

## Parliamentary Reforms of 2007 and One Party Dominated Parliament of Kazakhstan (2007-2012)

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### Abstract

This article examines a parliamentary development in post-Soviet Kazakhstan during 2007-2012 years from historical and institutional point of view. It exclusively deals with the formation and development of the sixth post-Soviet Parliament of Kazakhstan, which was technically called the fourth convocation of Parliament. Authors analyse the parliamentary reforms of 2007 and its consequences and impact for the development of parliamentarism and party system in Kazakhstan. A case study of this particular convocation of modern Kazakh legislature allows us to make an in-depth research and helps us to better understand main peculiarities of legislative development during the period of 2007-2012. Article concludes that the forth convocation of the Parliament of Kazakhstan, which functioned during the 2007-2012, proved to be even more unanimous and homogenous in terms of both party affiliations and political orientations in comparison to its predecessors. On the one hand, this kind of solidarity contributed to the political stability and smooth political reforms; on the other hand, homogeneity of the Parliament impacted the lack of competitiveness and hampered the development of party factions and deputy groups within Parliament and the development of party system per se.

**Keywords:** Parliament, post-Soviet Kazakhstan, parliamentary development, legislature.

### 1. Introduction

The Republic of Kazakhstan is one of the fifteenth states which had appeared after the dissolution of the Soviet Union. These states were faced with a huge task of building democratic state institutions, which was not an easy thing to do. Nevertheless, newly created former Soviet states did not start building their institutions from the clean list, meaning that "there was no institutional *tabula rasa*" (Whitmore, 2004, p. 30). They all inherited some form of institutional design from the Soviet Union. Some scholars believe that in new states "parliaments were central to the processes of state-building and democratization" (Whitmore, 2004, p. 1). To perform these important tasks it was required to have effective political institutions, but the legislative institutions inherited from the Soviet Union were weak. Thus, according to Whitmore (2004), in addition post-Soviet parliaments were faced with the challenge of building a capable, functioning institution at the same time as operating it. In fact then, the Kazakh SSR Supreme Soviet formally was granted wide and unlimited executive and legislative powers within republic, but was accountable to Moscow on matters of budget and federal jurisdiction. Nevertheless, these wide-ranging nominal powers of the Supreme Soviet were never exercised at full range. This situation had changed all over communist states at the second half of 1980s with the beginning of the Mikhail Gorbachev's era. His reforms of *perestroika* and *glasnost* "were to a great extent responsible for the subsequent developments in the whole Communist Bloc" (Gönenç, 2002, p. 124). This policy had moderated Moscow's grip over East European countries, which allowed them to act on their own. Consequently, democratic oppositions in these countries gradually became stronger, which eventually brought to the collapse of the communist regime.

In this sense the Republic of Kazakhstan is no exception. During the initial years of independence the functions of legislature in Kazakhstan was performed by the unicameral symbolic Supreme Soviet, until new Constitution of 1995 has brought to the political life of country professional bicameral Parliament of Kazakhstan. This constitution was once more elaborated on the basis of the French model, and people nicknamed it as a "*Nazarbayev's Constitution*" (Kaliyev, 2005). According to new constitution there was created a two-chamber parliament consisting of the upper house, the Senate and the lower house, the *Majilis*. This constitution also stated that the Parliament is 'the highest representative body' of the republic performing legislative functions on the permanent bases (Constitution of the Republic of Kazakhstan). It was first time when the notion of "Parliament" appeared in the constitution of Kazakhstan. Therefore, the parliament has been transformed and changed over time all the way from gaining the independence of Kazakhstan in 1991. The new

constitution introduced a purely presidential form of government, "which vested unrestricted powers in the President and severely curtailed the powers of Parliament" (Dave, 2010, p. 102). It marked the end of debates about an adoption of either parliamentary or presidential system in post-Soviet Kazakhstan. According to Cummings the parliament was deprived of the Audit Chamber and of the right to appoint the Prosecutor General, thus lost all its levers of influence on the presidential office in 1995 (Cummings, 2005, p. 55). From that time it was clear that the institution of parliamentarism would be evolving under the strong presidential system of government.

## 2. Methodology

In the field of comparative politics Mark Lichbach identified three broad theoretical perspectives: rationalist, structuralist, and culturalist (Landman, 2000, p. 204). In his words all studies in comparative politics somehow based on these theoretical perspectives. Nevertheless, it is rare when scholars apply pure rationalist, structuralist or culturalist theoretical framework. In other words, within one study there might be used combination of rational-structuralist or rational-culturalist perspectives. According to Landman (2000) "the studies on institutional design and democratic performance necessary ground themselves in structural explanations since they examine the ways in which formal institutions of democracy structure the activities of key political actors" (p. 209). As long as the study under scrutiny is focused on the development of institutions and institutional design in Kazakhstan, it pertains to the structuralist theoretical perspective. It means that this study will exclusively implement an institutional framework.

The methodology used in this study is rather complex and based on the 'triangulation of methods'. According to Patton (2002) "the methodological triangulation is the use of multiple methods to study a single problem or program" (p. 247). The research consists of several combined methods often used in political science, namely, analytical, comparative and historical approaches.

The central method of the research is a qualitative comparison. It is qualitative research method as long as it doesn't seek to show differences in number, but "seeks to show differences in kind" (Landman, 2000, p. 18). According to Landman (2000) "qualitative methods seek to identify and understand the attributes, characteristics, and traits of the objects of inquiry, and the nature of the method necessarily requires a focus on a small number of countries" (p. 209). Consequently, this study tries to understand the main characteristic of the development of legislature.

Comparative methods in political science have often been used by prominent political thinkers of the past. Today, comparison of countries and its institutions are used much more than before. But what gives us the comparative method? First of all it helps us understand and explain the larger politics, helps in building general theories of politics, to confirm and infirm theories (Landman, 2000, p. 32). Moreover, through using comparative methods one can evaluate a political situation in own country and abroad, better understand the content of political institutions in different states, adequately use positive foreign experience, warn against mistakes in policy-making and ultimately predict the future.

Also parliament of Kazakhstan studied in longitudinal perspective from the time of communism's collapse, thus it applies a usage of historical institutional method as well. Historical study of post-communist parliamentary development not only contributes to the general studies of post-communist societies as such, but also shows what kind of local traditions and peculiarities influence institutional development. The institutional historical approach deals with the structure and working of a particular institution, such as the legislature in our case (Heckscher, 2010, p. 108). Comparison in this case involves, first, relatively detailed description of the institution in question, and, second, an attempt to make it clear which details are similar and dissimilar, respectively (Heckscher, 2010, p. 74).

Main objective of this study is a contextual description. The study under scrutiny, by no means, claims to make a prediction, or to justify one or another institutional design, to make any hypothesis due to the limited space and room for this kind of research. I also shall not enter above mentioned debate because of the lack of data and it is beyond of the purpose of this study. Nevertheless, careful comparative analysis of these institutions may lead to significant hypothesis and it may create fertile ground for further explorations.

## 3. Discussion

The parliamentary system has evolved under the strong presidential powers and so far many reforms were undertaken to 'strengthen' the powers of legislative branch in Kazakhstan, including constitutional reforms of 1998, 2007 and 2011. General scientific mainstream in Kazakhstan comes to an agreement that constitutional reforms of 2007 meant to be the turning point for parliamentary development and establishing a multi-party system in Kazakhstan. Nevertheless, against all expectations, a sixth post-Soviet Parliament of Kazakhstan elected after the parliamentary reforms of 2007 had brought to the political life of the country one party dominated legislature. This kind of constitutional and institutional

changes has invoked the scientific interest of many Kazakh and foreign scholars. Therefore, this article intends to examine the parliamentary reforms of 2007; formation and functioning of the fourth convocation of Parliament of Kazakhstan under the new electoral system. We hope that this analysis will help to understand better the impact of constitutional reforms of 2007 on contemporary parliamentary development in Kazakhstan.

As it was mentioned before the constitutional amendments enacted in 2007 had to be the turning point for the development of contemporary parliamentarism and party system in Kazakhstan. These constitutional amendments and parliamentary reforms were initiated by the President Nursultan Nazarbayev in his annual address to the nation of 28 February 2007 and further elaborated in his speech at a joint session of both chambers of the Parliament on 16 May 2007 (Sarsembayev, 2007). The reforms were directed towards substantial extensions of the powers of legislative branch, while retaining the presidential system. As a result the fifth post-Soviet Parliament (2004-2007) had adopted the "Law on Amendments and Addenda to the Constitution of the Republic of Kazakhstan" on 21 May 2007 (Sarsembayev, 2007). With this law the constitutional amendments "that were ostensibly meant to strengthen the parliament and foster the democratization of Kazakhstan" came into force (Henrich, 2010). General picture of society at the time made people believe that the next elections to the Parliament would be on the genuine multi-party basis. However, the outcome of the 2007 elections to the *Majilis* proved to be not so different from previous elections, even worse, due to the fact that all seats won only the ruling party.

Most significantly, according to the amended Election Law, which was the result of these constitutional changes and parliamentary reforms, the mixed electoral system of the *Majilis* was changed to a *pure proportional representation system*. The numbers of deputies in both chambers were also increased. If before the *Majilis* consisted of 77 deputies, now the number of deputies was increased to 107. According to the new electoral system 98 deputies out of 107 are elected via party list with 7% threshold at place in one nationwide constituency and 9 are elected by the Assembly of the People of Kazakhstan (Bowyer, 2008, p. 48). The Assembly of the People of Kazakhstan was created in 1995 and meant to be an 'umbrella grouping' of more than 130 ethnic groups in Kazakhstan. 'According to the constitution, the Assembly of the People of Kazakhstan has the role of providing representation of Kazakhstan's various ethnic groups in social and political life' (Sarsembayev, 2007).

In the Senate the numbers of senators appointed by the President were increased from 7 to 15. For the remaining 32 senators the electoral system remained unchanged, where senators elected indirectly by deputies of local representative bodies from 16 regions (two from each, half elected every three years). The statutory number of senators was increased from 39 to 47. In general, the total number of deputies in the Parliament was increased for 38 seats and consisted of 154 deputies, whereas before it was only 116 (Sarsembayev, 2007).

By the introduction of the proportional representation system it was expected 'to strengthen the role of the political parties on the process of parliamentary elections and in the work of the Parliament in general' (Sarsembayev, 2007). However, without new elections to the Parliament these reforms could not have changed anything in the functioning of the Parliament. The term of the third convocation of Parliament elected in 2004 should have been finished only in 2009. The parliamentarians of this convocation were kind of '*inspired*' by the parliamentary reforms of 2007 and were eager to see the functioning of legislature under new rules. Therefore, the group of deputies appealed to the Constitutional Council asking whether the Parliament has rights to self-dissolution or not, in order to make new elections under new rules. The Constitutional Council had hold that only the way to dissolve the *Majilis* before the ending of its term it is by the special decree of the President after his consultations with the Prime Minister and both Speakers of chambers. Then the parliamentarians addressed to the President with the same quest of dissolution. Accordingly, on 20 June 2007 the President prematurely dissolved the lower house of Parliament and called early *Majilis* elections for August 18 (Bowyer, 2008, p. 48.).

By the time of elections to the *Majilis* in August 2007, the political situation and party composition in Kazakhstan had changed considerably. The ruling party *OTAN* had transformed into the 'super party' as a result of merger with *Asar*, *Agrarian* and *Civic* parties in 2006 (Bowyer, 2008, p. 14.). In 2007 it renamed itself as the National Democratic Party "*NUR OTAN*" (Fatherland's Ray of Light) and Nazarbayev became the leader of the party. Contrary to that, the oppositional parties were still scattered and weak. For most of them the early elections came as a surprise, because they had a little time to prepare. Bowyer described this situation perfectly saying that "parties had a short time to make decisions on merging party structures and to adjust campaign strategies to the new electoral system, including the fact that parties were not allowed to form pre-election coalitions as they had been able to do in previous elections" (Bowyer, 2008, p. 49.). The Communist Party of Kazakhstan (CPK) did not participate in the elections, stating that this was in protest to changes in the election system. It is worthy to note that in Kazakhstan the Communist Party has been one of the 'viable' and 'constructive' oppositional forces to the ruling party throughout the post-soviet period up to the 2004 national elections (note 1). For instance, in 1999 parliamentary elections taken together with the single mandate

elections, the progovernment parties received 55 per cent of the vote and managed to secure 80 per cent of the seats in the Majilis (Olcott, 2010, p. 123). The CPK managed to retain its former nominal position and were represented by three deputies. Although the CPK considered itself as 'real opposition', with each year moving away from the communist past it barely could preserve its slight electorate, which composed of old Russian speaking population and some people who still feel nostalgic about "glorious" past days.

Consequently, the elections to *Majilis* on 18 August 2007 were contested by 7 political parties. The elections were monitored by over 500 international observers, including 400 from the Organization for Security and Co-operation in Europe (OSCE) (Chronicle of Parliamentary Elections, 2007, p. 147.). As usually, the OSCE noted irregularities in vote counting in over 40 per cent of the polling stations and expressed concern over the 7 per cent threshold, whereas observers from the Commonwealth of Independent States (CIS) said the elections were 'free and transparent' (Chronicle of Parliamentary Elections, 2007, p. 147.).

As the result of elections only the party "*NUR OTAN*" passed over the 7 per cent barrier and gained 88 per cent of votes. Thus, the presidential party "*NUR OTAN*" took all the 98 directly-elected seats (Chronicle of Parliamentary Elections, 2007, p. 147.). Technically, the fourth convocation of Parliament elected in 2007 had even surpassed all its predecessors in terms of homogeneity and the presence of presidential party members. The parliamentary reforms were expected to be a springboard for the development and strengthening of parliamentarism and multi-party system, however, instead of that expectations Kazakh people got one-party Parliament with the deputies even more committed to the President. Nevertheless, these parliamentary reforms have constitutionally enhanced the powers of the legislature in Kazakhstan. According to these changes the executive has become more controlled by the Parliament. Now the government is formed and functions on the basis of a parliamentary majority, namely, the President appoints the Prime Minister with the consent of the majority in the *Majilis* (Sarsembayev, 2007). Also the role of party factions has been enhanced, and peculiar thing about this is that now factions can be formed only in the *Majilis* but not in the Senate. According to Standing Orders of the *Majilis* factions shall comprise no less than 7 deputies representing a political party, with a deputy only able to serve in one faction at a time, and a deputy group shall comprise at least 15 members, with allowance to be from different parties and to serve in various groups at the same time (Standing Orders of the *Majilis*). The most important additional powers of the Parliament, which were granted by these parliamentary reforms, the best described by professor Sarsembayev (2007) in his work as following (p. 122):

- 'The Senate has received new powers that allow it to carry out the *Majilis*'s lawmaking functions if the latter is dissolved before the appointed time';
- The Senate was granted the right to approve the appointment of the Chairperson of the National Bank, whereas before only the Chairperson of the National Security Committee and the Prosecutor General were approved by the Senate;
- 'For the first time, the government would not only be accountable to the president, but would also have to answer to parliament';
- 'The *Majilis* now only requires a simple majority to express a vote of no-confidence in the government rather than the two-thirds majority that used to be necessary. The initiative has to be supported by 20% of the deputies of the lower house. The new amendments simplified the procedures for a vote of no confidence against an individual minister';
- 'The lower house of parliament was granted the right to appoint two members of the Central Election Commission as well as three members of the Accounts Committee'.

As we have witnessed parliamentary reforms proved to be ineffective in the 2007 elections and failed to bring competitive parties in parliament and strengthen the competitiveness inside the parliament. This statement can be endorsed by the fact that in a one-party Parliament (2007-2012) only one party faction existed, which was the faction of *NUR OTAN* with all 98 members. There was only one deputy group in the *Majilis* called "*Zhana Kazakhstan*" (A new Kazakhstan) and one in the Senate named "*Onir*" (Region). All of them were members of *NUR OTAN* or the Assembly of Peoples of Kazakhstan. Due to the one party nature of the previous parliaments, in 2009 the Parliament passed an amendment allowing the party being listed second in elections to enter Parliament even if it fails to cross the 7 percent barrier, in order to create the illusion of a multiparty system (Dave, 2010). In our opinion the high threshold at place was detrimental for minor political parties, considering the facts that political parties were not popular and strong enough yet, and that the post-Soviet Kazakhstan inherited weak party system where people used to and continue to associate politics 'more with charismatic leadership and less with ideas' (Bowyer, 2008, p. 45.).

The sixth post-Soviet Parliament of Kazakhstan, technically forth convocation, proved to be much more influenced by the President and much more inclined to be pro-presidential than ever before since the declaration of independence in 1991. Recent political developments in Kazakhstan are clear indicator of this still weak and subordinated legislature. It

seems that with the constitutional amendments enacted in 2007 by the third convocation of Parliament the President has benefited more than any other institutions. These amendments introduced a notion of "first president" and conferred special rights on the "first president" by removing term limits and offering immunity from persecution. According to these amendments a person may not serve more than two consecutive terms, with the exception of the first president, who may serve an indefinite number of terms (OSCE/ODIHR International Election Observation, 2011, p. 3).

The same scenario of the parliamentary conduct continued in 2010 when the fourth convocation of Parliament or current legislature unanimously adopted a constitutional law called "A Leader of the Nation", according to which the incumbent was given greater privileges and protection. In December 2010 some 'group of citizens' initiated a referendum which would have extended the term of incumbent President Nursultan Nazarbaev until 2020 without any elections. This idea was immediately maintained by the sixth post-Soviet Parliament and in 2011 January it again unanimously adopted a constitutional law according to which the term of the 'first president' could be extended by the referendum for the indefinite time span (BBC News, 14 January 2011). This law was sent to the Constitutional Council, which ruled that legislation authorising a referendum on his rule was unconstitutional. This ruling of the Constitutional Council once again proved incompetence and weakness of the current parliament. A lot of scholars and experts have criticised incompetent legislature who issued unconstitutional law about the referendum and argued that such parliament have to dissolve itself. In both cases President Nursultan Nazarbayev rejected to sign these laws. As compromise to this situation of legislative deadlock the President proposed to hold an early presidential election. On 3 February 2011, parliament amended the Constitution to allow the president to call an early election, and the next day President Nazarbayev called the election for 3 April, well ahead of when his term expires in 2012 (BBC News, 4 February 2011). President Nazarbayev had won re-election with 95.5% of votes (BBC News, 4 April 2011). In spite of all these shortcomings, the sixth post-Soviet parliament continued to function and to draft crucial laws. With the reelection of the president no major change and reshuffling happened in the Government, and incumbents mostly managed to keep their positions. It is one more indicator of the low activity of the Parliament in terms of forming and controlling the government.

The history of the parliamentary elections in Kazakhstan shows that the ruling party *NUR OTAN* has consistently won the absolute majority of seats. Some local scholars argue that this kind of system indicates a stability and unanimity. Nevertheless, most researchers agree that it causes a noncompetitive environment and detrimental for democratic consolidation. Moreover, "Geddes classifies regimes as authoritarian if the ruling party continually wins two-thirds or more of the seats in the legislature" (Birbir, 2007, p. 226). Indeed, the oppositional parties in Kazakhstan have systematically been suppressed and did not have a chance to enter the parliament. For instance, by the summer of 2011, in Kazakhstan overall 6 convocations of parliaments were elected, and half of them were prematurely dissolved whether by the President or by the own initiative of parliamentarians, in 1993, 1995 and 2007 (note 3). This is another argument in favor of the weak and less institutionalised parliamentarism in Kazakhstan.

#### 4. Conclusion

In conclusion we would like to highlight that the fourth convocation of the Parliament of Kazakhstan, which functioned during the 2007-2012, proved to be even more unanimous and homogenous in terms of both party affiliations and political orientations comparing to its predecessors. On the one hand, this kind of solidarity contributed to the political stability and smooth political reforms; on the other hand, homogeneity of the Parliament impacted the lack of competitiveness and hampered the development of party factions and deputy groups within Parliament and the development of party system per se. However, as we have seen, the sixth post-Soviet Parliament of Kazakhstan had in fact a broad range of powers and certainly could serve as a check on executive, but only in case of using the entire range of its constitutional legal tools, which is never properly happened and in fact quite difficult to do so with "one-dominant-party" system.

#### References

- Birbir, J.K. (2007). *Ethnicity and Electoral Politics*. New York: Cambridge University Press.
- Bowyer, A.C. (2008). *Parliament and Political Parties in Kazakhstan*. published by the Central Asia-Caucasus Institute and the Silk Road Studies Program, the USA.
- Chronicle of Parliamentary Elections, Volume 41*, Inter-Parliamentary Union, 1 January - 31 December 2007, p. 147. Available at: [http://www.ipu.org/pdf/publications/chronicle41\\_en.pdf](http://www.ipu.org/pdf/publications/chronicle41_en.pdf)
- Constitution of the Republic of Kazakhstan, August 30, 1995 (with amendments of May, 2007). Available at: <http://www.parlam.kz/en/constitution>.
- Cummings, S.N. (2005). *Kazakhstan: power and the elite*. London.
- Dave, B. (2010). *Freedom House, Nations in Transit 2010 – Kazakhstan*. Available at: <http://www.unhcr.org/refworld/docid/4d53>

f02227.html

- Göneç, L. (2002). *Prospects for Constitutionalism in Post-Communist Countries, Law in Eastern Europe, Vol. 50*. Hague: Martinus Nijhoff Publishers.
- Heckscher, G. (2010). *The study of comparative governments and politics*. London and New York: Routledge.
- Henrich, A. (2010). The Formal Political System in Azerbaijan and Kazakhstan. A background Study. *Forschungsstelle Osteuropa, 107*, Bremen, Germany.
- Kaliyev, N.K. (2005). *Khazakhstan parlamentarismi: sayasi talday* [Parliamentarism in Kazakhstan: Political Analysis] (Unpublished doctoral dissertation). Al-Farabi Kazakh National University, Almaty.
- Landman, T. (2000). *Issues and Methods in Comparative Politics: An introduction*. London: Routledge.
- Olcott, M.B. (2010). *Kazakhstan: unfulfilled promise? Revisited edition*. Washington: Carnegie Endowment for International Peace.
- OSCE/ODIHR International Election Observation, STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS, Republic of Kazakhstan - Early Presidential Election, 3 April 2011.
- Patton, M.Q. (2002). *Qualitative research and evaluation methods*. Thousand Oaks: Sage.
- Sarsembayev, M.A. (2007). Parliamentary reform in the Republic of Kazakhstan. *Institut für Friedensforschung und Sicherheitspolitik Hamburg (IFSH) (ed.) OSCE Yearbook 2007*. Baden-Baden: Nomos.
- Standing Orders of the *Majilis*. The Parliament of Kazakhstan, available at: <http://www.parlam.kz/en/mazhilis/reglament>
- Whitmore, S. (2004). *State-building in Ukraine. The Ukrainian parliament, 1990-2003*. RoutledgeCurzon, London and New York.
- BBC News, 14 January 2011, "Kazakhstan Backs Referendum to Extend President's Term", available at: <http://www.bbc.co.uk/news/world-asia-pacific-12189446>
- BBC News, 4 February 2011, "Kazakhstan's Nursultan Nazarbayev calls early election", available at: <http://www.bbc.co.uk/news/world-asia-pacific-12362915>
- BBC News, 4 April 2011, "Kazakhstan President Nazarbayev wins re-election", available at: <http://www.bbc.co.uk/news/world-asia-pacific-12949853>

## Notes

Note 1. The CPK have won 2 seats in 1995 and 2 seats in 1999 for the elections in the Majilis.

Note 2. In 1993 the Supreme Soviet was pushed to self-dissolution in order to held a new election under new constitution, in 1995 the Supreme Soviet was dissolved by the Constitutional Court on the grounds of unconstitutionality, in 2007 the Majilis was dissolved by the President, again by own pleading, in order to be elected by the new electoral rules (PR).