

CONSTITUTIONAL REFORMS IN KAZAKHSTAN: THE TRANSFORMATION OF THE POLITICAL SYSTEM UNDER THE LEADERSHIP OF KASSYM-JOMART TOKAYEV

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ABSTRACT

Kazakhstan witnessed the most substantial and powerful “political earthquake” in January 2022, in its thirty-year history as a Republic. Protests against the increase in the price of energy soon turned into violent riots, during which 225 people lost their lives. The causes of these events are certainly complex and profound. In order to eliminate part of the cause, President Kassym-Jomart Tokayev first proposed and then implemented reforms that changed the constitutional and legal systems and, to a large extent, transformed the political system. In lieu of a super-presidential system, there have been endeavours to establish a presidential system featuring a robust parliament, which not only exercises legislative authority but also assumes a substantial oversight role. In addition, the method of electing people’s representatives in the assemblies was changed, a balance of power and responsibility was established, and better mechanisms for respecting human rights and freedoms were ensured. This paper describes and analyses both the reforms themselves and their reasons. At the same time, it challenges theses about the past and future character of the Kazakh political system. The theoretical framework is based on modern normative political concepts, including dialectical-critical discourse in the part of the research that refers to the views of individual authors on the history of Kazakhstani constitution-making. The methodological framework is based on the case study analysis. Conclusions support the thesis that reforms are oriented towards the long-term stabilisation of institutions and ensuring security.

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Immediate Causes of Constitutional Reforms and Transformation of the Political System in Kazakhstan

During the period when Kazakhs celebrated three decades of independence, violent demonstrations broke out in the country that “shook” the entire political system (formally, the jubilee was commemorated in December 2021, and the protests lasted from January 2–11, 2022). Demonstrations began in the western city of Zhanaozen (рус. Жанаозен, kaz. Жаңаөзен/ Jañaözen) after a sudden increase in the price of liquefied petroleum gas, which was brought about by the government’s decision to switch to a market-based pricing mechanism for this energy source (Toyken 2022). Even earlier, a few years before these events, some researchers warned about social stratification in the country and that, despite relatively good general economic indicators, close to 30% of the population lives around or below the poverty line, which represents a huge conflict potential that can be triggered by a certain development of the situation (Khamzina et al. 2015, 169-176). In addition, the problem of systemic corruption is highlighted, which is not specific to Kazakhstan either in the narrower or wider regional context but which irritates wider social strata and, combined with dissatisfaction caused by social stratification, can cause destabilisation (Khamitov, Knox, and Yunusbekova 2023, 89-108). The protests quickly spread to several other cities, escalating in Almaty in the far east of the country (the old “capital” of Kazakhstan and the largest city in the country), where they turned into riots and looting, the burning of state institutions, and consequently, open conflicts between demonstrators and members of the security services. For a short time, a group of armed protesters occupied both the airport building and the local headquarters of the ruling Nur Otan party. In parallel with the mass protests and their development into violent riots, “major” political demands were also highlighted, which had absolutely nothing to do with the price of energy products. Darkhan Sharipov from the movement *Oyan, Qazaqstan* (eng. *Wake Up, Kazakhstan*) described most illustratively and succinctly these requirements: “People are sick of corruption and nepotism, and the authorities do not listen to people. We want President Tokayev to carry out real political reforms or to go away and hold fair elections” (Walker and Bisenov 2022).²

These few days of unpredictability have raised the issue of Kazakhstan’s future. Finally, with the intervention of domestic security forces and with the help of units from the CSTO countries, public order and peace were ensured, which prevented further destabilisation. According to official data, 225 people

² One can read more about the profile of the movement *Oyan, Qazaqstan*, and the expectations of what its members can do in Kazakhstan in the article by Wood (2019).

lost their lives during the protest, including 19 soldiers and policemen. Another 4,353 people were injured, of whom as many as 3,393 were members of state bodies (Sluzhba centralnykh kommunikacyy 2022). Kazakh President Kassym-Jomart Tokayev pointed out that the protests were initiated by groups trained abroad, but further, more detailed explanations of these allegations did not follow later. The lack of additional explanations sparked various speculations about this topic. Helene Thibault and Nurmakhan Tastaibek argue that “the authorities shifted the blame to foreign elements for three reasons related to both internal and external legitimation purposes”. First, they underline “that invoking Islamic rhetoric represents a typical tactic used by the Kazakhstani government to delegitimize opposition movements. Second, shifting the blame away from the population allows the authorities to minimise and, to some extent, write off the profound underlying popular discontent”. And third, they claim “that invoking the presence of ‘foreign agents’ in the unrest was a necessary condition for the involvement of the Collective Security Treaty Organisation (CSTO) forces” (Thibault and Tastaibek 2023, 79). Nevertheless, despite the lack of additional explanations, taking into account the organisation and coordination of the demonstrators, the weapons they had at their disposal, the huge number of injured members of the security services, and the quick articulation of political goals, it seems that President Tokayev’s claims are not (completely) incorrect!

On the other hand, relying on the CSTO forces and fear of “increased Russian influence” in Kazakhstan can be found in the Western authors’ analyses. So, Aram Terzyan states: “Kazakhstan’s appeal to the CSTO presented a drastic change in Kazakhstan’s foreign policy and resulted in a shift in the balance of power in the greater Eurasian region. Although Russia played a relatively subtle role on the ground, Russia’s involvement was set to link the political future of Kazakhstan to Russia for an unspecified amount of time” (Terzyan 2022, 295). Bruce Pannier notices that “the Russian Federation-led Collective Security Treaty Organisation (CSTO) has existed for nearly 30 years, and, during all that time, it has never sent troops into a conflict zone in one of its member states. CSTO members Armenia and Kyrgyzstan had requested assistance in the past, but the organisation did not send help as those situations were not part of the CSTO mandate.” After that notice, he also undermines: “That makes the CSTO decision to deploy forces more intriguing, as it appears the organisation did not send the force to Kazakhstan to defend that country’s sovereignty but to defend Tokayev and preserve a government that was friendly towards Russia” (Pannier 2022). Igor Denisov considers that “after the Kazakhstan crisis, China will reassess its influence in Central Asia” (Denisov 2022). In a situation of expressed tensions in international relations in general, the focus has shifted very fast on

the foreign-political dimension of it all, on Russian engagement and on the potential activities of China.

In the (geo)politically fragile Central Asian region after the dissolution of the Soviet Union, Kazakhstan became a “success story”, a system more stable than others in the environment with a more developed economy, pronounced strategic planning, and wise foreign policy positioning. For this reason, Nenad Stekić marks this country as a potential “middle-range power”.³ He observes that the status of Kazakhstan “will largely depend on the geopolitical dynamics of a large number of entities that surround it and with which it has bilateral relations”, but also adds that “if it continues on the path of general development, Kazakhstan can become a middle-range power, if not on the global level, then certainly in the area of Eurasia” (Stekić 2018, 64). At the same time, Dragan Petrović and Rajko Bukvić note that Kazakhstan is one of the most important actors in Eurasian integration, which makes it unavoidable when discussing regional security (Petrović and Bukvić 2019, 191-213). However, instead of becoming a “middle-range power” and remaining a “pillar of regional security”, Kazakhstan faced an unprecedented experience. “This crisis was the most severe form of violence that Kazakhstan has endured since gaining independence. It distorted Kazakhstan’s image as a stable country” (Terzyan 2022, 295-306).

There were other results of these events, next to “distorted Kazakhstan’s image”, like the replacement of the prime minister, the replacement of even half of the 16 ministers, the replacement of the president of the lower house of parliament, and the final “political retirement” of the first president, Nursultan Nazarbayev, who was relieved of his previous duties, the most important of which was the chairmanship of the Security Council of Kazakhstan (Solovyev and Konstantinov 2022). What differs this crisis from others that took place in a post-soviet area in the observed time interval (protests on a larger or smaller scale that escalated and, to a certain extent, “shook” the political systems in Belarus in 2020, Kyrgyzstan in 2020, Armenia in 2022, Tajikistan in 2022, the Uzbek region of Karakalpakstan in 2022, and Georgia in 2023) is that it did not end on personal changes and individual (smaller “cosmetic”) political changes.⁴

Immediately after the de-escalation of the crisis and the calming of tensions, President Tokayev first proposed and then challenged the fundamental

³ A middle-range power is a state that, with its potential (military, economic, and political) and activities, is capable of significantly influencing the international order. For more about this, see Jordaán (2003).

⁴ One can find more about previous crises in the post-Soviet space before 2020 in the article by Kozłowski (2016, 135-152).

constitutional reforms that significantly induced changes in the political system. After the introductory part, in which the immediate causes for the constitutional reforms and changes in the political system are described, in the further part of the article they will be presented in detail with accompanying comments and analyses of that process.

Research Framework and Objectives

This research pertains to alterations within the constitutional, legal, and political systems encompassing changes in the electoral system, within the Republic of Kazakhstan. Bearing in mind that some of the solutions are rarely applied in the practice of other countries or are even extremely original, the presented subject of research has not only socio-political significance (in the context of monitoring and analysing the situation in Kazakhstan, because this country, as already written, is one of the most important factors of regional security in Central Asia, and potential destabilisation would have broader continental implications), but also a pronounced scientific importance, which is reflected both in the expansion of the existing fund of knowledge and in the use of this case study for further research in comparative political science.

The goal of the research is to determine the correlation between the implemented reforms and the stabilisation of political conditions in the country, which will be tested by hypothesis that *“the constitutional reforms and changes in the political system initiated by President Kassym-Jomart Tokayev are oriented towards the long-term stabilisation of institutions and ensuring security”*. In order to establish this correlation and prove the hypothesis, the logic and theoretical framework of modern normative political concepts were used, with the mention of dialectical-critical discourse in the part of the research that refers to the view of certain authors on the history of Kazakhstan’s constitution-making.⁵ The methodological framework is based on the case study method. The subject of legislative acts analysis concerns the text of the constitutional amendments that were submitted to the previously valid text of the Constitution, with the adoption of which changes were made not only to the constitutional-legal system but also to the political system. The subject of the discourse analysis concerns the consideration of the contextuality of changes in the constitutional-legal system and political system of Kazakhstan since 1991. The reasons and causes of these changes are multi-layered and complex; it is not possible to understand them if they are reduced to a one-dimensional

⁵ For more about normative-political and dialectical theories, see Stepanov (2008, 19-21). Also, more on this topic can be found at Simeunović (2009).

analysis. The development of the constitutional-legal and political system is still ongoing; it started in 1991 and has since had different phases that depended not only on the factual power of the president but also on historical circumstances, internal political dynamics, and social stability. Temporal domain compounds the events of the year 2022, with the necessary references to the recent past (from the moment of independence to 2022) when explaining the processes that led to the epilogue of the year 2022, and the spatial frame concerns the territory of the Republic of Kazakhstan.

Constitutional, Legal and Political System of Kazakhstan until 2022 and Protests in 2022

Numerous researchers were interested in the question of the character of the constitutional, legal, and political systems of Kazakhstan during the past three decades. According to the opinion of Andreas Heinrich, based on the French example and the Constitution of the Fifth Republic from 1958, the first Kazakh Constitution from 1993 defines that all power comes from the people, who exercise it through “elections and referendums”. Kazakhstan is a “unitary state with a presidential form of government”, but it also states that “no one has the right to abuse and accumulate power indefinitely” (Heinrich 2010, 27-28). Although the first constitution offered a promising democratic undertone for the future political regime, it was soon replaced by a new one in 1995, which significantly reduced the level of democracy in the political regime by disproportionately increasing the powers of the president of the republic. Namely, according to the new constitution, the president of Kazakhstan *is the highest political official who determines the key decisions of internal and foreign policy and, with his arbitrariness, enables the functioning of all branches of state power and bears responsibility for government institutions to the citizens* (Stekić 2018, 53). Norra Web Williams and Margaret Hanson denote this kind of system, within which there was no constitutional court but only the Constitutional Council, as *authoritarian constitutionalism* (Web Williams and Hanson 2022, 1201-1233). Certain researchers notice as an automatic problem that “excessive concentration of political power in the presidency entails the weakness and fragility of the legislature and other political institutions, stalls efforts at political reforms, and jeopardises civil liberties” (Kembayev 2012, 431).

Dmitry Nurumov and Vasil Vashchanka trace the transition and transformation of the constitutional, legal, and political systems of Kazakhstan from the one-party rule of the Communist Party to the fifth term of the first president (at that time and the only president since) and state how “from a brief period of political pluralism, the country has seen the gradual monopolisation of power and elimination of political competition. Changes to the constitutional

framework have mirrored the steady concentration of powers in the president's hands. Dependence on natural resources underpins the current system of governance and the patronage networks on which it rests. Constitutional arrangements are designed to preserve the president's privileges and reportedly considerable family assets..." (Nurumov and Vashchanka 2016, 143). According to their opinion, the so-called *authoritarian constitutionalism* has, therefore, multiple consequences reflected also in systemic solutions. The consequence explored by Rico Isaacs is *neo-patrimonialism* as a pronounced feature in the political system. A key figure within that system nurtured informal forms of government to the detriment of the development of democratic institutions and the rule of law (Isaacs 2010, 1-25). Essentially, such a relationship has not been changed even by the amendments that were introduced in the text of the Constitution in 2017, as explained by Zhenis Kembayev. The role of the "omnipresent" president of the Republic, who had a direct influence on the Constitutional Council and judicial bodies, remained strong, in contrast to the weak parliament, which had neither political power nor, most often, the authority to exercise a control function in a whole series of specific situations (Kembayev 2017, 294-324).

As expected, based on the foundations of such conclusions, shortly after the events of January 2022, assessments emerged that the trigger of dissatisfaction lies in the lack of democracy, the suspension of human rights, and the suppression of individual freedoms. According to Raushan Zhandayeva and Rachael Rosenberg, such a trend continued with an "extreme act of digital repression" during the protests, which is a "natural continuation" of the previous practice (Zhandayeva and Rosenberg 2022, 3-21). At this point, it would be necessary to ask the question of whether it was better not to prevent the continuation of protests by allowing and encouraging open violence through social networks and introducing society into civil war. Peace and stability have their price, and when achieved through the de-escalation of serious crisis situations, that price can and must be high most of the time. Svante Cornell suggests that "furthermore, a divide opened between an upwardly mobile and well-educated urban strata (the Kazakhs most Westerners interact with) and a much larger lumpen segment, for lack of a better term, which is much more impatient and nationalist. Against this background, the post-Soviet model of governance described above was no longer sustainable" (Cornell 2022). Despite the fact that some of the cited theses are correct, it should be noted that the development of the constitutional-legal system and political system had its own stages, causes, reasons, and results. It is not only about the will of one man nor exclusively about his need to secure his power through the introduction of *authoritarian constitutionalism* and *neopatrimonialism*.

First, one must start with the circumstances that existed in 1991 at the time of independence. What were the (post-)Soviet institutions like? Were these and similar institutions capable of “carrying out” the process of building a new state? What were the theoretical knowledge and practical experiences of the politicians, bureaucrats, and scientists who came from the “Soviet system”? How was that legacy affected by offers or pressures from Western countries to urgently apply the (neo)liberal concept? Questions pile up one after another when you look at things from this angle. It was only in such circumstances that a large number of challenges, risks, and threats to social stability, the economic future, and national security appeared. It is quite certain that some processes took place spontaneously, and certain decisions were made intuitively.

Thus, somewhat chaotically, when defining the main determinants during the writing of the new constitution, different schools, traditions, and practices are combined. Andrzej Bysztyga observes that in terms of defining individual freedoms, there is a mix consisting of the Asian concept of human rights, the Islamic concept of human rights, the Russian constitutional tradition, the Marxist Soviet concept of understanding the individual, domestic traditions, and the European concept of human rights and freedoms (Bysztyga 2015, 317). In considering the framework of the new (non-one-party and democratic) political system, and due to the absence of a different practice and the obvious lack of other knowledge (apart from the principled ones, which came through individuals associated with Western academic institutions or non-governmental organisations), we start from the definitions of Soviet scientists who “understood the political system as an aggregate of components through which society is managed”. “For instance, Kazakhstani politicologists enclose to the notion of *political system* the whole complex of interdependent and interacting political organisations and establishments, which provide the power and control in this society. In the enumeration of components of the political system, the scientists traditionally include political institutions, relations, political and legal norms, and political and legal culture” (Aitzhan and Suleimanov 2013, 212). With such an approach, new experiences and traditions are created through repetition, and those proven valid in practice are improved over time. Of course, the application of some norms that proved dysfunctional in practice (for different reasons) was abandoned. That is how the original framework was built, which does not exist anywhere else in the world, not even in the neighbouring Central Asian states, Kazakh researchers state. “Kazakhstan cannot simply follow the example of Western democracies, which would contradict its own process of liberalisation and economic modernization and weaken the role of the nation-state as the source of national identity. Incorporation of traditional Kazakh social institutions is vital in creating the state, which follows the lead of Western

nations yet achieves the model of social and economic development unique among the nations of today's world" (Ayupova et al. 2020, 310).

That is why Sergey Zhiltsov and Igor Zonn came to the conclusion that "Kazakhstan has been following its own path of social development that differed a lot from its Central Asian neighbours: it did not opt for total democratisation as Kyrgyzstan did (viewed at a certain time as the region's most democratic country) and was not tempted by the autocratic trends typical of Turkmenistan and Uzbekistan, where, back in 1992, the president became the central figure with the parliament and the judicial system was pushed aside. Kazakhstan took time to build its political system, where the president invariably remained the main figure. The first President of Kazakhstan, Nursultan Nazarbayev, played a huge role in the political processes unfolding in the country and its development as a whole. His well-balanced foreign policy helped avoid the shocks of economic reforms and political upheavals inside and outside the country and established good relationships with its Central Asian neighbours as well as with Russia, the US, and China. For a long time, the First President was consistently consolidating the executive power vertical in order to concentrate it in the hands of the president and stabilise the social and economic situation by keeping the multifaceted influence of regional elites in check" (Zhiltsov and Zonn 2019, 69). William Partlett calls this system *managed democracy* (Partlett 2012, 230-234). An interesting comparison is made by Barbara and Azamat Junisbai: "Kazakhstan is home to the longest-serving ruler in post-Soviet Eurasia, while Kyrgyzstan is among the region's most competitive polities. Do these regime differences correspond to divergences in political attitudes, as an extensive body of literature posits? Are Kyrgyzstanis more likely to strongly support democratic ideals? Are Kazakhs less likely? Contrary to expectations, the data reveal the two populations to be attitudinally indistinguishable when it comes to strong support for practices associated with democracy. Whatever country differences we find are minor or statistically insignificant. We explain this convergence by shifting focus away from the political features that distinguish the two nascent democracies versus consolidated authoritarianism to those that they hold in common. Notwithstanding major constitutional reform in Kyrgyzstan in 2010, politics there, as in Kazakhstan, remains fundamentally patronal, or patronage-based" (Junisbai and Junisbai 2019, 240).

However, in contrast to the situation in Kyrgyzstan but also in other (newly emerging) Central Asian countries, Kazakhstan maintained social and political stability, accompanied by continuous economic growth, increasing living standards, and an increasing reputation in international relations. As Natsuko Oka notes, during Nazarbayev's rule in Kazakhstan, the strategy of suppressing the "ethnic vote" was actively implemented, and politics with an inter-ethnic character was favoured. That is why the Assembly of the People of Kazakhstan

was established as a special body that would participate (to a certain degree) in the division of power and give legitimacy to the president's decisions. According to the critics whose theses were presented in the first part of this chapter, such a controlled process can be understood as an abuse by the first president of Kazakhstan. But looking from a diametrically opposite point of view, it can also be said that such a controlled process prevented inter-ethnic conflicts in a neuralgic region at a sensitive historical moment by building mutual trust and enabling a new kind of collective organisation and institutional action of representatives of different nations (over 130 ethnicities live in Kazakhstan, including Kazakhs, Russians, Uzbeks, Uighurs, Ukrainians, Germans, Turks, Koreans, Azerbaijanis, and others) (Oka 2009).

The development of the political system of independent Kazakhstan had its own path, detours, stages, and good and bad sides. The picture is not "black and white", as it is presented in some analyses (primarily by Western and pro-Western researchers). Certain successes were achieved in the construction of the political system. If it were not for these successes, there would be no social and political stability accompanied by continuous economic growth, an increase in the standard of living, and an increase in international reputation.

The dissatisfaction manifested in Kazakhstan in January 2022 was undeniably caused by a large number of internal reasons. Those causes were apparently not eliminated even by the withdrawal of Nursultan Nazarbayev from the post of president in 2019 and the transfer of that position to Kassym-Jomart Tokayev. As it is stated in the second part of the conclusion of Sergey Zhiltsov and Igor Zonn, the reason was that "consolidation of presidential power caused certain political problems, which negatively affected the country's development, namely, lack of political elite rotation and complete domination of the president in the country where the parliament had no independent role to play. The political system, therefore, was adjusted to the interests of Nazarbayev and his closest circle, which became especially clear when he decided that time had come to start looking for ways and means to preserve political stability and remain in control" (Zhiltsov and Zonn 2019, 62). It is noticeable that special attention was paid to the elimination of those causes when designing the constitutional reforms dedicated to the transformation of the political system.

Constitutional Reforms Aimed at Transforming the Political System

Two months after the most tragic events in the history of the Republic, President Tokayev announced reforms in his address to the people of Kazakhstan entitled "New Kazakhstan: The Path of Renewal and Modernization" (March 16, 2022).

“I declare there will be no further concessions. This law, as well as others, must be strictly enforced. Our law-abiding citizens have already paid too high a price for this kind of free will and irresponsibility. The law is the same for all, both those in power and the public. Political transformation has shown the willingness of citizens to make decisions at all levels, from local government to national issues. The political transformation is aimed at forming fair and just “rules of the game” and eradicating favouritism and monopolies in all spheres of life... After the Tragic January, many believed there would be a rollback – the authorities would start to tighten the screws and reduce the pace of modernization. But we will not deviate from the planned path but, on the contrary, accelerate systemic changes in all spheres of life. I have been carefully considering the initiatives proposed today, even before the January events. Frankly, some experts and government officials have advised me to take my time and postpone these plans until better times. They say, “Why change the system if it can be used in the current situation to your advantage?” Others quite rightly feared rampant street democracy, predicting various negative scenarios like Gorbachev’s perestroika, especially since the geopolitical situation has become extremely complicated. But I am firmly convinced that our country still needs fundamental reforms. Otherwise, there could be stagnation. We have seen its devastating consequences in recent Soviet history. In fact, the January events were, to some extent, also the result of domestic stagnation” (Tokayev 2022, 6-7).

President Tokayev announced that amendments to the Constitution are required to implement his proposed reforms, and further laws need to be adopted before the end of 2022. The changes included the introduction of 30 amendments to the articles of the Constitution, the adoption of seven constitutional laws, and more than 20 supporting laws that consequently had to be amended. Through the Conceptual Foundations of New Political Reforms programme, the establishment of a presidential republic with a strong parliament was initiated to the detriment of the previous super-presidential system, which was explained by the slogan “a strong Presidency – an influential Parliament – an accountable government”. This meant the following things: limitation of the powers of the President of the Republic; introduction of a mixed proportional-majority electoral system; granting new powers to the parliament while strengthening not only the legislative but also the control function; strengthening the position of regional authorities like the Maslikhat (Cas. Maslikhat, can still be found in the literature in Latin transcription as Mäslihät); simplification of the procedure of registration of political parties and targeted strengthening of the multi-party system by enabling easier candidacy of

individuals (both party candidates and independent candidates) under the majority electoral system; improving the electoral process with an emphasis on preventing various types of abuses during the conduct of elections; insisting on the independence of the judicial branch of government and binding transparency in the work of the courts; increasing the role of civil society organisations and the media in the process of making political decisions and legal solutions; and creation of new regulations concerning the protection of basic human rights.⁶

It is envisaged that the president will be elected for one seven-year term, and the section “against all” on the ballot was also established (returned). The voters are left with the opportunity to express their dissatisfaction and directly influence the electoral process; it is interesting that in the presidential elections held after the constitutional changes on November 20, 2022, as many as 5.80% of voters voted against all of them, which was the second result overall because Kassym-Jomart Tokayev won convincingly, winning 81.31% of the votes of the voters who went out, while the best-placed opposition candidate Jiguli Dairabaev got 3.42%.

When it comes to “restricting the powers of the President of the Republic”, the proposed “restrictions” included the following provisions: prohibition of the closest relatives of the President from holding positions in the state administration and/or managerial functions of quasi-state/quasi-sectors; suspension of membership in a political party during the term of office; denying the possibility of revoking or suspending acts of the akim (kaz. әкім; heads of local executive authorities who are also the official representatives of the president of the state) of areas, cities of republican importance or the capital; the abolition of the right of the president to dismiss the akim of an area, a city or a rural district; appointing the akim of an area or a city of republican importance exclusively on an “alternative basis” (there must be a choice between several candidates) and with the consent of the Maslihat; for the appointment of the President of the Constitutional Court and the High Council of the Judiciary, it is necessary to obtain the consent of the Senate; and reducing the “presidential quota” of appointed representatives (deputies) in the Senate from 15 to 10. At the same time, of the 10 appointed deputies, five must be recommended by the Assembly of the People of Kazakhstan. The quota of the Assembly of the People of Kazakhstan was transferred from the lower house, the Majilis, to the upper house because, with the new constitutional decision, the Senate also received a “supervisory function” and can now approve or

⁶ The Maslikhat is a regional representative body in one region (*oblast*), a city of republican importance or the capital, Astana. For more on this topic, see Nemerebaeva (2021, 244-251).

disapprove the bills adopted by the lower house. As already stated, the new functions of the Senate also include giving consent to the appointment of the president of the Constitutional Court and the High Council of the Judiciary. After the constitutional and legal changes, the Mazilis are elected in elections held according to the mixed electoral system (70% of deputies are elected according to the proportional system from party lists and 30% according to the majority system in single-district elections organised according to geographically divided constituencies). Deputies who were elected under the majority system have an “imperative mandate”, and they can be replaced by the voters according to a specially established procedure even before the end of the mandate if voters are not satisfied with their work. At the same time, it is established that the previous Accounts Committee (рус. Счетный комитет, каз. Есеп комитеті) would be transformed into the Supreme Audit Chamber (рус. Высшая Аудиторская палата, каз. Қазақстан Республикасының Жоғары аудиторлық палатасы). The newly established body, modelled after similar institutions in the world, is “the supreme institution of public audit and financial control that implements external public audit and financial control and is directly accountable and subordinate to the President of the Republic of Kazakhstan” (Supreme Audit Chamber 2023). That is very important because of the broader plan oriented towards a thorough fight against corruption, control of spending state funds, and suppression of systemic abuses.

The criteria for registering a political party have been lowered, so now instead of 20,000, 5,000 signatures are required; that is, instead of the minimum number of 600 members per regional self-government unit, 200 are required. Members of the Central Election Commission, the Supreme Audit Chamber, and the Constitutional Court cannot be members of a party, while akims and their deputies can be members of the party, but they must not have any party function (it is legally forbidden). Election commissions, both central and territorial branches, are professional bodies, and in order to increase transparency, participants in the election race and representatives of the non-governmental sector are enabled to monitor the election process without hindrance as well as control the unique voter list (which was established in the form of an electronic database).

Local self-government units also have new ways of electing deputies and some new responsibilities. The Maslihats are elected by a mixed electoral system. But in contrast to the Republican elections, in this case the ratio of those elected by the proportional and majority systems is half-half (50% each), while those elected by the majority system have an “imperative mandate”. The function of Maslihat president (instead of chairman) was also introduced, and this institution participates in nominating at least two candidates for akim, who will then be finally appointed by the President of the Republic. The Majilis will

be especially dedicated to strengthening the economic independence of local self-governments, which, it is expected, should contribute to increasing competitiveness and more dynamic local development.

The Constitutional Council is going down in history, and the Constitutional Court is being established in its place with new competences in the field of human rights. The position of Ombudsman for Human Rights (Commissioner for Human Rights) was also established. His duties are enumerated in a separate article of the Constitution, and he has the right to submit appeals directly to the Constitutional Court.

The death penalty has been abolished, cases of torture are under the exclusive jurisdiction of the special bodies of the state prosecution, and the category of “offences in the sphere of family relations” is also being developed, which should be effectively sanctioned. The corpus of cases involving the participation of a jury in rendering a verdict has been expanded (until now, it was a very narrow circle of the most serious crimes); the decision was made that the sessions of the High Council of the Judiciary must be broadcasted directly (in online mode); and the results of all competitions conducted must be published and explained in detail.

The aim of the changes is to introduce the obligation of public hearings on all projects of national importance and strategic documents, so that representatives of professional associations and the non-governmental sector will participate. However, when it comes to the non-governmental sector, it is mandatory for those organisations to submit annual financial reports presenting accurate data on the founders, assets, sources of income, and members of the governing bodies. In parallel, certain executive functions were abolished for one of the most influential non-profit organisations, the National Chamber of Entrepreneurs of the Republic of Kazakhstan “Atameken” (каз. “Атамекен” ҚР Ұлттық кәсіпкерлер палатасы, рус. Национальная палата предпринимателей РК “Атамекен”) (Atameken 2023). The president of Kazakhstan has suggested the creation of a new institution named Ұлттық Құрылтай, which in literal translation means the National Constitution. Party leaders, representatives of regional self-governments, management of non-governmental organisations, public representatives, and experts should participate in the work of this institution, and this would serve as a platform for additional discussions on key topics (already mentioned projects of national importance and strategic documents).

Relying on broad presidential powers and indisputable personal authority, the President of Kazakhstan, Kassym-Jomart Tokayev, implemented constitutional changes in a flash, turning the proposed amendments into new legislative frameworks. Just two weeks after his speech, a working group was formed to write amendments (the head of this working group is Deputy Head

of the Administration of the President of the Republic of Kazakhstan, Erjan Jienbaev), and already at the beginning of May, the Majilis and the Senate supported the amendments.

The referendum on changes to the Constitution was organised on June 5, 2022 (results presented in Table 1), with a relatively high turnout and support for the proposed solutions (Central Election Commission of the Republic of Kazakhstan 2022). After that, new presidential elections were announced and held on November 20, 2022, followed by indirect elections for the Senate on January 14 and direct parliamentary elections on March 19, 2023.

Table 1: Results of the Constitutional referendum in Kazakhstan in 2022

Choice	Votes	%
Yes	6.163.516	77.18
No	1.490.470	18.66
Blank votes	205.294	2.58
Other	125.859	1.58
Valid votes	7.985.769	100.00
Registered voters/turnout	11.734.642	68.05

Source: Central Election Commission of the Republic of Kazakhstan 2022.

Thus, the process of constitutional changes, thanks to which the political and legal systems in Kazakhstan are altering, has been completed. Undoubtedly, the adopted solutions are original, but for many commentators who like to compare everything with the political systems of Western countries and teach lessons about democracy, they will be labelled as “insufficient”.

Paul Bartlett warns that “Kazakhstan is set to vote on constitution reform in a Putin-like process” (Bartlett 2022). Almaz Kumenov writes: “The nature of Kazakhstan’s system is such that the deployment of what is euphemistically described as “administrative resources” is not immediately visible to the eye. Civil servants and every sort of government dependent, members of the ruling party, and university students are made to understand that participation in elections is strongly recommended. The strongly consensual mood this serves to create means many other members of the public go with the flow simply not to be seen as bucking the trend” (Kumenov 2022). Colleen Wood states: “The proposed reforms are important steps towards real representative government in Kazakhstan; however, they do not necessarily constitute forward movement. Many amendments are simply reinstating mechanisms of checks on presidential

power that previously existed rather than materially changing the relationship between state and society, as Tokayev claims” (Wood 2022).

However, when such analyses are made, things should be viewed in the widest possible context. The Central Asian region cannot be compared to the Euro-Atlantic region in any respect, nor are the Kazakh experience, tradition, and practice similar to Western patterns. Not everything Western can be applied to this example, and in the end, not everything in Western democracies is good. Partly by inertia, partly intuitively, partly with mistakes, and partly with the unequivocal intention to ensure stable power, the Kazakh political system has moved from *authoritarian constitutionalism* to *neopatrimonialism* from the beginning of the 1990s onwards. In spite of everything, the scope of the policy that was a product of that system was by no means small or modest. On the contrary. Kazakhstan “raised itself” in a not very pleasant international environment; it has influenced the provision of regional security and, with its positioning, prevented the repetition of the Afghanistan scenario in the Central Asian area (Fayzullina 2022). Now a turn has been made, which brings about a qualitative change in order to proceed further. “Still, these reforms represent a shift: while earlier reforms sought to build participatory and competitive politics only very slowly at the local level, the current reform package envisages a gradual liberalisation of the political system at all levels in order for the system to maintain its legitimacy” (Cornell and Barro 2022, 2–22). What does not have to prove correct this time (and probably will not) are lethargic statements and accompanying assessments such as: “As always the case in the post-Soviet space, Tokayev promised a fairer distribution of wealth and liberalisation”, and “Practically, such promises are more often forgotten than put into action, and at most, result in the reallocation of assets to new elites” (Fayzullina 2022).

New Kazakhstan: The Path of Renewal and Modernisation

Contrary to analyses that deal with geopolitical assessments, issues of strengthening Russian and/or Chinese influence in Kazakhstan, and viewing all processes through the prism of international relations and the current moment in world politics, the view from the inside, from Kazakhstan, gives a completely different picture of the causes, reasons, and expected results of reforms of the constitutional-legal and political systems. What the president of Kazakhstan has done, both in terms of scope and content, has rarely been seen in politics. The changes he induced, therefore, are epoch-making and represent the first essential reform of the country’s constitutional-legal system and political system. In the past thirty years, there have been cosmetic or quasi-reform moves, mostly carried out for the sake of maintaining the positions of the

established elite, and in that context, there have even been several derogations of previously guaranteed rights and freedoms, which, therefore, cannot be compared to what was carried out by Kassym-Jomart Tokayev.

Instead of a super-presidential system, Kazakhstan is becoming a republic with an influential parliament and a whole series of institutions that should contribute to the reduction of social differences, the fight against systemic corruption, the more transparent work of state bodies, the more efficient operation of the judicial branch of government, and building trust in the political system. The country's policy is determined through institutions and by voting in elections, not in backrooms, in various (semi-secret) centres of power, or by abuse of the state apparatus.

With the reforms, President Tokayev wanted to eliminate the reasons for the protests in January 2022. He did not agree to offer a laconic answer that all this took place due to the increase in the price of energy or "hiding" exclusively behind the story of the destabilisation of Kazakhstan from abroad (although, as previously written, this apparently did happen). In the constitutional-legal system and political system of Kazakhstan, the key political figure is the president, who determines the most important decisions related to internal and foreign policy. After the protests calmed down and violent riots were suppressed, the president could resort to cosmetic changes to the Constitution, just replacing unpopular individuals, or making some populist political decisions that could have a calming effect on broad public opinion. He did not have to organise new presidential elections, limit the performance of that office to one term, or renounce numerous powers. Apparently, he did this in order to stabilise institutions and ensure security in the long term so that similar protests and violent riots would not be repeated in the foreseeable future and Kazakhstan would once again be seen as a "success story".

Will it continue with the same rhythm? Were the January protests of 2022 just a fleeting and unpleasant experience? Time will give the answers to these questions. As with many other matters in political science, the reliability of predicting events and processes is relatively low. In turbulent international relations, when direct confrontations between great powers are detected, little can be predicted in the long term. However, Kassym-Jomart Tokayev's decision and the broad, crucial reforms he carried out in that short amount of time will surely transform Kazakhstan, even if they last only until the end of his presidential term.

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УСТАВНЕ РЕФОРМЕ У КАЗАХСТАНУ: ТРАНСФОРМАЦИЈА ПОЛИТИЧКОГ СИСТЕМА ПОД РУКОВОЂЕЊЕМ КАСИМА-ЖОМАРТА ТОКАЈЕВА

Апстракт: У јануару 2022. Казахстан је погодио највећи и најснажнији „политички земљотрес“ у тридесет година дугој историји Републике. Протести против повећања цене енергената убрзо су прерасли у насилне немире током којих је 225 људи изгубило живот. Узроци ових дешавања свакако су комплексни и дубоки. У циљу елиминисања дела узрока, председник Касим Жомарт-Токајев најпре је предложио, а затим и спровео реформе којима се мења уставно-правни и у великој мери трансформише политички систем. Уместо суперпредседничког система, успостављен је председнички са јаким парламентом који поред законодавне има и контролну функцију. Поред тога, промењен је начин избора народних представника у скупштинама, успостављена је равнотежа моћи и одговорности и осигурани су бољи механизми за поштовање људских права и слобода. У овом раду описују се и анализирају како саме реформе, тако и њихови разлози. Истовремено, полемише се са тезама о досадашњем и будућем карактеру казахстанског политичког система. Аутор доказује хипотезу да су реформе оријентисане ка дугорочној стабилизацији институција и осигуравању безбедности, док је теоријски оквир утемељен на савременим нормативним политичким концептима, уз помињање дијалектичко-критичког дискурса у делу истраживања који се односи на поглед појединих аутора на историју казахстанске уставотворности, а методолошки оквир заснован је на анализи дискурса и конкретне студије.

Кључне речи: Казахстан; Касим-Жомарт Токајев; немири; јануарски протести; уставне реформе; политички систем.