Regulation of land attitudes in Kazakhstan

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Abstract. Land relations play an important role in the life of any state. The article is devoted to the questions of the land relations development in Kazakhstan. Tasks, stages and results of land reform are considered in it. The analysis has shown that land reform has not affected on a condition of land fund in a good way: the huge areas have been transmitted into stock lands, arable land has sharply decreased, fallow lands that have negatively affected on a quality of the lands and economy of republic was formed. In addition, the problems and ways of land relations perfection in republic were considered.

1. Stages of land reform

Change of political building, finding by Kazakhstan an independent sovereign state status has caused the change of ground building in our republic. Realization of a strategic rate of economy modernization is closely connected with inclusion of ground resources in a market turn, by effective utilization and protection of the grounds. N.A.Nazarbaev repeatedly specified the major value of the ground for the development of a national economy. He marked, that « … the ground, alongside with the natural riches and trial estate, is one of whales on which the economy keeps».

Any reform is a change, transformation, a reorganization in any sphere of a public life, but at the same time it should not destroy bases of existing economic-social structure. Therefore, spent land reform in republic is a process of purposeful stage-by-stage change of ground attitudes. These changes included:
- Transformation of institutes of the landed property, ground possession and using;
- Formation of the economic mechanism of regulation of ground attitudes;
- Redistribution of ground fund;
- Perfection of the government management by ground resources.

Realization of land reform has led to the change of ground attitudes. Ground attitudes are closely connected with an agrarian as the further development of agriculture directly depends on character of development of ground attitudes, their conformity to the new economic conditions. Historical experience convincingly testifies that the question on the ground is a basis of an agrarian policy, and dependence of agrarian questions is capable to push out for long years from public attention all other problems connected with an agrarian reform. Land reform is consequence of a spent agrarian reform which with the development of productive forces level and production relations has changed a character of ground attitudes.

First steps in market attitudes in sphere of land tenure have been made in 1987 when after a long interdiction an opportunity of rent attitudes in an agriculture has been given. Call « To return the owner to the ground » has sounded these years which has been lost, not as a result of lead in postrevolutionary years of the ground nationalization and a private property denying, owing to hasty
liquidation of new economic policy (SEP) and lead, as a rule by violent methods, associations of 25 million allotments of individual country facilities in 250 000 collective-farms and 5000 state-farm lands.

However, the development of commodity-money attitudes sphere went slowly, on what, certainly, the settled conservative methods of authority had affected. Radical crisis in the ground policy has come in the beginning of 1990th years, since time of finding republic sovereignty. In the first years of land reform the problem of transition to market attitudes, creations of the free ground market were put, but the most important was not considered - practically there was no state regulation. Therefore, subsequently many mistakes have been admitted at the creation of the developed market infrastructure that has proved the necessity of the state intervention in questions of ground attitudes regulation.

Land reform in our republic was spent stage by stage. Conditionally it can be divided into 6 stages:

1 stage (1990-1993) - during this period « The Ground code » (1991), « About land reform » (1991), « About a country facilities » (1990), « About the ground tax » (1991) have been accepted. Thus, the legal base for carrying out of land reform has been created, conditions for equal in rights functioning variety of forms of managing on the ground as bases of multistructure economy and at the same time preservation of property on the ground were created, transition to paid land tenure was carried out, the ground tax was entered, the basic directions of land reform and a way of its realization were defined. This stage has been legislatively fixed in the ground Code of republic put into operation in 1991. Many clauses of the all-union Law in view of social and economic and ecological features of different territories and regions of republic, in essence, have been detailed in it.

Accepted in 1991 « The Law on land reform » [2] has defined the problems and the basic directions of the land reform. One of substantive provisions of the law was the granting of grounds for lifelong inherited possession to citizens of republic for conducting a country and personal part-time farm, animal industries, gardening and country construction. Besides the law had been stipulated a creation of special ground fund of area with its subsequent redistribution with the purpose of the ground rational use. The part of special ground fund could be transferred in conducting city councils for conducting commodity manufacture. In 1992 «RK LAW « On property privatization features of the state agricultural enterprises » [3] was accepted. As a result of privatization of state farms and privatizations of collective farms new forms of managing (CFE, cooperative societies, joint-stock companies, etc.) have been formed. At formation of CFE the structure of family was considered, the size of the ground area was defined proceeding from an average ground share which was defined by the decision of labour collective. During this period the decision on an establishment of feature of settlement in the connection with allocation of agricultural lands for population cattle pasturage, truck farming, gardening, mowing was accepted.

Certainly, legislative and normative-legal documents accepted at this period have played the certain positive role at the creation of new forms of managing on the ground by means of reorganization of state farms and privatization of collective farms. However, with introduction of market attitudes in republic the exclusive state ownership on the ground became the deterrent factor of these processes. There were sharp discussions concerning an opportunity of granting of the ground to a private property during that period among scientific community and workers in the field of land management and ground cadastre, in mass media of republic, as well as in other former union republics. It was a question of legitimacy p.5 clauses 3 of the Ground Code of republic in which the following has been written down: « Sale and purchase, donation, the mortgage and autocratic exchange of the ground areas are forbidden ». Such decision accepted by Parliament of republic at that time, was explained by fear of the ground could be redeemed by businessmen of shadow economy, as a rule, not having experience in an agriculture, with a view of gamble and extraction of unearned incomes.
The national expert of the project on improvement of an estimation system, registration and the account of farmland of German society on technical cooperation (GTZ) Anotshenko has stated the following estimation of the given land reform stage. He considered, that the laws accepted during this period, being the initial stage of market attitudes, did not provide a full complex of the market mechanisms applied in a world practice in agriculture. So, normative-legal certificates of the given period contained regulations about the state pattern of ownership on the grounds of agricultural purpose, about the state control over quality and efficiency of ground using, defined an opportunity of withdrawal of the ground areas and their allocation by the state bodies to other land users, etc. As a result of reform the legal status of the grounds has not exchanged - the state remains the unique proprietor and the manager of the ground, the volume of its rights was kept former irrespective, in whose actual using the ground was. The basic purpose of agriculture reform beginning of that period was the possibility of the private rural manufacturer category occurrence, the businessman, the state ground received in using was the basic object of manufacture. Land reform as now and then is considered as the basic mechanism of an agriculture efficiency increasing [4].

2-nd stage (1994-1995) was the period of adaptation of the ground legislation to the market conditions. During this period Decrees of RK President concerning regulation, developments and perfection of ground attitudes have been accepted: « About some questions of ground attitudes regulation », "On the further perfection of ground attitudes ». All this has allowed to enter institute of sale and purchase of the right of land tenure, the right of lifelong inherited possession, the right of rent of the ground areas, i.e. the major attributes of a private property necessary for those who directly worked on the ground were practically realized to be insured from any arbitrariness and to have an opportunity to transfer it to descendants. And the term « constant possession » for all other economic structures, engaged an agricultural production, emphasized a priority of an agriculture, specificity of the ground which are being unusual real estate. Main, eternal and irreplaceable means of the agricultural production, demanding the extremely careful attitude to the ground and its protection from the negative natural phenomena and anthropogenous influence.

With this purpose base rates of these rights estimated cost have been approved. In this case estimated cost was a basis at definition of the uniform ground tax for country farms, i.e. uniform ground tax CFE was equal to 0.1 % from estimated cost of the ground area. Besides this stage also is characterized by the sanction of various operations with the ground, namely the mortgage of the rights to the ground and their donation. At the given stage privatization of the state agricultural enterprises and formation of new forms of managing on the ground was carried out therefore, owners of conditional shares have the right to concede these rights to other persons. But such transactions on the grounds of agricultural purpose almost did not take place anywhere for the different reasons. The formed country facilities having received property share, still possessed an opportunity to give a mortgaging guarantee and to receive credits in banks. However, the 2-nd stage of land reform has coincided with the main reform on privatization and groundless, sometimes hasty reorganization of state farms and transformation of collective farms in non state agro formations (Joint-Stock Company, Open Company), finally led to mass complication of a financial condition of facilities, encumbrance them by debts and leading many of them up to bankruptcy. Having lost support of large-scale enterprises, CFE, and more large-scale enterprises, not having other mortgaging guarantee, except for certificates on the right to landed property, without the document on the right to dispose of the ground as proprietors, could not receive the credit in bank. In the conditions of general lack of money, they could not sell also a part or completely their right to vitally inherited possession or simply the ground possession. Thus, the initial stages of land reform had both positive, and the negative parties. Many farms were created formally with the purpose of reception of cheap credits and the grounds in lifelong inherited possession. Besides soil-protective system of agriculture developed during many years have been destroyed an absence of material base have been affected. All this has led to deducing of the significant areas from land revolution.
The 3-rd stage (1995-2000) is marked by acceptance of the important documents - Decrees of the President, having valid laws: « About the ground », « About the state registration of the rights to real estate and transactions with it », « About the mortgage of real estate », The Law « About a country facilities ». At this stage according to RK Constitution the exclusive state ownership on the ground is cancelled. From the moment of acceptance of the Decree « About the ground » for its realization by RK Government 25 decisions have been developed and approved. The decree « About the ground » has solved the main question of principle about the status of the ground, having recognized it an object of the real estate. The given stage was characterized by the following innovations:

- The bases, limits and conditions of transferring the ground areas in a private property to physical and legal persons were established;
- The state registration of the rights to the ground, real estate and transactions with it was entered;
- Preconditions for a civil turn of the grounds were created;
- The order of the mortgage of the ground areas and the rights of land tenure was defined;
- Norms of free-of-charge transfer and the order of granting of the grounds in a private property were established;
- The legal regime of the organization and functioning of country (farmer) facilities was defined [5].

All we remember wide discussion expediency of a private property on the ground at discussion of the new project of RK Constitution. As a result by the decision of a national referendum 30.08.95 y RK Constitution had been accepted where in clause 6 legitimacy of a private property on the ground on the bases had been recognized, in the conditions and limits established by law. The private property has been entered in the limited quantity: for the development of a personal part-time farm, gardening and country construction due to the grounds, settlements, for individual housing construction, due to other categories, except for the grounds of agricultural purpose. As a result in a private property there were 1.3% of ground fund. However, the grounds of agricultural purpose already as CFE were given to all non state legal persons constant using.

In January, 1999 the project of "Law" About additional changes in President Decree has been published, the valid law « About the ground » from 22.12.95. Amendments to item 44 were made in it and two new were added. It has made the bill inaccessible to discussion to the broad audience of readers. Developers, having reacted to remarks of readers, have replaced the bill with the full text of the Law « About the ground ». Almost half a year went active discussion of the new bill in working group of Mazhilis into which the scientists-landowners, lawyers, experts of the different structures concerning the ground have entered. Then the Mazhilis after hot discussion, has approved the bill in the first reading. It has been published in 23.06.99y, but after the arisen protests on places has been withdrawn by the Government. In the bill which has been born for national discussion, distribution of a private property on the grounds which was being used by CFE, and also on the grounds carried in reserve special fund, all approximately on 40 million in hectares of agricultural purpose grounds was provided. Such offer as a whole did not resist to item 6 of RK Constitution, however, under the insisting of developers, the bill provided the repayment of the ground given in a private property. And up to the repayment it was given to peasants on the right time rent.

Meanwhile, it is served as the main incentive motive of expansion of the right of a private property on the grounds of agricultural purpose: to enable peasants to receive credits by granting to banks a right forming document of the ground proprietor. This opportunity was promised three times by the President of Republic to peasants in the meetings. In the conditions of a crisis situation in the village, full lack of money, granting of the private property right under condition of the repayment was useless for the majority of peasants. Contrary to agrarian objections, in every possible way emphasized loss of an overall objective - opening of a way for the reception of credit, monetarist approach has prevailed - aspiration to receive means for updating a profitable part of the budget more quickly. Soon on places
there were the people who have understood, that the reception of the right of a private property under condition of the preliminary repayment will not make peasants happy. It certifies the history of clearing of peasants from a serfdom in 1861 with the right of the ground repayment, hung a lot of years as burden on peasants, stolypin reform which has caused the formation of reserve army work and, for this reason, protested not only against expansion of a private property on the grounds of agricultural purpose.

A.A. Satybalgin marked the following lacks of Kazakhstan’s land reform carrying out, influencing on functioning of new market ground attitudes:
- Instability of the market economy, the purchased disproportions, crisis processes and tendencies;
- Incompleteness of legal base and discrepancy of the normative-legal documents acting on that moment adjusting market ground attitudes;
- Slow movement to the multistructure land property;
- Default of taxation stimulating function, a weak level of investment policy in the field of effective using of agricultural lands, high risk of mortgaging, hypothecary operations;
- Impreparation of a great mass of the population to the conditions of independent development of an agricultural production on the received ground [6].

The 4-th stage (2001-2003) is characterized by acceptance on January, 24th, 2001 the Law « About the ground ». The ground legislation specifies the competence of the state bodies in the field of regulation of ground attitudes, powers of local representative bodies and institutions of local government were certain. The right of constant land tenure was stipulated to give only to the state legal persons. Rent was defined as the basic form of using the grounds of agricultural purpose by non state land users. Term of time using was reduced from 99 years till 49 years, secondary land tenure was forbidden, the legal regime of conditional ground shares, and also target dates of the order was specified by it.

In this plan the state put the requirement to owners of conditional ground shares to accelerate their realization (within a year) and in case of default - to deprive of their right to a ground share. Such requirement was explained by an observance of stability of wildlife management, however, first, the principle of stability of wildlife management does not mean the necessity of its perfection from time to time, secondly, instead of threat of the termination of this right not issued the ground share, many scientists offered to keep at that time the right of an output to reception of the share by way of carrying out of land management from the grounds of special ground fund in view of a cost estimation and quality received by it in a nature site of the ground.

Actually, from 2.3 million citizens of republic received certificates on conditional ground shares, 2.2 million were already defined. According to the data RK Agency published at that time on management of ground resources, dynamic process of formation CFE proceeds. However from 91,5 thousand CFE majority of owners of conditional ground shares have brought them in authorised capitals of companies and cooperative societies. Division of land tenure reorganized by state and collective farms on conditional ground shares was planned with intention by their further personification and naturalization, first of all, in case of CFE formation. However, the citizens who have received the certificates, were not ready to it neither psychologically, nor morally. Besides in the conditions of the created crisis situation, from a hopelessness, not wishing to remain in private with the arisen difficulties, the overwhelming majority of peasants has gone on a line of the least resistance and have handed over property share and ground shares in different companies and cooperative societies. Many of them have not made the wrong choice, but other part quite could leave their structure and dispose their share in another way - to form their own CFE or be busy with average or small business.
Carrying out of land reform in Kazakhstan at the given stage has been carried out in the following basic directions:

- Transition to new ground system - creation and formation of qualitatively new system and structure of land tenure, formation of the ground proprietors class;
- Registration of right attested documents on the ground, formation of land-cadastral proceedings on the ground areas;
- Realization of the state control over use and protection of the grounds;
- Protection the citizens' rights on the ground, legal persons and the state;
- Creation and conducting a ground cadastre and monitoring of the grounds;
- Perfection of ground market attitudes;
- Development of the ground market [7].

At the given stage process of agricultural enterprises reforming was practically completed. During transformation of collective farms, denationalization and privatization of the agricultural organizations on January, 1st, 2003 nearby 138 thousand CFE were organized to which 31.5 million in hectares of the grounds were fixed, 3.5 thousand economic companies of different kinds were created. However, practice has shown, that the lead privatization of state farms has given also negative result in the conditions of other factors negative actions. In particular, in facilities with excessive greater areas of the grounds at the developed crisis situation it was not necessary to think of their rational use. As a result elemental, spontaneous, grounds throwing in a deposit, and also full refusal from part of the grounds with the transition in the grounds stock were carried out. So, on 1/1/2003y the ground stock included 124696,5 thousand in hectares.

The 5-th stage of land reform which has legislatively fixed the right of a private property to the grounds of agricultural purpose began in June, 20th, 2003 with the acceptance of RK Ground code [8] and had established norms of regulation ground legal relationship in agrarian sector in the conditions of various patterns of ownership on the ground. Thus, using of the grounds on the right of land tenure was provided also. It means, that introduction of a private property on the grounds of agricultural purpose does not provide their obligatory repayment in the property. The private property and the right of time land tenure in parallel can operate.

The repayment of the grounds of agricultural purpose for conducting a country farm and a commodity agricultural production in a private property is carried out on a paid basis. The ground legislation establishes the flexible system of the ground areas transfer conditions in the property:
- For full cadastral cost;
- For a reduced price, accepted on all administrative and territorial units at a rate of 75 % from cadastral (estimated) cost of the ground area;
- By credit - till 10 years.

With the purpose of effective utilization of agricultural purpose grounds, preservation of soil fertility the Ground Code from 2003 cancels the right of secondary land tenure - subrent. On other categories of the grounds transfer to secondary land tenure by non-state land user, and also the fulfillment of other transactions by the right time long-term onerous land tenure it is authorized under the condition of the repayment of the right to these grounds at the state.

Conditionally it is possible to consider 2011y as the 6-th stage of land reform in connection with an acceptance ofRK Law № 464-IV 3 RK « About modification and additions in some acts of RK concerning regulation of ground attitudes » 7/20/2011y [10]. In particular, it regulates the attitudes connected:

- With the grounds reservation for maintenance of settlements development, accommodation of planned objects engineering, transport and social infrastructure, strategic objects, objects of defense and safety, creation of especially protected natural territories, development of minerals deposits;
- With regulation of price zoning questions territories of settlements in a view of market mechanisms;
- With the settlement of the ground areas registration order in a private property;
- With the definition of ground area compulsory withdrawal norms for no purpose use or with infringement of the legislation.

2. Results of land reform

The analysis of the ground use for years of reform in our republic has shown, that land reform not in the best image has affected on condition of ground potential. So, at the beginning of land reform the relative density of the grounds of agricultural purpose made 80, 1 %, and in 2012 there was a sharp recession (table 1).

Table 1. Dynamics of ground fund on categories of the grounds, th. hectares.

| The name of the grounds categories | 1991 y. | 2012 y. | Difference (-) - reduction (+) - increase |
|-----------------------------------|---------|---------|----------------------------------------|
| 1. Land for agricultural purpose  | 218 375,8 | 93 428,2 | -124 947,6 |
| 2. Land of settlements            | 3 747,2  | 23 789,8 | +20 042,6 |
| 3. Industry land                  | 18 796,8 | 2 620,8  | -16 176,0 |
| 4. Land of especially protected natural territories | 775,1 | 5 776,5 | +5 001,4 |
| 5. The land of wood fund.         | 10 179,2 | 23 059,9 | +12 880,7 |
| 6. The land of water fund.        | 819,9   | 4 113,2  | +3 293,3 |
| 7. The land of stock              | 18 952,3 | 108 385,4 | +89 433,1 |
| **The grounds total**             | **271 646,3** | **261 173,8** | **-10 472,5** |
| Including the grounds used in territory of other states | 149,8 | 0,9 | -148,9 |
| The Earth, used by other states   | 993,7   | 1 317,3  | +10 323,6 |
| **Territory of republic**         | **272 490,2** | **272 490,2** | **-** |

Note: Given Agencies of RK on management of ground resources on 1/1/2013.

Apparently from table 1, the most valuable grounds were sharply reduced to 125 million hectare due to transition of their greater part in the grounds of a stock.
Agricultural lands are prevailing kind of holdings in all categories of the grounds. The most valuable agricultural lands are, mainly, in the structure of the grounds of agricultural purpose. The structure of agricultural lands within republic is presented in figure 1.
Figure 1. Structure of agricultural lands on 1/1/2013.

Apparently from figure 1, the greatest relative density make pastures - 84.4%. The reduction of an arable land and increase in laylands is the negative part of the land reform (figure 2).

Figure 2. Dynamics of an arable land and deposit area, one million in hectares
Note: Given Agencies of RK on management of the ground resources

From figure 2 it is visible, that for the period from 1991 to 2000 from structure of an arable land 14 million hectares of low productive grounds has been deduced that has made 39.6% of its area, and for all analyzed period - 10.4 mln of hectares.

Carrying out of land reform in republic has caused change of managing forms on the ground. Realization of this direction was carried out in 2 directions:
- By formation of small-scale enterprises - country (farmer) facilities - due to conditional ground shares;
- By formation of the large agricultural enterprises (joint-stock company, Open Company) on the basis of former state farms and collective farms.

As a result of formation of various forms of managing on the ground the variety of subjects of managing can be divided into the following categories in Kazakhstan:
- State agricultural enterprises. It includes scientific research institutes, organizations, educational institutions, subsidiary agricultural enterprises etc;
- Large non state agricultural enterprises Joint-Stock Company, Open Company);
- Personal subsidiary farms (population facilities), are the basic manufacturers of animal industries production, therefore in a greater degree cover needs in it;
- The agroindustrial companies.

The greatest relative density is made by the country facilities. According to RK Agency on management of ground resources [9] on January, 1st, 2013 205 thousand facilities are registered in republic to which 54,6 % of the grounds for agricultural purpose are fixed (figure 3).

![Figure 3. Distribution of the grounds on the forms of managing](image)

Introduction of a private property on the ground is the result of the land reform. However, under the prospective forecasts the mass repayment of the grounds has not happened. So, on 1/1/2013y 0,7 % from a total area of ground fund of republic is in a private property. From a total area of the grounds which are being in a private property, on the grounds of agricultural purpose 59,9 %, the grounds of settlements - 31,8 %, the grounds of the industry - 8,3 % are necessary.

3. Problems and ways of ground attitudes perfection in Kazakhstan

Realization of RK Ground Code positions, and also the performance of the state and branch programs actions directed on the perfection of management by the ground resources, regulations of ground attitudes, on maintenance of the ground rational use, preservations of the soil fertility and ground resources protection is the basic direction in realization of ground policy at the present stage.
Now actions on rational use and protection of ground resources are carried out, works on creation and conducting the state ground cadastre and automated information systems are performed, on registration of the ground areas by citizens and legal persons for the various purposes, on perfection of paid land tenure development and the market of the ground, studying of a soil condition and vegetative cover, the ground mapping and on maintenance with necessary geodetic production, conducting of the grounds monitoring, realization of the state control over observance of the ground legislation, carrying out of land management and by many other kinds of the works which are necessary in the modern conditions.

Inventories of the grounds, calculated for 2012-2014 with a view of not used grounds revealing definition is conducted at present. Offers on improvement of a qualitative condition ground holdings will be given by the results of inventory. So, on preliminary results of inventory discrepancies of registration data with actual parameters, absence of monitoring behind occurring changes of the ground conditions are revealed.

An involving in an agricultural turn of the stock grounds is still a serious problem So, on 1/1/3013,108.4 million of hectares in republic is in this category. In this connection, it is necessary to develop the program on involving and land development of a stock for agricultural and other purposes, and also the mechanism of granting of these grounds with agricultural commodity producers. Work on optimization of an arable land area, elimination of low productive turn parts is carried out. It is necessary to develop actions on further fallow lands using.

Introduction of innovative projects of the territory organization, improvement of soil-protective system of agriculture, realization of anti erosion and other nature protection actions have paramount value in improvement of the grounds using of agricultural purpose. In this connection, we consider the performance of the following kinds of works is necessary:

- To develop mechanisms of economic incentives provision, rational use of the grounds for agricultural purpose, preservation and restoration of soil fertility;
- To develop programs and projects on land development with investment appeal;
- To make projects of the inter farm organization agro formed territory on the basis of the landscape-ecological approach, introduction and development of zone moisture-resource saving systems of agriculture and scientifically-proved crop rotations;
- To increase development of contract designs on improvement of the irrigated grounds use, struggle with the soil salinization, wind and water erosion.

Works on creation of a multipurpose ground cadastre model with the new approach to the ground using in the conditions of market economy, to its transition into the automated technologies and creation of the ground-information system which are being simultaneously a component of nationwide information systems, entering in «The Electronic government» will be continued in republic. In this plan it is necessary to lead works on modernization of program and technical maintenance, development of new systems and subsystems of separate components and elements, actualizations of a database about the ground areas, to an end of all system delivery AIS GZK to commercial operation.

Studying of the ground qualitative conditions, carrying out of soil, geobotanical researches, soil appraisal with application of geoinformation technologies and on this basis a creation of national database about soil and vegetation, first of all for the grounds of agricultural purpose is required. Such database allows to predict the development of negative processes and to develop actions on prevention of agricultural grounds leaving.
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