

INSTITUTIONAL REFORMS WITHIN THE FRAMEWORK OF CENTRAL ASIAN POLITICAL CONSOLIDATION

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ABSTRACT

Stagnation in the Soviet Union that began in the 1970s could not be prevented despite all the reform efforts (perestroika and glasnost) made by Gorbachev who came to power in 1985, and the Soviet Union has entered a process of disintegration after 1987. After that, Central Asian Republics gained their independence and attempted to make a change and transformation in their institutional structures in order to integrate into the international system. This study focus on the examples of Kyrgyzstan, which has a political development that is unique to Central Asia, Kazakhstan, which has a pioneering role with the rapid transformations it creates in both political and economic institutions, Turkmenistan, which has been isolated from the outside World, Uzbekistan, which performs this transformation progressively and Tajikistan that have a distinct character due to the civil war it has been through. As a result of this study, it can be stated that these Central Asian states are not ready for a parliamentary form of government due to existing national, ethnic and religious divisions, which can lead to destabilization of the political system and prevailing of dominant clans. However, they need a stable presidential power, which will allow to avoid crises like the revolutions of 2005 and 2010 in the future.

Key Words: Soviet Union, Central Asia, Political Institutions, Kazakhstan, Uzbekistan, Tajikistan

JEL Codes: F55, N45, H77

ORTA ASYA'DA SİYASİ KONSOLİDASYON ÇERÇEVESİNDE KURUMSAL REFORMLAR

ÖZET

1970'lerde başlayan Sovyetler Birliği'ndeki durgunluk, 1985'te iktidara gelen Gorbaçov'un yaptığı tüm reform çabalarına (perestroika ve glasnost) rağmen engellenemedi ve Sovyetler Birliği 1987'den sonra bir dağılma sürecine girdi. Bundan sonra, Orta Asya Cumhuriyetleri bağımsızlıklarını

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kazandılar ve uluslararası sisteme entegre olmak için kurumsal yapılarında bir değişim ve dönüşüm yapmaya çalıştılar. Bu çalışma, Orta Asya'ya özgü siyasi bir gelişime sahip Kırgızistan, hem siyasi hem de ekonomik kurumlarda yarattığı hızlı dönüşümlerle öncü bir role sahip olan Kazakistan, dış dünyadan izole edilen Türkmenistan, bu dönüşümü artan bir şekilde gerçekleştiren Özbekistan ve yaşadığı iç savaş nedeniyle farklı bir karaktere sahip Tacikistan örneklerine odaklanmaktadır. Bu çalışmanın sonucunda, bu Orta Asya ülkelerinin, siyasi sistemin istikrarsızlaşmasına ve baskın klanların hüküm sürmesine yol açabilecek mevcut ulusal, etnik ve dini bölünmelerden dolayı parlamenter bir hükümet biçimine hazır olmadığı söylenebilir. Bununla birlikte, gelecekte 2005 ve 2010 devrimleri gibi krizlerden kaçınmayı sağlayacak istikrarlı bir başkanlık gücüne ihtiyaçları vardır.

Anahtar Kelimeler: *Sovyetler Birliği, Orta Asya, Politik Kurumlar, Kazakistan, Özbekistan, Tacikistan*
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1. INTRODUCTION

The political regimes of the post-Soviet region remain unstable due to their ethnographic and ideological diversity. This was the result of the collapse of the USSR, the formation of new national states of Central and Eastern Europe, radical changes in the public consciousness of the 1990s. The rapid nature of the changes gave rise to the phenomenon of high expectations, typical of revolutions, which the new ruling regimes were not able to satisfy in most cases. The rejection of the "illusions" of the transitional period in the mass consciousness resulted in the spread of apathy and frustration, a universally observed "deficit of democracy" and an intensive search for new strategies for self-determination (Hoffmann, 2010).

The typology of transitional processes and political regimes from these positions made it possible to identify several transitional strategies - for Central and Eastern Europe and Eurasia. But they are not united within themselves. In Central and Eastern Europe, countries of rapid consolidation stand out (Czech Republic, Hungary, Poland, Slovenia); countries of slow consolidation (Bulgaria, Romania); countries of inhibited consolidation (Serbia, Croatia, Macedonia, Albania) (Fagani 2006). This grouping corresponds with the parameters of constitutional transformation: "velvet revolutions" and coups; adoption of constitutions through dialogue or breaking constitutional succession; accordingly, greater or lesser opportunities for a velvet restoration. The typology of transition processes in Eurasia includes the Russian model of 1993 as a general guideline for the CIS; countries that embarked on the search for alternatives (Moldova, Ukraine, Georgia, Kyrgyzstan, experienced the phenomenon of "color revolutions" or their mutual influence); countries that have chosen the model of authoritarian modernization (Kazakhstan, Belarus, Azerbaijan, Armenia); unreformed regimes of Central Asia (Turkmenistan, Tajikistan, Turkmenistan) (Stewart, 2013). The difference in the forms of government — parliamentary, mixed, and presidential political regimes — schematically corresponds to these types.

Turning from these positions to the political regimes of the post-Soviet space, we must determine what the causes and resources of the restoration processes are, how far they can go in the desire to restore the previous order and where the border beyond which the restoration of the old order will become irreversible. Given the general similarity of the tasks of constitutional modernization in the post-Soviet region, the countries of Central Asia demonstrate significant specifics related to the religious factor (Tajikistan and Uzbekistan); compromise national regions (Kyrgyzstan); the needs of forced economic reform (Kazakhstan), overcoming patriarchal traditions (Turkmenistan). The basis for the preservation of these regimes is both a return to the historical tradition of authoritarian rule with independence, as well as the well-known threat of collapse under the influence of destructive religious, national and clan conflicts. A good example of "failed states" here is not Somalia or Mozambique, but neighboring Afghanistan (Rotberg, 2002).

2. REVISION OF THE TRANSITOLOGICAL PARADIGM: POST-SOVIET REALITY

In the theory of transition, there is a need for a paradigm shift. The existing theories of the “end of history”, “waves of democratization” and “post-communist transit” itself, which arose directly during the period of democratic transformation, became its legitimate basis. They included: an understanding of the linearity of the transition process and the lack of alternative results. The practice of transitional societies, especially taking into account the current historical distance, has forced these postulates to be called into question or, in any case, to think about correcting them. First, it turned out that the transition from authoritarianism to democracy is by no means a linear process since it includes deviations and returns movements in many countries. Secondly, it does not always lead to the establishment of civil society and the rule of law: often the result is of an imitation democracy, a hybrid regime ³. Finally, the results of the transition processes in different countries of Europe and Eurasia were not identical, including the various gamut of “gray zone” regimes - from limited democratic to quite authoritarian (Brownlee 2009). Against this background, a modern discussion on the key parameters of the transition period is informative.

These results compel radical questioning of the theoretical tools that currently exist — up to a complete rejection of the concepts of “post-communist transition” as a single concept of transition to democracy in the region (Kuzio, 2001). This conclusion, which applies to a greater or lesser extent to all the states of the region, is especially true for the new nation-states of Eurasia, which have embarked on the path of conservation and restoration of traditionalist social structures. The results in them were opposed to "revolutionary" expectations: the acquisition of new democratic values - transformed into a crisis of identity; European choice - turned into the spread of nationalism, isolationism and "Euroscepticism"; hopes for economic well-being - a recession in the economy; the desired stability - by the development of a threat of external or internal destabilization; finally instead there

emerged imaginary constitutionalism, political corruption and the restoration of authoritarianism became a reality of civil society and parliamentary institutions. The task of overcoming them is formulated as the main goal of the course of legal modernization. The characteristic feature of the political development of the countries of the Central Asian region is the phenomenon of imitation democracy: the adoption of a democratic constitution and the holding of elections is the legitimization of authoritarian regimes with an irremovable elite (largely composed of former people); the existence of parliament, political parties, the creation of political coalitions - all these characteristics are formal attributes of representative government - does not indicate the triumph of democracy since it is controlled externally by corruption schemes and clan structures (Ceccarelli, 2007).

The constitutional reforms in Central Asia of the post-Soviet period are of interest as experiments on the rationalization of traditional society and political regimes, the implantation of constitutional norms of Western origin in a different cultural environment. It is important to monitor how the countries of the region meet the challenges of globalization and modernization, presenting different models of response to them - authoritarian modernization (Kazakhstan) and refusal of reforms (Tajikistan and Uzbekistan) and what factors contribute to one or another vector of these transformations (Knox, 2008).

3. CONSTITUTIONAL REVOLUTION AS AN ALTERNATIVE TO AUTHORITARISM (KYRGYZSTAN)

The political development of Kyrgyzstan is unique to Central Asia - this country is constantly experimenting with the constitutional system and challenges political immobility and authoritarianism in the region. During the short post-Soviet period, this country replaced three republics - the regimes of A. Akaev, K. Bakiev and the currently established transitional political regime. In the history of post-Soviet Kyrgyzstan, up to seven different constitutional options were presented. *AT Kyrgyzstan's first stage* constitutional reforms was the adoption of the first sovereign Constitution on May 5, 1993, symbolizing independence and securing the construction of a presidential-parliamentary republic, close to the Russian model. This Constitution has been repeatedly audited through constitutional referenda and amendments in 1994, 1996, 1998, 2003, 2006. The 1993 Constitution (as amended in 2003) became the main target of criticism from the opposition. *Second stage* political transformation represented the "tulip revolution" on March 24, 2005, declaring in its slogans a transition to a parliamentary or, at least, parliamentary-presidential republic, but failed to implement it (Beyer, 2015:320).

The latest version of the Constitution, which was in force before the coup, and presented in the law of the Kyrgyz Republic "On the new edition of the Constitution of the Kyrgyz Republic of February 18, 2003, retained its effect after the " Tulip Revolution ". The adoption of the new version of the Constitution on November 9, 2006 was another attempt to resolve constitutional crisis and the creation of stable political institutions. However, at the end of the year, the parliament adopted the Law of the

Kyrgyz Republic on the new version of the Constitution of the Kyrgyz Republic of December 30, 2006, which became the sixth attempt to resolve the crisis. The new version of the 2007 Constitution, which was ultimately adopted following the results of the “Tulip Revolution,” again became the subject of a permanent conflict between the president and the liberal opposition, which, however, never received permission under the old regime (the constitutional reform that was drafted in 2009 was considered opposition as an attempt president to establish dynastic rule in order to transfer control of property to members of his family) (Collins, 2011:150).

The beginning *third stage* constitutional transformation should be considered the current constitutional transformation. A new twist on constitutional debate related to the 2010 constitutional revolution that overthrew President Bakiev’s regime is defined as a return to parliamentary ideas that could not be realized during the first “Tulip Revolution” of 2005 due to usurpation of power by the president’s clan. The 2010 revolution in Kyrgyzstan was the most radical attempt to change the political regime in the country (and the Central Asian region as a whole), indicating the transition to the Third Republic and the adoption of a new Constitution in a referendum June 27, 2010, which strengthened the parliamentary vector of the country’s development. She received a positive assessment of Western experts as a model that is most consistent with ideas about democracy in the region and a negative assessment of a significant part of Russian experts as a way to anarchy and the collapse of the state. This difference in assessments alone makes it necessary to carefully analyze the revolution in Kyrgyzstan and its contribution to the constitutional development of Central Asia according to the following parameters: correlation of the old order and revolution — circumstances of the adoption of the new constitution; the opportunity to ensure sovereignty and guarantees of human rights in a divided nation; form of government and type of political regime - the ratio of the parliament of the president and the government in the system of separation of powers; the potential role of the head of state is his constitutional and metaconstitutional powers; the mechanism of functioning of the new political system and the role of parties in the formation of the government of the parliamentary majority; changing the place of the judiciary in the system separation of powers; prospects for constitutional development of Kyrgyzstan for Central Asia (Radnitz, 2006:132).

4. CONSTITUTIONAL REFORM WITHIN THE FRAMEWORK OF AUTHORITARIAN MODERNIZATION- KAZAKHSTAN

An important formula for constitutional reform is represented by countries that have chosen the model of authoritarian modernization (Kazakhstan). They chose the way of maintaining social and political stability at the cost of limiting full constitutionalism. The theoretical concepts that interpret this political situation are - "imaginary constitutionalism", "Paraconstitutionalism", "limited democracy", "guided democracy", "an imitation democracy" and other variants of "democracy with epithets”

(Warkotsch, 2006). The main driving force of these regimes is the special status of the presidential power, capable of directing (and correcting) the logic of the constitutional struggle under the tasks of modernizing the country. In all post-Soviet countries of this group, acyclic, but the linear model is presented that includes three stages of development: 1) adoption of a new constitution, 2) authoritarian interpretation of it; 3) consolidation of the special status of the president as a national leader. In general, we are talking about the realization of the concept of the imperial presidency, in its classical form, represented in many developing countries from Latin America to Africa and Southeast Asia.

These stages of the formation of an authoritarian regime are most clearly expressed in the constitutional development of *Kazakhstan* (Isaacs, 2010: 9). *The first stage* is represented by the adoption of a new post-Soviet Constitution (Supreme Council January 28, 1993) and then transformation of the political system. It included the dissolution of the Supreme Council by the president on December 13, 1993, the liquidation of councils and the formation of a new public administration system. *The second stage* can be defined as the consolidation of an authoritarian regime. After the dissolution of parliament by the president, a new Constitution was adopted in 1995. Through a referendum on April 29, 1995, support was given to the idea of extending the powers of the president. The instruments of presidential power domination were the creation by the president of a quasi-constitutional body (Assembly of the Peoples of Kazakhstan), the adoption of a presidential (state) list in parliamentary elections and the limitation of institutions for monitoring constitutionality. The adoption by the Constitutional Court of a decision of March 6, 1995, which recognized the elected parliament as illegitimate, indicated the essence of a conflict of powers. The adoption of amendments to the 1995 Constitution at a referendum of 1996 (making 19 amendments to 13 articles of the Constitution) led to a change in the structure of separation of powers, the replacement of the Constitutional Court by the Constitutional Council, the expansion of presidential power and the introduction of a seven-year mandate. The evolution of constitutional legislation in the direction of authoritarianism was not least due to the active use of this law to transform the political system. *The third stage is the* modernization of the authoritarian regime in legal forms. The issue of democratization of the political system has been the subject of debate between the authorities and the opposition on changing the Constitution and preparing amendments to it, starting in 2000. Reforms and changes in legislation (2007) hinted at expanding the prerogatives of parliament. The “self-dissolution” of parliament (2007) two years before the expiration of its powers (2009) was accompanied by an adjustment to the basic legislation. In 2007 Amendments and Additions to the Constitution of the Republic of Kazakhstan demonstrates the redistribution of power in favor of parliament, the strengthening of the role of political parties, the development of local self-government, the improvement of the judiciary, the provision of interethnic consent and the strengthening of the Assembly of the People of Kazakhstan, development of civil society institutions and the system of protecting the rights and freedoms of citizens.

The transition from a presidential to a presidential-parliamentary form of government is continued by subsequent reforms. The Government of Kazakhstan on November 11, 2009, approved a package of amendments to the constitutional law "On Elections", as well as to the laws "On Political Parties" and "On the Media" (Omeliicheva, 2011). Authorities called the adopted amendments steps to modernize and liberalize the political system. The opposition believed that they were a disguise of the authoritarian regime in the context of Kazakhstan's chairmanship in the OSCE. The transition to a proportional electoral system, the expansion of the prerogatives of the parliament and the prime minister takes place while maintaining the dominance of the presidential party in parliament and strengthening the personality cult of the head of state. The Law "On Political Parties" (2002) led to the strengthening of the position and dominance of the presidential party ("Nur Otan") and the expansion of the ethnocratic component of power (the growing predominance of Kazakhs in elected institutions of power through representation from the Russian population). The adoption of the law on July 20, 2000 "On the First President of the Republic of Kazakhstan" meant consolidating the integrity of the first president and giving him exclusive privileges and political status. The end of this trend (in 2010) was the legal consolidation of the status of the current head of state as a "national leader" - "Elbasy" (Laruelle, 2014). This transformation of the political system was recognized by the Constitutional Council as not contradicting the country's Basic Law. The Parliament of Kazakhstan put forward the idea of extending presidential powers until 2020. The subsequent recognition by the Constitutional Council of the unconstitutionality of the corresponding amendment to Constitution did not change, however, the general vector of the political regime: the incumbent president was able to re-nominate his candidacy in the presidential election, ensuring that power remains for the next term.

5. CONSTITUTIONAL REFORM AS A TRANSITION FROM DESPOTIC PATERNALISM TO AUTHORITARISM (TURKMENISTAN)

The acquisition of *Turkmenistan's* independence led to the country's isolation from the outside world, which is made possible under the presence of significant natural resources, and by the choice of the status of neutrality. This gave the country a certain stabilization, but at the same time contributed to the retraditionalization of the regime, which began to acquire pronounced despotic features. The ideology of the regime was the ideas of nationalism, conservative paternalism and the cult of the national leader. The political regime created by President Niyazov is known as one of the most closed in the world.

The change in political leadership that occurred as a result of the death of President Niyazov and the transfer of power to his successor became the starting point for the transformation of the regime. Turkmenistan can no longer remain so closed from the outside world as a result of increased rivalry in Central Asia by such powerful players as the USA, Russia, China, Europe. This situation leads to the

search for new guidelines in foreign policy, and also makes it necessary for the regime to be more open to the outside world. Awareness of this reality by the political leadership of the country makes the idea of constitutional reform relevant.

At *Turkmenistan* constitutional development was determined by the existence of the most rigid dictatorship in the post-Soviet space, defined as a synthesis totalitarianism and despotic paternalism Post-Soviet Constitution Turkmenistan 1992 was subjected to amendments carried out in 1995, 1999, 2003 and 2005, which, however, had a purely cosmetic character. As a result of the 2005 amendment, the previously existing provision on the ethnicity of the head of state was canceled, however, the amendments introduced as a whole represented a further departure from the democratic norms of modern constitutionalism (Bohr, 2008:607). A characteristic attribute of the system was the consolidation of the personal power of the president of Turkmenistan: by the decision of the highest republican legislature - Halk Maslakhaty from 1998, S. Niyazov (Turkmenbashi) was declared the president for life of this country. The closed nature of the state was supported by the doctrine of its neutrality. The combination of totalitarian and paternalistic methods of governing the country meant the absence (even from a formal legal point of view) of a complete separation of powers and the institution of constitutional control. The death of President Niyazov allowed the new leadership to take cautious steps to modernize the regime and limit the cult of personality (Šir, 2005:321).

The proposals on constitutional reform put forward in 2008 at the initiative of President G. Berdimuhamedov focused on international standards, a market economy, environmental requirements, and a balanced concept of relations between society and the state. They cover the vital areas of legal and institutional restructuring - human rights, separation of powers, institutional structure of a transitional society. The list of proposals put forward during the reform included a number of general ideological and rhetorical norms (such as, for example, the idea that the state should support the family and create conditions for a healthy lifestyle). Some suggestions (related, for example, to “Non-discrimination” of various categories of the population) are understood as a reaction to a previous violation of constitutional norms, but others are devoted to very real priorities: separation of powers and its constitutional framework; structure of parliament (bicameralism and distribution of powers between chambers); distribution of power between parliament and the president and form of government; the question of the duration of the presidential mandate; court and prosecutor’s office, issues of central and local government and self-government. Proposals put forward by the Commission on the reform focused on three main issues: revising the entire text of the Constitution in the

light of Turkmenistan's state obligations under international law; the abolition of the Khalk Maslakhaty (Art.45) and its replacement by the legislative assembly with more relevant ideas about parliamentarism; creation of a system of legislative and executive bodies of power capable of acting effectively in the context of upcoming market reforms (Geiss, 2001:114).

As a result of the constitutional reform of 2008, the structure of the political system was changed: the functions of the traditionalist People's Council (Halk Maslakhaty) were distributed between the president and the Mejlis, and the number of deputies of the latter increased. The new basic law introduced a semblance of a presidential-parliamentary system, increased the prerogatives of the president, giving the head of state the right to appoint the heads of regional authorities, members of the CEC, judges and other officials. This reform culminated in a certain modernization of authoritarianism carried out in order to maintain internal stability and the external prestige of the new leadership (Al-Bassam, 1997:386).

Therefore, the general significance of reform cannot be defined as a transition to a rule of law state. It consists at this stage in the rationalization of authoritarianism. This pragmatic decision actualizes the problem of imaginary constitutionalism, which in various ways has been repeatedly demanded in many states of the region. The specificity of Turkmenistan lies in the fact that the nature of government retains a clan character, and the internal logic of the current changes is the transfer of power from one clan to another (the expression "clan revolution" is used). Shifts in the Renaissance (as the new president's new policy is called) and the elimination of odious elements of the attributes of the previous reign (in the form of statues of Turkmenbashi and images of his profile on the money) in this context there are signals that in themselves do not mean a rejection of the regime of personal power, but rather, they speak of an attempt to change and rationalize the legitimizing formula (Peyrouse, 2010).

6. CONSTITUTIONAL REFORMS AS A STRATEGY TO PRESERVE TRADITIONALIST POWER TAJIKISTAN AND UZBEKISTAN

The second model is represented by the regimes of Central Asia (Uzbekistan, Tajikistan), which until recently have generally refused to carry out constitutional reforms. This model poses several general questions: can a rational concept of constitutionalism be realized in a traditionalist society with elements of an estate or clan-based social structure and a dominant religious consciousness?; the extent to which Western-type constitutions can be borrowed in these societies and what the technologies for implanting these norms must be for their adequate functioning (Gleason, 2001). Turning to the solution of these problems in the sociology of law and legal anthropology, as well as comparative political studies

of traditionalist regimes, indicates the absence of significant room for maneuver. The situation is determined by a tough choice between anarchy and mechanical stability, turning into stagnation. The general tendency towards patriarchal authoritarianism in the Central Asian region is observed. Such regimes are characterized by the suppression of the opposition, the disappearance of opponents and a significant number of political prisoners. The regime was described in the literature as paternalistic and totalitarian, referring to exotic dictatorships, sometimes defined as sultans regimes (Kunysz, 2012). The impulse of constitutional modernization arises in this region (with the historically characteristic apathy of the population) not so much from the inside as from the outside.

In *Tajikistan*, the key issue in post-Soviet constitutional debates was the issue of maintaining a secular state. The first acceptance of the post-Soviet Constitution of Tajikistan at the referendum of 1994 was carried out during a civil war. It consolidated the secular nature of the state, which was the main object of criticism from the United Tajik Opposition (UTO), which sought to create an Islamic state. Hence the lack of legitimacy of the Constitution: a significant part of the population (in exile) could not participate in the referendum; the constitution expressed the interests of only one military-political coalition. The connection between the problem of constitutional reform and the process of inter-Tajik negotiations should be emphasized: they were conducted with the involvement of international mediators and culminated in the signing of an agreement between the government and the opposition (December 23, 1996), one of the provisions of which provided for the development of constitutional legislation. Constitutional reform in Tajikistan acted primarily as a mechanism for resolving the conflict of the civil war - disputes about the secular nature of the state, the formation of a new parliament, the election of the president, Majlisi Oli and local majlises of people's deputies. The signing of the agreement and adoption of amendments to the Constitution, which became the basis for a compromise failed, however, to an end disputes the government and opposition on the distribution of ministerial portfolios and other administrative positions (within the allocated opposition 30 percent quota in the executive branch). In this context, it is possible to interpret the trends towards systemic stabilization - the referendum of September 26, 1999, on amending and supplementing the Constitution of Tajikistan and the election of the president (November 6, 1999). Amendments to the constitution submitted for referendum included the creation of a new model of a bicameral parliament (Article 48 of the Constitution of the Republic of Tajikistan proclaimed the Majlisi Oli as a professional parliament); the election of 75% of the upper house by indirect vote through local parliaments, and the remaining 25% by the president; the creation of a judicial council, which should take part in the appointment and dismissal of judges at various levels; a decision on the legalization of the functioning of political parties created on a religious basis; extension of the term of office of the president from 5 to 7 years without possible re-election. The evolution of Tajik constitutionalism in the subsequent period went in the direction of authoritarianism and strengthening the regime of the personal power of President E. Rakhmonov (Collins, 2004). According to the new version of the Constitution, starting in 2006, he

received the right to hold the presidency for two more seven-year terms, and the constitutional restrictions on the age of the presidential candidate were lifted.

In *Uzbekistan*, a deliberate rejection of the borrowing of Western liberal norms and consistent orientation towards the principles of "national identity and cultural traditions" in constitutional development can be traced (Hanks, 2000). As in Tajikistan, the main problem of the new regime was the struggle against the Islamic opposition on the attitude towards the secular model of the state, and the method of solving it was the concept of a "closed state" based on the ideology of nationalism and a tough authoritarian regime, the characteristic feature of which was consistent reproduction and continuity of power. The adoption of the Constitution of Uzbekistan and the election of the first president of the republic I. Karimov at the session of the Supreme Council of the Uzbek SSR on March 24, 1990, was secured by popular elections on December 29, 1991. The referendum on March 26, 1995, led to the extension of the powers of the president until 2000. The national referendum on January 27, 2002, on amendments to the Constitution of Uzbekistan, the length of the presidential mandate of I. Karimov was increased from 5 to 7 years, which was re-elected president in December 2007. The opposition opposed the election, pointing to the unconstitutionality of Karimov's third presidential term, but according to an official explanation, the 2002 referendum on the extension of presidential powers created new rules of the game, according to which the president remained in power for only one term. This theoretical balancing act legitimized the leader's stay in power, the duration of which will be almost a quarter-century by 2014. The 2005 revolution in Kyrgyzstan and several other foreign policy factors resulted in the closure of borders and the actual introduction of a presidential dictatorship regime. The tensions in the Ferghana Valley associated with the Andijan riot (2008) and its suppression led to a tightening of the regime (Megoran, 2008). This trend was further strengthened after the revolution in neighboring Kyrgyzstan in 2010, accompanied by Kyrgyz-Uzbek ethnic clashes, which caused a significant influx of refugees into Uzbekistan.

On the whole, the model of rejection of reforms is presented by the countries of Central Asia that preserve the traditionalist socio-political system based on maintaining mechanical stability in the name of preserving the secular foundations of the state, interethnic balance and suppression of religious opposition. Criticism of the experience of the "color revolutions" and the unstable regimes they created until recently served in these countries to legitimize nationalism, isolationism, and deferred constitutional modernization, the scale, boundaries, and timing of which is determined by the interests of the reproduction of power by the existing clans and presidents (Ostrowski, 2009). Amendments to the constitutions of Tajikistan, Uzbekistan, Turkmenistan do not go beyond these goals. In several cases, they mean a certain movement towards the rationalization of constitutional foundations in the direction of secular choice, bureaucratic centralism and the independence of state power. These goals are achieved by delegating additional powers to administrative institutions throughout the power vertical from top to bottom and ultimately to the head of state.

7. IMPERIAL PRESIDENCY AND PERSONALISTIC STYLE

The constitutional restoration is most consistently expressed in the phenomenon of democratic Caesarism - the creation of plebiscite regimes, the legitimizing formula of which combines such concepts as the unity of the nation, sovereignty, and special leadership status (Cole, 2009).

The first component of the legitimizing formula - the unity of the nation - receives a consistent expression in the plebiscites that legitimize the regimes and their leaders. This system operates in consultation with the head of state with the nation through the head of parliament and political parties and is carried out in the form of referenda designed to express unanimity of support for the course and ensure the continuity of power of the current leader or his heir. This logic finds key expression in referenda on "trusting" the people to the head of state, changing the order of their elections and the terms of their possible stay in power, but above all, the extension of their constitutional mandate. Referenda that extended the powers of the current heads of state were held in Kazakhstan (1995), Tajikistan, Uzbekistan (1995, 2002), Turkmenistan (1994) (Anderson, 2004).

The second component of the legitimizing formula, sovereignty, receives an interpretation reminiscent of its Bonapartist interpretation: sovereignty belongs to the people, but its embodiment and practical implementation are entirely delegated to the head of state (Kasenov, 2017). On this basis, there is a review of the system of separation of powers in the direction of their centralization and the prevalence of powers of the executive vertical of power. This makes it possible to legitimize all legislative initiatives, including those aimed at changing the constitutional system, as an expression of the unanimous will of the people, parliament, and government. On the one hand, there is a weakening of the legislative branch - the "rationalization" of parliamentarism. The restoration of "order" is achieved through constitutional and other legal methods that ensure that one (government) party prevails in public policy over others (the phenomenon of parties such as "Nur Otan" in Kazakhstan and "Democratic Party" in Turkmenistan, which some analysts compare with dominant parties in Singapore, Japan, and Mexico). To ensure the actual dominance of one party while maintaining a formal multi-party system, the procedure for early dissolution of the parliament with the subsequent amendment of the Constitution is used (Kazakhstan - 1993, 1995, 2007); change of election legislation (alternation of majority and proportional systems depending on the positions of the ruling party in Kazakhstan); adoption of legislation obliging parties to act strictly within the framework of the constitution, which at the same time undergoes a significant transformation (for example, legislative acts of 2002 and 2009 in Kazakhstan). If the head of state is at the same time (legally or factually) the head of the ruling party (as is the case in the countries of Central Asia), then this narrowing of the political space can go even further.

On the other hand, there is an obvious politicization and limitation of the role of institutions for monitoring constitutionality, primarily independent constitutional justice. Constitutional courts with an abstract system of normative control were created in all post-Soviet states (except for Estonia, where this decision did not take place due to the problem of protecting the rights of "non-citizens"). However, the situation with the control of constitutionality is not uniform in post-Soviet states, where the functions of the guarantor of the constitution are performed by parliaments, constitutional courts, and presidents. The position of the Constitutional Courts in conflicts of branches of power is extremely politicized, contradictory, and does not differ in doctrinal unity (Anderson, 1997). In some cases, the Constitutional Courts opposed constitutional reforms aimed at changing the form of government. So in Kazakhstan (1995), the Constitutional Court refused to recognize as constitutional the procedure for adopting a new Constitution. In third cases, the Court unequivocally took the side of the victorious party (the Constitutional Court of Kyrgyzstan, which recognized the results of the 2005 coup). One can point to numerous examples of the recognition by the Courts of the constitutionality of referenda, which resulted in the extension of the mandates of the current head of state. Finally, situations of deliberate restriction of the prerogatives of constitutional control institutions (the introduction of the Constitutional Council instead of the Constitutional Court in Kazakhstan) are presented. This makes the urgent problem of the legitimacy of "landmark" political decisions of the institutions for monitoring the constitutionality of the countries of the Central Asian region.

The third component of the legitimizing formula of plebiscite regimes is the exclusive political and legal status of the head of state as a national leader. It is expressed primarily in a broad interpretation of the independence (immunity) of the president from legal control - civil and criminal proceedings - as long as he remains in power (Isaacs, 2010: 14). The purpose of this institution is to maintain the exclusive status of the presidential power, and not its specific carrier as such. Further, the president is actually (and in some cases, formally-legal) above the law, being the guarantor of the constitution and the supreme arbiter between the authorities and various political forces. As a result, he cannot be prosecuted, his decisions cannot be challenged in court, and his personality is protected by special laws from insults and slander (ordinary defamation laws do not apply to these cases). Finally, the exclusivity of the president's status is supported by the absence of constitutional consolidation or the factual impeachability of the constitutional impeachment procedure. The possibility of prosecuting the presidents became, therefore, one of the main demands of the opposition in post-Soviet states – and a change in legislation in Kazakhstan was enacted to protect the president, his relatives, and property from any possible claims in the future. In 2010, on the initiative of the ruling party, amendments were adopted to three constitutional laws - "On Elections", "On the President of the Republic of Kazakhstan", "On the First President of the Republic of Kazakhstan", as well as the criminal and criminal procedure codes that confer Nazarbayev the status of the first president - the leader of the nation ²⁰. The status of "father

of the nation" (Turkmenbashi), "leader of the nation" (Nazarbayev) is correlated with unlimited tenure in power or even the possibility of its actual transfer by inheritance (Borisov, 2017).

The constitutional formula on "unity of power" (for example, in Kazakhstan and several other states) acts as the basis for the actual liquidation of alternative centers of power with their formal assumption and constitutional consolidation. The result is the completion of the restoration of authoritarianism - the creation of a plebiscite regime in the form of an "imperial presidency" (Weitz, 2006). The process of concentration of power in all considered countries of the Central Asian region is based on the blurring of the border between constitutional norms and administrative law. Administrative law is derived from the sphere of public law and social control through legislation on state security, regulating and controlling the role of the state, expanding the discretionary powers of administrative institutions and establishing a cult of law enforcement agencies. Embodying the metaphysical principles of national unity and state sovereignty, the president's power is outside the system of social control and separation of powers, characterized by the endowment of the head of state with a privileged social status and personalistic style of government. Presidential power is the only source of final decisions on all, even the simplest, problems. With apparent power, these regimes lose flexibility in decision-making, at the risk of misinforming themselves about the real state of affairs, and ensuring the predictable nature of the continuity of power and its constitutional legitimacy.

8. THE SCOPE AND BOUNDARIES OF POWER RESTORATION IN CENTRAL ASIA

The analysis makes it appropriate to abandon the classical transitological paradigm with its teleological ideas about the movement towards democracy and linear interpretations of the transition period. The results of post-communist development in the region turned out to be extremely different: they include the establishment of functioning democracy in one group of countries, the uncertainty in the form of dysfunctional democracy in the other, and the failure of democratic transit in the third, expressed in constitutional retraditionalization and authoritarianism (Verheijen, 2007).

The general instability of political regimes in the region is associated with three factors. First, the crisis of identity and the conflict of two basic values of the transition period - democracy and nationalism: the first involves unlimited possibilities for civil and legal self-determination, the second, on the contrary, puts the principle of national self-determination and sovereignty at the forefront. The fundamental factor of instability was the difficulty for the countries of the region to switch from an ethnic interpretation of the nation to the concept of a civil nation, which gave rise to the collapse of the multinational states of Central and Eastern Europe, and then posed the same problems at the level of individual states that faced the threat of collapse and the phenomenon of "self-proclaimed states." (Meardi, 2006). From these positions, the issue of territorial integrity and possible scenarios of the collapse of such states as Tajikistan and Uzbekistan the situation in which was defined as a "failed state."

Another problem for the states of the region was the crisis of legitimacy of the post-Soviet regimes, whose elites came to power in the wake of the national and democratic upsurge of the 1990s, associated with the fall of communism, but retained the forms and methods of governance typical of the previous era (Pop-Eleches, 2007). The clash of high expectations with reality has led to an increase in the alienation of society and power. The failure of the regimes to find an adequate solution to the difficulties gave rise to the phenomenon of “color revolutions” - a combination of social protest with the ideology of legal transformation. The answers to this challenge proposed in the countries of the region turned out to be different and included three strategies of political and legal modernization - the implementation of separate constitutional reforms without changing the essence of the authoritarian regime (Kazakhstan); finally, the conscious rejection of reforms in the name of maintaining stability and predictability of the situation (Tajikistan, Uzbekistan) or the modernization of authoritarianism under the influence of several external and internal factors (Turkmenistan).

The third problem was the difficulty of forming the foundations of a democratic (constitutional) political system in the form of civil society, separation of powers, separation of power from property, the creation of an independent judiciary, a multi-party system, the rule of law institutions, and the provision of a competitive political environment and meritocratic elite (Matveeva, 1999: 24). During the constitutional crises of the post-Soviet period, these questions were posed but did not receive adequate resolution. In most cases, they came down to choosing a form of government - parliamentary, presidential or mixed. It should be stated that the countries of Central and Eastern Europe (though not without the support of the European Union) have given an unambiguous preference for a parliamentary or parliamentary-presidential form, while the Eurasian political regimes - presidential or presidential to parliamentary. Of key importance was the search for an alternative to the Russian model of the presidential-parliamentary form of government, which acts as a regime of super-presidential power. It actualized the experience appeals to the parliamentary-presidential or presidential-parliamentary forms (Kazakhstan) or the legitimization of traditionalist authoritarian regimes as presidential (Turkmenistan).

Experience has shown, however, that with all the diversity of the selected models, not one of them has solved the problem of political stability. The parliamentary form of government, which functioned in some post-Soviet countries under the domination of one party, turned out to be a destructive factor in the conditions of party split and the inability to form a government of public trust and presidential elections. The formal transformation of the presidential-parliamentary system into a parliamentary-presidential (Kazakhstan) system or the inclusion of its elements in the reform agenda does little to change the mechanism of power and management while maintaining the regime of imaginary constitutionalism and absolute control of the head of state over the entire political system (through the ruling party) (Abdulkadirov, 2009). The most "stable" in this sense were the regimes of Central Asia that did not carry out reforms at all (Uzbekistan), abandoned them because of fear of destabilizing the system (Tajikistan) or reduced them to the modernization of authoritarianism (Turkmenistan).

Ultimately, the dilemma of choosing between "freedom" (parliamentary regime) and "order" (presidential regime) came down to a choice between political instability and authoritarianism in the form of various options for plebiscite regimes with a pronounced tendency towards an imperial type of presidential power with a personalistic style of government.

The general tendencies toward restoration and reconstitutionalization, which are, in a sense, an objective consequence of the unpreparedness of society for the introduction of liberal democracy, as well as a reaction to the ineffective functioning of democratic institutions, can receive different political content. The most adequate expression of restoration processes is the tendency to oligarchization of the ruling regimes regardless of the constitutional forms of their organization (Matveeva, 1999: 26). The consequence of this logic is a tangible narrowing of the political space: political corruption, the restriction of public pluralism, political parties, non-profit organizations independent of the media. As a result of the erosion of democratic institutions, political decision-making depends little on the constitutional institutions of the legislative and executive branches, and more and more on informal agreements and groups that use these institutions for their purposes.

CONCLUSION

In this research, it is aimed to determine what causes and resources of the restoration processes are, how far they can go in the desire to restore the previous order and where the border beyond which the restoration of the old order will become irreversible. It is clear that there is a need for a paradigm shift to start a restoration process. According to these processes the constitutions lays the foundation for a party regime that will find it difficult to create a stable parliamentary majority and form a viable government. Among the problems that will inevitably arise along this path include: the difficulty of education and the subsequent maintenance of a single parliamentary majority on an inter-factional basis in the absence of a dominant party in parliament; the difficulty of ensuring the discipline of parliamentary votes at the inter-factional and especially at the intra-factional level (nothing prevents deputies from voting against their party's attitudes); the difficulty of forming a workable government (within the complex and multi-stage procedures that are enshrined in the Constitution) and involving the opposition in a full-fledged legislative process (especially taking into account the ethnic and clan orientation of all parties and their leaders, which has already manifested itself in the activities of the Provisional Government); the possibility of the president's intervention in the process of forming a government in a situation of split between parliamentary factions or in the case of directed creating such a situation (the president's prerogatives in this area are far from ceremonial); the possibility of a conflict between the president and parliament on key issues of domestic and foreign policy (due to the vagueness of constitutional provisions on the separation of the prerogatives of the president and the prime minister

in this area), and, most importantly, in relation to the power block (control over which reserved exclusively for presidential power). For these reasons, it will be extremely difficult for the parliament to overcome the presidential veto by collecting the necessary 2/3 of the votes or impeachment.

The combination of a number of factors enshrined in the Constitutions can have a cumulative negative effect in the dynamics of the transition period: a proportional system (especially in the case of manipulating the passage barrier, absolute limitation of the number of deputy mandates from the winning party and low voting discipline) leads to the appearance of numerous parties in parliament, not capable of forming a stable parliamentary majority, the consequence of which is the difficulty of forming a coalition government or, in any case, Sintered long-term strategy for its activities. The transfer of power to amend the Constitution exclusively to the Parliament (and, therefore, to the dominant party coalitions) with the parallel restriction of the independent institutions for monitoring the constitutionality of the adopted laws (abolition of the Constitutional Court) calls into question the implementation of the principle of separation of powers.

As a result of analysis in this article, it can be asserted that these Central Asian states are not ready for a parliamentary form of government that can (due to existing national, ethnic and religious divisions) lead to destabilization of the political system and domination of dominant clans, but need a stable presidential power (a number of strengthening projects have already been submitted), which will allow to avoid crises like the revolutions of 2005 and 2010 in the future. In a situation of a divided society, the adoption of a dualistic model in the proposed interpretation does not seem to be the best option, since it leads not so much to combining the advantages of pure parliamentary and presidential systems as to combining their shortcomings - the weakness of coalition governments and the growth of authoritarian tendencies of presidential power. In a situation where the balance of checks and balances is not adjusted, constitutional changes are extremely easy, and full control of the constitutionality of laws is impossible.

At the outset, an authoritarian modernization way of restoration in Kazakhstan was the first stage in the reform process. Its presidential political system transformed into a presidential-parliamentary form of government system after 2007. However, president's and his party's (Nur Otan) influence on parliament has not changed. The new Constitution of Kyrgyzstan, adopted in the conditions of a revolution and the actual start of a civil war, reflects a search for a compromise on all significant issues of the transition period, but its achievement makes the political system extremely unstable. It is characterized by a fundamental contradiction of constitutional legal norms and party populism. The Constitution fixes democratic norms and values that cannot be provided by an economically inefficient state during the transition period, which makes it difficult to maintain sovereignty and stability without external assistance. Erosion of the legitimacy of constitutional norms is a natural consequence of this choice.

Turkmenistan has isolated itself from the outside world after its independence. Nationalism, conservative paternalism and the cult of the national leader have become the dominant political culture in Turkmenistan.

In Tajikistan, after first constitution referendum of 1994, reform attempts in constitution went in the direction of authoritarianism and strengthening the regime of the personal power of President. There is a similar situation in Uzbekistan. Authoritarianism and strengthening the personal power of President have prevented them from going beyond the previous order. Tajikistan, Uzbekistan, Turkmenistan and Kazakhstan have failed to attain a modern constitution. The fundamental reason for this failure was the implementation of constitutional reforms without changing the essence of the authoritarian regime

In this context, finally, the main vector of constitutional reforms can be defined as the transition to a presidential form of government, although the relevant parameters for the separation of powers and the system of checks and balances are far from certain. As in most post-Soviet states, the key question of the relationship between the prerogatives of parliament and the president has been resolved in favor of the latter, and the Constitution is vague on issues that could provoke constitutional conflicts in the future. For instance, dissolution of the parliament by the president, impeachment, presidential veto, separation of powers of parliament and President in emergency situations, authority and responsibility of the government, etc. are the main issues that should be reformed.

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