based state, the rule of law, the lawmaking process, the institutions of state power. Conclusions on the provisions of the concept of the rule of law, the doctrine of the law-based state, a strong state, can be taken into account for the formation of basic guidelines for the development of the national science of constitutional law, the theory of state and law, comparative law, political science, economics and other sciences.

Approbation of research results.

The main scientific results of the dissertation research are presented in the author's works, which include publications in the journals "Law and State" (№1, 2015, №2, 2015, №3, 2016) and "Bulletin of the Karaganda State University after E.A. Buketov» (№ 2, 2015), included in the List of scientific publications recommended by CCSES MES RK, as well as in Russian journal "The State and Law" (№ 5, 2015, co-authored) and in the "Journal of Advanced Research in Law and Economics" (№ 3, 2017, co-authored) included in the Scopus database.

Thesis provisions, the main results of the research were reported by the author at international scientific, scientific and practical conferences and round tables: "The Constitution of the Republic of Kazakhstan - the main law of the state" (Astana, 2015), "Constitution: unity, stability, prosperity", dedicated to the 20th anniversary The Constitution of the Republic of Kazakhstan (Astana, 2015), "The Constitution is the basis for the dynamic and stable development of society and the state" (Astana, 2016), "The formation of a strong rule of law in the 21st century: domestic and foreign experience" (Astana, 2017), "Modernization 3.0: Spiritual Modernization" (Astana, 2017), as well as published in the materials of the international scientific and practical conference "Development of Jurisprudence: Problems and Prospects", dedicated to the 20th anniversary of the Law Faculty of Novgorod State University named after Yaroslav the Wise and the 10th anniversary of the All-Russian Public Organization "Association lawyers of Russia "(Veliky Novgorod, Russian Federation, 2015).

The structure of the dissertation is conditioned by the theme and logic of the present scientific research, as well as the goals and objectives set. The thesis consists of an introduction, abbreviations, three sections combining twelve subsections, conclusions, a list of sources used and the annex.

MAIN CONTENT OF DISSERTATION

In the **introduction**, grounded the relevance of the topic of the thesis; analyzed the degree of its scientific development in the domestic and foreign literature; defined the subject, purpose and objectives of the study; described the methodological bases of the research; presented the scientific novelty of the thesis; formulated the provisions for protection; stated the theoretical and practical significance of the work; displayed the information on the approbation of the work.

In the first section - "The emergence and development of the concept of the Rule of Law" consisting of five paragraphs, an analysis of the concept of the rule of law was conducted and key features of this concept were examined, ways of its interpretation were studied in the United Kingdom and the United States of America, as well as in international law.

In the subsection 1.1 – "The Magna Carta - the forerunner of the idea of the Rule of Law in Medieval England", the candidate examines the political and legal features of the Magna Carta of 1215. In particular, according to the thesis, the Magna Carta, as a legal document, in its historical and philosophical origin is the embodiment of the idea that the king's power comes from "common law", which provided for "universal recognition of mutual rights and duties" between the ruler and his subjects. As for historical and political origin, this document appeared as a result of resistance to arbitrariness on the part of the monarch, as an attempt to put the king in a certain legal framework. Finally, the philosophical and legal content of this document gives an answer to the question: "What is superior - the rule of law or the will of the ruler?". Perhaps, therefore, subsequently, the provisions of the Great Charter had a great influence on the development of such human rights as the right to life and the right to freedom, as well as many procedural guarantees, which in turn played an important role in the formation of the concept of the rule of law.

In the subsection 1.2 – "Albert Venn Dicey – the founder of the concept of the Rule of law", views the thoughts of Albert Venn Dicey as the founder of the concept of the rule of law. The conclusions in this part of the study are that the components of the concept and principles indicated as the Rule of law, according to Professor Dicey, were:

1) the rule of law as an opposition to each system of state power, based on actions of an arbitrary nature; in this sense, this is a counterbalance to the willful power, so as to exclude for the authorities as a whole and its officials the opportunity to act differently from the powers defined by the law; this was intended to exclude the authorities from acting "arbitrarily" for the government and on the basis of "broad discretionary powers", that is, at their own discretion;

2) the rule of law as the equality of all members of society before the law, where the idea of evasion of officials from responsibility for their actions is excluded and distribution of laws and jurisdiction of ordinary courts to officials, as well as to ordinary citizens;

3) the rule of law as the supremacy of the "spirit of law", which means that human freedoms (which include personal freedom, freedom of speech / thought, expression

of opinions and beliefs, freedom of public assembly / rallies and demonstrations) is not a consequence of the proclaimed in the official document (written constitution) guarantees, and vice versa – the very constitution in English society is a consequence of human rights. Their specific meaning was obtained as a result of the judges' interpretation of the essence of these rights during the long process of considering specific cases in ordinary courts.

In the subsection 1.3 – "Three Aspects of the Rule of Law in the Constitutional Law of Modern Britain," explores some of the characteristics of the concept of the rule of law within the framework of modern constitutional law of Great Britain. In particular, the dissertator argues that in our days the "British" rule of law is characterized by three main features. The first feature is the understanding of the rule of law as a condition for securing the legal order. The second feature is the principle that, for any of its actions, state power should have "permission for law". The third line is formed by the provision, according to which, the rule of law is a synthesis of such values as the rule of law, order, justice and the denial of arbitrary power.

In the subsection 1.4 – "Distinctive features of the Rule of Law in the United States of America," the features of the concept of the rule of law within the framework of the constitutional theory of the United States are revealed. According to the thesis, such are: the restriction on the exercise of state power through the Constitution; institute of separation of powers; basic rights. A special place in the American concept of the rule of law is occupied by the Fifth and Fourteenth Amendments to the US Constitution, designed to provide a person with a "fair legal procedure" and "equal protection of the law." The author notes that the understanding and application of the concept of the rule of law in the US is somewhat different from the "classical" rule of law model, originally adopted in the United Kingdom. The English version, which emphasizes the "historical" nature of the "foundations of law", was supplemented by American lawyers with the recognition of the written nature of these "foundations" enshrined in the federal Constitution and in the constitutions of the states.

In the subsection 1.5 – "Peculiarities of Understanding the Rule of Law in International Law", the peculiarities of the expression and development of the rule of law in international law are examined. The relevance of this direction is that in the modern world the concept of the rule of law is increasingly becoming part of the prescriptions of international law relevant to the legal image, according to which states must exercise power. In addition, the rule of law also requires that the state in the settlement of international disputes adhere to the principle of justice - without resorting to violence, armed forces or terrorism. Thus, no matter how unusual, unique or difficult circumstances were, the best way to resolve disputes is to appeal to the rule of law.

In the second section – "Continental Doctrines of Law-based state and the Concept of the Rule of Law: A Comparative Analysis," doctrines such as the Rechtsstaat, Etat de droit, and the doctrines of the rule of law of some countries of Northern Europe are examined through their comparison and comparison with the

Rule of law. In particular, a comparative analysis of the concept of the Rule of law and the German doctrine of Rechtsstaat was carried out. The significance of Rechtsstaat and Rule of law in the formation and development of the French doctrine Etat de droit is explored. The peculiarities of the Italian doctrine of Stato di diritto and the doctrines of the rule of law of some Nordic countries in the light of the Rule of law are studied.

In the subsection 2.1. – "The German Doctrine Rechtsstaat and its relationship with the Rule of law", a comparative analysis of the Anglo-Saxon concept of the Rule of law and the German doctrine of Rechtsstaat was carried out. In this part of the study, the similarity and difference of the above-mentioned doctrines are revealed. The difference between these doctrines is considered by the dissertator as their difference in origin and in means of achieving the stated goal. The similarity between the concept of the Rule of law and the Rechtsstaat doctrine is the purpose of these teachings, i.e. the search for the ideal of legitimacy of state power. Also, the dissertator notes that the globalization of the concept of the Rule of law and the Rechtsstaat doctrine that began in the second half of the 20th century served as the impetus for the beginning of the convergence of these two teachings, which had a certain effect on their mutual influence and mutual enrichment.

In the subsection 2.2 – "The role of Rechtsstaat and Rule of law in the formation and development of the French doctrine of Etat de Droit", the author studies certain features of the formation and development of the French doctrine Etat de droit. Namely, some distinctive features of the doctrine Etat de droit, formed under the influence of Rechtsstaat and Rule of law, are revealed. At the same time, according to the author, at the end of the 20th century, a certain process of convergence of the doctrines "Etat de droit" and "Rule of law" was observed in French literature. There are at least two reasons for explaining this. On the one hand, it causes the conceptual similarity of the ideas underlying them. On the other hand, it is obviously the desire of the French authors to simply issue the French doctrine Etat de droit with the full identity of the universally recognized doctrine of the Rule of Law in the world.

In the subsection 2.3 – "The Doctrine of Stato di diritto as an Italian analogue of the Rule of law", the dissertator explores some specific substantive aspects and practical implementation of the doctrine "Stato di diritto". At the same time, the author states that most Italian lawyers agreed that the purpose of this doctrine is to limit the discretion of state power. For example, the first question was whether the "Stato di diritto" doctrine meant a "narrowed" conception of the rule of law (a strong argument in favor of this view was that the German "Rechtsstaat" is the ancestor of this doctrine), or, nevertheless, the essence of this doctrine is closer to the meaning of "rule of law", and therefore "Stato di diritto" should be interpreted in the "expanded" version. The second issue was the choice of the mechanism for implementing the doctrine of "Stato di diritto": how to ensure that the state power, including the legislature, strictly observes the priority of basic human rights and freedoms in its activities. In the end, in response to the first question, the supporters of the "liberal ideal" won, believing that the essence of the doctrine of "Stato di

diritto" is closer to the Rule of law. As for the second question, it was resolved through the consolidation of fundamental human rights and freedoms in the Constitution and the establishment of the Constitutional Court.

In the subsection 2.4 – "Doctrines of the law-based state of some countries of Northern Europe and the Rule of law", the dissertator studies the features of the doctrine of the rule of law in some northern European states. According to the author, although in the Nordic countries there was no tradition in the spirit of "rule of law", nevertheless some similar principles of state restriction existed. Another feature of the peoples of these countries is an unclear separation of the content of the terms "law" and "laws", which apparently appears as a historical feature of legal development. But this circumstance can not be regarded as a drawback, and even vice versa, it can play a positive role in lawmaking, as for the citizens of Northern Europe, the historically self-evident principle is that any law should be fair. It is also necessary to separately note the role of the judiciary, which, if necessary, can fill gaps in the law, by forming general principles. All of the foregoing points to the existence in the Nordic countries of a concept quite similar to the "rule of law" - in the Middle Ages such a principle was the principle "land skall med lag byggas [" the country should be built on the law] ", in the new time is "ratsstat".

In the third section – "The concept of the rule of law, the theory of the law-based state and a strong state", approaches to the modern understanding of a strong state are analyzed. The influence of the rule of law on building a strong state is revealed. The role of the rule of law in the process of building the law-based and strong state in the Republic of Kazakhstan is described.

In the subsection 3.1 – "Modern Approaches to Understanding a Strong State", the dissertator studied contemporary political and legal thoughts about the phenomenon of a strong state. In the scientific community there is still no unequivocal opinion about what features and characteristics such a state should possess. It seems that such a difference in opinions, primarily due to the multilateral nature, multi-aspect of the state itself as a social phenomenon. In addition, it is obvious that even the most general idea of what a strong state should be depends on the era, as well as the conditions that have developed in society and in the world. At the same time, the idea of limiting power in a strong state is also being explored, which is an actual direction. According to the dissertator, three main ways of limiting power in a strong state can be distinguished in scientific literature: self-restraint of the state (the state restricts itself through the Constitution), the state is limited by the power of citizens (which is realized in an active, everyday struggle for the protection of rights and fundamental freedoms), the state is limited through democracy (through the development and implementation of democratic institutions).

In the subsection 3.2 – "Strong state and the Rule of Law", the thesis justifies the answer to the question: How can the state become strong? A strong state can become, mainly, by ensuring the rule of law. The emergence of the rule of law plays a key role in building a strong state and achieving stable economic growth. The development of the rule of law is one of the main links in the development of the economy, without which it is not possible to build a strong state. In this connection,

among other things, the role of the rule of law in achieving economic growth is explored in the paragraph. In particular, the peculiarities of institutions that are casual mechanisms of the rule of law and their relationship to the rule of law in general and the rate of annual GDP growth are studied. The study revealed that the rule of law contributes positively to the growth of economic growth. At the same time, in the strengthening of the rule of law, the protection of property rights and the fight against corruption are important. In addition, the main casual mechanisms that affect the rate of economic growth are the level of corruption, the security of the individual and the level of independence of the judiciary. And also, it became obvious that the level of the rule of law and economic growth depends little on political rights.

In the subsection 3.3 – "The role of the rule of law in building the law-based and strong state in Kazakhstan", the features of the formation of a strong state in Kazakhstan are considered. The views of representatives of modern Kazakhstani legal science are studied, which basically agree that a strong state is necessary primarily for the effective protection and realization of human rights and freedoms. At the same time, by asserting and developing the rule of law, Kazakhstan is also developing its law-based statehood. In addition, the thesis notes that, best of all, in the conditions of Kazakhstan, the improvement of the rule of law is influenced by positive achievements in areas of independence of the judiciary, protection of property rights and control over corruption. As for the causal institutions that influence the economy, the level of security of individual have the greatest impact on economic growth. Also, as a result of the study, the author claims that in Kazakhstan, the rule of law and the rate of economic growth are virtually unrelated to the level of political rights.

In conclusion, the dissertator summarizes the results of the dissertation research, the main findings and results are formulated.

The annex contains a list of countries whose statistical data were used in conducting the dissertation research and a letter from the Committee on Legal Statistics and Special Accounts of the Prosecutor General's Office of the Republic of Kazakhstan.

The main provisions of the study were published in 20 publications on the research topic, including:

4 articles in the publications recommended by the Committee for Control in Education and Science of the Ministry of Education and Science of the Republic of Kazakhstan:

- Некоторые особенности понимания верховенства права в конституционной теории США // Право и государство (КазГЮУ) – Астана: 2015 – № 1 – С. 51-56;

- Проблемы правового государства в постсоветской юридической науке: некоторые аспекты // Вестник Карагандинского государственного университета им. Е.А. Букетова – Караганда: 2015 – № 2 – С. 163-171;

- Magna carta – as the conceptual predecessor of the rule of law concept in the middle ages // Право и государство (КазГЮУ) – Астана: 2015 – № 2 – Pp. 89-92;

- Некоторые аспекты концепции верховенства права в конституционном праве современной Великобритании // Право и государство (КазГЮУ) – Астана: 2016 – № 3 – С. 10-15.

2 articles in foreign journals included in the Scopus (in co-authorship):

- Political And Legal Thoughts Of Some Kazakhstani Scientists-Lawyers Of The End Of The XX And Beginning Of The XXI Centuries About Development Of The Law-Based State In Kazakhstan // The Social Sciences (на момент публикации журнал входил в базу Scopus) – 2016 - № 11(8) – Pp. 1437-1441;

- Rechtsstaat and Rule of Law: Some Aspects // Journal of Advanced Research in Law and Economics – 2017 – 3(25) – Pp. 1017 – 1024; (журнал входит в базу Scopus).

6 articles in the materials of international conferences:

- Қазақстан Республикасында құқықтық мемлекет құру туралы кейбір ойлар // «Бірыңғай ғылыми және білім кеңістігінің қалыптасу жағдайларындағы студенттік ғылым» халықаралық ғылыми-тәжірибелік конференция материалдарының жинағы (2015 ж. 9-10 сәуір) (біріккен авторлық) / С. Аманжолов атындағы Шығыс Қазақстан мемлекеттік университеті, 2014. Өскемен: ЖШС «Арго ШҚПК», 2014. 200-203 бб.;

- Конституция – құқықтық мемлекет құрудың маңызды кепілі ретінде // Қазақстан Республикасының Конституциясының 20 жылдығына арналған «Қазақстан Республикасы Конституциясы – қалыптасқан мемлекеттің басты заңы» атты халықаралық ғылыми-тәжірибелік конференция материалдарының жинағы (2015 ж. 27 наурыз) / Астана: Л.Н. Гумилев атындағы Еуразия ұлттық университеті, 2015. – 150-152 бб.;

- Альберт Венн Дайси и концепция «Rule of law» («Верховенство права») // Сборник материалов международной научно-практической конференции «Конституция Республики Казахстан – основной закон состоявшегося государства», посвященной 20-летию Конституции Республики Казахстан (2015 г. 27 марта) / Астана: ЕНУ им. Л.Н. Гумилева, 2015. – С. 147-150;

- Конституция – құқықтық мемлекеттің тірегі ретінде // Қазақстан Республикасы Конституциясының 20 жылдығына арналған «Конституция: бірлік, тұрақтылы, өркендеу» атты халықаралық ғылыми-практикалық конференция материалдарының жинағы (2015 ж. 28-29 тамыз) / Жалпы редакциясын басқарғандар: И.И. Рогов, А.О. Шәкіров, Е.Б. Сыдыков. – Астана: Л.Н. Гумилев атындағы Еуразия ұлттық университеті, 2015. – 482-484 бб.;

- Конституция және құқықтық мемлекет // Қазақстан Республикасы Тәуелсіздігінің 25 жылдығына және Конституция Күніне арналған «Конституция – қоғам мен мемлекеттің серпінді және тұрақты дамуының негізі» атты халықаралық ғылыми-практикалық конференция материалдарының жинағы (2016 ж. 29-30 тамыз) / Жалпы редакциясын

басқарғандар: И.И. Рогов, А.О. Шәкіров. – Астана: Баспа: Азия-Принт-XXI: 2016. – 357-358 бб.;

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2 articles in the materials of a foreign international conference:

- Некоторые вопросы о пути развития правового государства в казахстанской политико-правовой мысли // Сборник материалов 2-й Международной научно-практической конференции «Право и политика: теоретические и практические проблемы», посвященной 20-летию юридического факультета Рязанского государственного университета им. С.А. Есенина. 4 ноября 2013 года / отв. ред. А.В. Малько; Ряз. гос. Ун-т им. С.А. Есенина. – Рязань: Издательство «Концепция», 2013. – С. 112-114.

- Великая Хартия Вольностей – как концептуальный предшественник концепции верховенства права в средневековье // Сборник материалов международной научно-практической конференции «Развитие юридических наук: проблемы и перспективы», посвященной 20-летию юридического факультета Новгородского государственного университета имени Ярослава Мудрого и 10-летию общероссийской общественной организации «Ассоциация юристов России» (2015 г. 28-29 мая) / Отв. ред. О.Е. Калининская, В.Ф. Прокофьев. – Новгородский государственный университет имени Ярослава Мудрого, Великий Новгород. 2015 – С. 332-335.

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- Концепции «Rule of law» (Верховенство права) и «Rechtsstaat» (Правовое государство): сравнительный анализ // Государство и право – Москва: 2015 – № 5 – С. 5-16. Журнал «Государство и право» также входит в базу Russian Science Citation Index, которая в свою очередь входит в общую базу Thomson Reuters.

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- Роль верховенства права в достижении экономического роста // Сборник материалов научной конференции «Формирование сильного и успешного государства в условиях новой глобальной реальности». Астана, 20 января 2016 г. («Актуальные проблемы государства и права». Вып. 4) / НИИ правовой политики и конституционного законодательства. Университет КАЗГЮУ, 16 января 2015 г. Астана: ТОО «КазГЮУ консалтинг», 2016 – С. 50-55.

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- Верховенство права и международный договор // Сборник материалов по итогам международного круглого стола «Взаимодействие национального и международного права» – Университет КАЗГЮУ, 15 мая 2015 г. Астана: ТОО «КазГЮУ Консалтинг». 2015. – С. 114-117.