

THE IDEA OF PLEBISCITARY DEMOCRACY AND ITS ACCOMMODATION IN THE COUNTRIES OF POST-SOVIET CENTRAL ASIA

Jacek Zaleśny, The Warsaw University

ABSTRACT

The aim of the present analysis is to show that, in contemporary states where the democratic institution of the referendum is used on the basis of it being the nation's will, it is possible to build non-democratic power relations, meaning that democratic institutions may be the source of power exercised in a non-democratic way. The analysis focuses on plebiscitary democracy and its accommodation in the countries of post-Soviet Central Asia, i.e., Kazakhstan, Uzbekistan, Tajikistan, Turkmenistan and Kyrgyzstan. It will help with an understanding of the nature of state leadership, while allowing for a prognosis as regards on-going political changes in the sphere of political stability.

Keywords: Post-Soviet Central Asian States, Political Leadership, Plebiscitary Democracy, Institutional Development.

INTRODUCTION

What predominates in scientific research on the states of the former Soviet Central Asia is analysis of the system of government through the paradigm of systems that are authoritarian (Bader, 2011), presidential (Hale, 2014) and semi-presidential (Elgie & Moestrup, 2016), as well as inclined to disrespect the freedoms and rights of citizens (Tsygankov, 2007; Rystina et al., 2017). The present text shows that French legal solutions are applied in the institutional development of the states in question (i.e., Kazakhstan, Uzbekistan, Tajikistan, Turkmenistan and Kyrgyzstan). Here, there is creative adaptation of the referendum, as an institution developed in the context of post-revolutionary France from the beginning of the 19th century and treated as the source of Enlightenment concepts vis-à-vis the exercise of human freedoms and rights, as well as the safeguarding of equality, freedom and justice.

Plebiscitary democracy is regarded as a form of governing which assure the sovereign of a direct role in the process by which political decisions are made. In this form, a political leader draws an ability to act from an appeal to the nation and the direct approval from the latter that such a referendum has the capacity to offer. Leaders invoke the approval it question, which inspires them to act and determines the motives underpinning their conduct. At the same time, however, the previously mentioned will of the nation plays a role only as far as it affirms the will of the leader with this indeed being the characteristic trait of this form of government. The leader defines the given state's interests, determines its institutional order, establishes the directions of its development and then strives to safeguard pursuit of the latter. Although what is done is only a projection of the leader's own ideas regarding the desired architecture of the political, social and economic order, it does at the same time follow on from a conviction as to their historical necessity, in the context of a belief that no other action can be taken in the given circumstances. On the other hand, the sovereign's task of absolute importance is then to confirm en masse scale

the rectitude of decisions made by the leader and then to support them in the context of the enormous task that administering the country represents.

The idea of plebiscitary government was gladly referred to in the period of the First French Empire, i.e., in Napoleon's times. The mechanisms of exercising power developed then proved capable of inspiring and will go on doing so in the future. They will become a significant point of reference for treating the form of government pursued in a given state as plebiscitary. In the course of time—with various institutional conditions—the will of the sovereign will be referred to and will serve to justify decisions made, while ignoring the role of democratic elections and the Parliament as the level at which decisions ought to be arrived at.

Napoleon's casus is so distinct in its construction that it is worth some attention. Napoleon was the “child” of the French Revolution and imbued with its ideals, as well as its style of thinking about the nature of the desired political order. At the same time, Napoleon noted that the French experience with parliamentarianism and councils was not too encouraging. It could readily be observed that the division into political factions and the struggles on-going between and within them might ensure that talents and achievements yield to the predominating spirit of party favouritism and empty words. For this reason, Bonapartism is characterized by an aversion to political pluralism and a depreciation of the institution of elections (Baszkiewicz, 2003). The point is not that Parliament should reflect the multitude of socially shared opinions and interests, which *de facto* means turmoil and trading with common good. Rather, what should count is the identification and pursuit of the common interest, which is in outline at least recognized by the people. People should be ruled as they wish but, at the same time, the leader should act upon the will of the people, while adapting it to the challenges facing the state. In this way, the principle of the sovereignty of the people is respected, with the risk of the chaos of political parties being toned down at the same time. The consequence of such a view is a statement to the effect that the only representative of the people is its leader – an outstanding individual of the kind Napoleon was purported to be and of the kind, the leaders of other states and plebiscitary democracies are likely to be regarded as.

Napoleon was given the Emperor's crown and in his activity, he based himself around the ideal of the people's sovereignty. Napoleon emphasized that he was not Emperor because that was what he desired; but because it was the people's wish for him as an outstanding individual. Therefore, Napoleon became the king of his people and, as a great leader; he was supposed to secure welfare for the people and greatness for the state.

In 1799, Napoleon Bonaparte became First Consul of France. In the December of that year he then attributed to himself, the power needed to confer a constitution upon the country. With the aim of the system of government established by Napoleon become increasingly legitimate socially, the Constitution provided for its assessment by the sovereign, i.e., by means of a referendum. This was not so much to confirm the will of the sovereign as regards the adoption of a new constitutional system as (above all) to *legalesse a posteriori* the usurpatory activities of consuls (Morabito & Bourmaud, 1996). For this reason, voting in a referendum was not simply being “for” or “against” the Constitution. It was rather voting “for” order or “against” it in a situation whereby the old system had already broken up forever. Bonaparte could have said to the French what Louis Napoléon Bonaparte said during the plebiscite (of 21st-22nd November 1852) concerning the restoration of the Empire, i.e., “The Empire means peace”. A hundred years after Louis Napoléon Bonaparte, de Gaulle, another General also very ready to reach for the instruments of plebiscitary government –would say to the French: “Me or chaos” (Baszkiewicz, 2003).

Napoleon pretended to base himself and his actions on the sovereignty enjoyed by the people. As would be characteristic of the objective form of government, it was not important for him the Emperor what the real opinion of the French on the presented Constitution was, whether they were in favour of it or whether they had an indifferent or negative attitude towards it. What was important was the proclamation that the leader listened to the voice of the sovereign and the sovereign supported their leader, with his supernatural abilities and the will to use the latter for the good of the state, at the head of which he had been placed by Providence.

In Napoleon Bonaparte's day, the plebiscite was repeated twice in France (in 1802 and 1804). It can be noted on the basis of the experiences that Napoleon and his successor had that, through the plebiscite, the head of state asks the people a question in regard to his conduct. The exact content of that question is seen to be less important, the point rather being that the people should confirm the policy of the leader and the respect owing to him. The people are to meet the leader's wishes. To overcome the challenges facing the state, the leader needs trust. Then he feels great and his activities liven up. The will of the people pushes him to great acts.

The leader frequently refers to plebiscites: "the people have chosen me", "the people have given me power" or "I wield power in the name of the people". Thus, the people are to be served with a dignity that does not require the leader to bother with being liked by them in each situation. While the ruler's first task is to do what the people need, that is not always included in what they actually say. Hence, the will of the people should be sought, not so much in the words they utter as in their leader's heart. The idea that the sovereign knows what is good for them and what they need each time is not to be counted on. But the ruler knows better.

A characteristic aspect distinguishing a plebiscite from a referendum held under the cabinet-parliamentary form of government is the fact that the leader refers to the will of the sovereign on the former's own initiative, frequently in fact against a parliament (Morel, 2006). There are thus no intermediary bodies between the head of state and the sovereign (Miszin, 1972). The fact that a head of state is seeking to basing him or herself directly on the nation's will is to be seen as a way in which the representative organ is played down and indeed is the target of an expressed wish that it be condemned to marginal importance in the system of political power*.

In the plebiscitary government, the head of state stands beyond the political turmoil, reacting with scepticism to the festival of promises made by political parties or indeed to the possibility that a parliamentary debate might generate political decisions. It is rather the leader in the state who creates politics, imbuing matters with their proper shape. In this type of government the Parliament performs technical functions, while the government implements the current policy of the state, as determined by the head of state. Both the leader's ability to determine the state's policies and the depreciation of a parliament removed from the decision making process (Morel, 2006) find their justification in the principle of the nation being sovereign. Through a plebiscite, the sovereign legitimises the leadership of the state's leader, with an argument that the voting of the nation itself is no less democratic than the voting of its representatives. The leader remains in the foreground of political relations. He talks with the people directly and draws legitimacy for his leadership role.

* In some countries (Tajikistan or Kyrgyzstan), the motif of the head of state's competing with a given Parliament is as laid down in a constitutional principle of double representation, i.e., a legal construct whereby the representative of the nation – above and beyond the Parliament – is the president.

The aim of the study to show plebiscitary democracy in countries of Post-Soviet central Asia and its influence on democracy process.

POST-SOVIET SPACE

The idea of plebiscitary government, as pursued by Napoleon Bonaparte followed by others, found good subsoil in the post-Soviet states on account of its universality and adaptability.

The collapse of the USSR was a process so dynamic and uncontrolled that it was not accompanied by any formulae by which new political orders might be institutionalised. Indeed, there was a lack of solutions showing how previous political relations might be replaced by a new political quality or how the desired architecture of political relations in the new geo-political constellation might be arrived at. The course of the process of abolishing the USSR was justified in the amorphous character of the political situation and an increasing risk that institutional chaos would lead to anarchy aimed at the existential, biological basis of life in the already post-Soviet space (Hierman & Nekbakhtshoev, 2014).

The specific character of leadership in the countries in post-Soviet space is connected with particular identities of the federal republics taking their chance to achieve independence (Lankina, Libman & Obydenkova, 2016). It is related to the formation of independent states. The legal and political changes effected in the USSR at the end of the 1980's included, for example, the conferment of extensive competences upon the chairpersons of the Supreme Councils of particular federal republics. In fact, they began to perform functions similar to those performed by a head of state (Bodio & Moldawa, 2009). Ultimately, the institution of the President was separated.

A phenomenon typical for the institutionalisation of the political leadership in post-Soviet states is the head of state making use of the institution of the referendum. There is then communication with the citizens, without an intermediary role for representative bodies and political parties. They become political dummies, unnecessary subjects or – at least – ones that are marginalised. They are not able to acquire or next carry out the function typical for this type of body, i.e., a representative function (parliament) or the aggregation of political values (political parties). If decisions of key importance to the political system and its transformations are made by the President on the basis of an authorisation by the nation that has in Blanco features, then the actual space occupied by non-presidential centres shrinks and is reduced to a sphere which is either symbolic or which approves (even rubber-stamps) presidential decisions.

KAZAKHSTAN

The president of Kazakhstan – Nursultan Nazarbayev – invokes the referendum (of a plebiscitary character) as an instrument by which constitutional rules may be departed from and the President's term of office extended. Such managing of the constitutional process made it possible for Nazarbayev to articulate the direction of institutional changes proposed by himself, which are established in the Kazakh tradition and mentality and which are free from imported political novelties. The President put aside the uncertainty and unpredictability of democratic solutions in favour of predictability, certainty and manoeuvrability of the structure of political relations. It is for this reason that he supported strong individual leadership taking care of the phenomena and processes on-going in Kazakhstan. Even though this point of view encountered resistance from a part of the Kazakh political elite, which saw the institutional future in extended

competences of the Parliament, a standpoint was also formulated in the Parliament to the effect that factionalism and the subsequent unpredictability of political decisions should not affect the state's decision making process, which should therefore be inspired and coordinated by the President. As a consequence, the Constitution, passed at the 9th Session of the Highest Council of Kazakhstan on 28th January 1993, generated a system of government combining a politically strong position for the President with the importance of a Parliament no less significant from the political point of view.

A political eclecticism of the legal constructions accepted by the Parliament (Zansugurowa, 1996) ensured that, within the circles of a growing tribalism, tensions soon broke out between the President and the Parliament, when it came to application. This merely increased the conviction that the system of government – through a lack of appreciation of the stabilising role of the head of state – was constructed faultily and was out of touch with the needs of the Kazakh state. In December 1993, the President for example acquired the right to issue decrees with the force of law, to appoint and recall the Prime Minister of the Cabinet of Ministers of Kazakhstan, to announce a referendum and to introduce a state of emergency. The President's increasing dissatisfaction with the legal frameworks of the political system, his conviction as to the lack of instruments by which Kazakh reality might be shaped (as only intensified by the lack of agreement with the Highest Council), gave rise to a need for provisions in the Constitution to be revised. Conflicts evoked by doubts concerning the validity of political choices overlapped with far-reaching change in the actual situation characterising the governing mechanism. On 6th March 1995, the Constitutional Court of Kazakhstan proclaimed the Parliament unconstitutional, with the consequence that the latter was dissolved. At the same time, the Constitutional Court decided that the law on Temporary Delegation of Additional Powers to the President of the Republic of Kazakhstan and Heads of the Local Administration (dated 10th December 1993) was binding. The consequence of actual elimination of the Parliament from the possibility of creating Kazakh legal and political reality was that, for more than half a year, all key instruments involved in governing were in the President's hands. At the same time, he decided to confirm the direction of transformations that he had chosen. Although there was no legal basis for it, as the issue of rotation in office was determined separately under the Constitution, the President, still in conflict with the Parliament as of 1995, decided to opt for a referendum. He thus applied for the sui generis vote of confidence of the nation and duly obtained it. On 29th April 1995, citizens agreed to have the President's term of office extended to 2000. On a 91% turnout, the President gained the support of 95.5% of voters for the above measure.

Renewed legitimisation for continuing in the post of President encouraged Nazarbayev to introduce constitutional changes. To pursue that aim, he called an Expert-Consultant Council into being; and this presented a draft Constitution that encouraged the President into issuing a decree on a constitutional referendum. This specifically related to a draft of the Constitution that had been prepared outside Parliament (which was then dissolved). The constitutional referendum was duly held on 30th August. A very similar 90.58% of those entitled to vote again participated, though this time the level of support for the draft of the new pro-presidential Constitution was at 89.15%.

What is characteristic here is that the Expert-Consultant Council lacked a statutory basis, while the binding Constitution offered no basis for the result of the work of a body of this type to go on and become the object of a referendum. However, legal doubts lost their significance in the face of the decision of the sovereign, who – when asked to support a change – found a need to implement it. The 1995 Constitution clearly eliminated the inner incoherence and eclecticism of

its predecessor from 1993, though this in fact related to various political factors deemed to disturb the state's harmonious development and expose it to continuous upheavals and tensions. The President then became the creator of state policy and was from then on responsible for the latter's effectiveness. It was also he – through the final effect on the process of amending the Constitution just adopted – who took over formal control of the very political dynamics that characterise Kazakhstan (Anceschi, 2014; Zakajewa, 2007). That left Nazarbayev as a “father of the nation” figure who fills in the architecture of the political order and – while noticing the necessity to modify it – has the instruments needed to adjust the binding legal situation to the actual needs of the state. The constitutional settlement has the President managing both the internal and external policies of the state and serving as an arbiter who expresses and symbolises the unity of the nation *de jure*. The transitional period of struggle for the state's leadership and the process of building the political pillars of the state have thus been brought to a close in this particular way (Gel'Man, 2003).

The President – in the role of state saviour – safeguards the predictable and stable development of his state. And, considering that the safe future of the state is not yet assured and seeing that even the work to build a modern version of that state is not yet finished and noting that no successor worthy to continuing with the great historical act of building an independent and sovereign Kazakhstan has emerged, Nazarbayev has continued to devote himself to the achievement of these goals. It was under presidential inspiration that the Parliament passed an October 1998 law Introducing Changes and Additions to the Constitution of the Republic of Kazakhstan. This changed the conditions to be met by the candidate for presidential office. The lower age limit was raised from 35 to 40, while the upper age limit was simultaneously abolished, thus clearing the way for Nazarbayev to go on holding the office of President in the future. Furthermore, the presidential term was also increased in length from 5 to 7 years, with the right of re-election also assured (Nussberger, 2008).

Changes in the legal mechanisms regarding governance were accompanied by the use of sociotechnical methods. The President's term of office was shortened just once and presidential elections were announced. On 16th October 1998, the Central Election Commission put in place a calendar for the election, with registration of candidates proceeding through to 10th November. A candidate for the office of President was now required to collect at least 7% of signatures from citizens entitled to vote in at least 2/3 of constituencies. A large deposit also had to be paid, non-refundable should the number of signatures fall short of the above requirement. No penal or administrative proceedings were permitted to be in progress in respect of the candidate in the year before the elections, while a candidate was also forbidden from holding any religious office (Bodio & Moldawa, 2009).

Unsurprisingly, the nature of these requirements imposed, combined with the financial sanctions, ensured the elimination of the great majority of Nazarbayev's potential opponents in the elections to the office of the president, practically determining the outcome of the January election before it was ever run. On 10th January 1999 – having obtained 79.78% support – Nazarbayev renewed his popular mandate for continuation in the post of head of state, as well as in regard to the work he had begun on the building of an independent, strong and modern Kazakhstan.

In the light of the above aspects and an on-going sense of responsibility for the development of processes taking place in the country, Nazarbayev ran for the office of president of his country again, in the elections held on 4th December 2005 (Kennedy, 2006). 77% of those

entitled to vote participated in these, with 91.01% of them supporting President Nazarbayev in his efforts to continue building the state that had commenced several years before.

The dynamics of the constitutional transformations taking place in Kazakhstan point to a lack of stability and indeed liability of the framework underpinning the political system. Similar legal constructs are abolished to be restored later, in another structure of actual effects. To give an example from the area of interest to us, the law Introducing Changes and Additions to the Constitution of the Republic of Kazakhstan adopted in 2007 shortened the President's term of office from 7 to 5 years, with the principle of re-election applying only once. However, in accordance with Art. 1, item 8 of that law, the change do not apply to the First President of the Republic of Kazakhstan. Nazarbayev was thus allowed to stand for re-election to the office of President (Szymanek, 2013).

Nazarbayev's leadership in the state has found acceptance in Parliament, as well as in the wider nation. On 15th June 2010, two constitutional laws came into force affording Nazarbayev a life-long status as «leader of the nation». This ensures conferment of political power superior to that of the President as such, as well as the government. The person going by this title enjoys the right to determine directions in the development of Kazakhstan, is a member of the state's Constitutional Council and Security Council and can address the Parliament. What is characteristic here is that the President did not obviously seek the status of «leader of the nation» and – as he announced in a TV address to the nation, was not actually signatory to the said constitutional laws[†]. Since they were not transferred to the Parliament to be passed again, these constitutional laws came into force automatically, 30 days after having been put before the President.

So it was in fact the Parliament that appreciated the special importance of Nazarbayev in constituting the political, economic and social order of Kazakhstan, thereby choosing to grant him the status of the «leader of the nation». Likewise, the sovereign puts its trust in the President. As an expression of gratitude for the building and consolidation of Kazakh statehood, employees of the University in Oskemen embraced a 2010 initiative to have a referendum run by which Nazarbayev's term of office would be extended to 2020[‡]. Within a few weeks, about 5.5 million voters had put their signatures to the proposal for such a referendum, i.e. more than a half of those entitled to vote. A parallel initiative on holding a referendum on the said subject matter was also taken up by the Parliament. However, the Resolution regarding the referendum on extending the President's term to 2020, passed at express speed, was not signed by Nazarbayev, but was rather sent back to the Parliament to be re-enacted. This was in fact the first time in the history of Kazakhstan that the Houses of Parliament rejected the presidential veto. As a result of the decisions of the Houses, the President sent the Resolution for consideration to the Constitutional Council, which decreed its inconsistency with the Constitution, with a reservation to the effect that the President is competent to repeal a decision the Council arrives at. At the same time, however, President Nazarbayev announced early presidential elections, which were given consent to by the Parliament. These were held on 3rd April 2011 and with an almost 90% turnout Nazarbayev was returned to power by a 95.5% vote.

Contrasting with the situation in Tajikistan, the problems Nazarbayev encountered in securing the succession of power for him ensured that, in a TV address of January 25th 2017 addressed to the nation, he announced the transfer of a part of his powers to the Government and Parliament. In that way, the President tried to avoid a scenario regarding succession of the kind

[†] The laws were signed by the Prime Minister and the chairpersons of both houses of parliament.

[‡] In 2009 a proposal of granting Nazarbayev the status of a life-long president was sounded out.

that had arisen in neighbouring Uzbekistan (where the family of the deceased President was deprived of any political importance) or Turkmenistan (where the sudden death of President Niyazov threatened a struggle over his legacy).

UZBEKISTAN

The institution of President of Uzbekistan was established at the end of the USSR period. As in a great majority other post-Soviet states, it was the First Secretary of the Communist P who was elected first President (in this case Islam Karimov). On 18th November 1991, the Supreme Council of the Uzbek SSR passed a law on the election of the Republic's president. This provided the basis for elections held on 19th December 1991, which were won by Karimov, on 86% of the vote. As in other post-Soviet states, in Uzbekistan the President also took responsibility for building a sovereign state (Mielwin, 2006), determining the dynamics of the constitutional process (Luong, 2002). It was on his inspiration and under his close control that a Constitution was passed into law on 8th December 1992. It placed the essence of power in the office of President (Safarova, 1992). The proper adjustment of instruments of activity to native needs and conditions ensured that the institutionalisation of Karimov's leadership, affected at the beginning of the 1990's turned out to be a properly realised treatment since it protected Uzbekistan from a lot of constitutional turbulence and stormy disputes concerning the competences (Malikov, 1995).

After the outcome of the referendum of 26th March 1995 extended through to 2000 the term of office of Karimov (due to end in 1997, presidential elections were held on 9th January 2000. Using administrative resources and having reduced the factor of political competition, Karimov won the vote obtaining 91.9% of the vote, according to official data. Petrification of the existing clan relations and other social and political divisions expressed in the presidency of Karimov and colliding with the alternation of power have a guaranteeing value in Uzbekistan (Lewis, 2015). They secure the state's stability and protect it from Islamization. After his mandate was renewed in 2000, the next referendum on extending president Karimov's term of office (through to 2007) took place on 27th January 2002. This also brought the outcome desired by the President. In accordance with the plan, presidential elections were held on 23rd December 2007. Although the Constitution does not provide for the same person holding the office of President for more than two terms, Karimov took part in them "for the sake of the state's stability". As in other countries in post-Soviet space, the accepted stance here was that, because of the change in the Constitution in 2002 and because the latter's regulations extended the President's term in office from 5 to 7 years, it was from that moment that Karimov's first term could be viewed. Hence, there were no objections to his candidacy in 2007. As was predicted, the elections were won by Karimov, who – according to the official reports – obtained the support of 88.1% of citizens, on a 90.6% turnout. In the presidential elections that took place on 29th March 2015 Karimov won in the first round. When he died, early elections were held. With the support of 88.61% of voters, the winner was Shavkat Mirziyoyev, who was Prime Minister and who acted as President.

TAJIKISTAN

Inefficiency of the presidential leadership in Tajikistan, which was shaken by political turbulence and civil war, had the consequence that, in 1992, the Parliament there abolished the office of President, with the competences of the head of state then being transferred to Chair of

the Supreme Council Emomali Rahmonov⁵. In July 1994, the Parliament in a country engulfed by civil adopted a law on the constitutional reform of the Republic of Tajikistan and on the procedure of adopting and implementing the Constitution of the Republic of Tajikistan, which was submitted – still in the conditions of civil war – to a referendum. The Constitution restored the office of President, while the referendum was accompanied by presidential elections. According to official data, 95% of those entitled to vote participated in the elections, 90% of whom spoke for the adoption of the Constitution and 58% for the candidacy of E. Rahmonov for the office of President (Abdulladjanov obtained 42% of the vote) (Turajonzoda, 1995).

In the light of the provisions of the Constitution, for example, the same person could not hold office for longer than two successive terms. The Constitution created the system of government with features of presidentialism by emphasising the functions of the President as an arbiter - as the organ which guarantees harmonious functioning of all branches of power and which ensures national security, as well as the state's sovereignty and territorial integrity. The actual importance of Rahmonov was increased by civil-war activity and the freedom this offered to use means of coercion, given the lack of institutional oversight via an independent prosecutor's office or independent courts.

In 1999, the establishment of institutional dimensions to the national agreement saw the President's term of office extended from 5 to 7 years, with this meeting the acceptance of the sovereign in the 26th September referendum. In turn, in elections held on 6th November 1999, incumbent President Rahmonov renewed his mandate by obtaining 96.6% support among voters. What is characteristic of and specific for, the electoral competition is that the sole opponent registered by the Central Election Commission of Tajikistan (Davlat Usmonov) abandoned his bid for office in the course of the election campaign (Hierman, 2010).

This tangible strengthening of Rahmonov's influence on Tajik reality and associated elimination of political competition were accompanied by institutional changes. In 2003 Rahmonov's faction in Parliament effected constitutional changes approved by the nation in the referendum of 22nd June 2003. According to official data, 96.39% of those entitled to vote participated, with 93.15% of these offering their support for the change in the Constitution. The principal impact of this was for Rahmonov's term of office to be extended. In the light of the new regulations, he could be a candidate in two successive elections for the office of President of Tajikistan. Indeed, by virtue of these legal regulations from 2003, Rahmonov confirmed his state leadership in presidential elections held on 6th November 2006. Official data suggest that 79.3% of voters taking part in the elections voted for him, while in 2013 – on an 86.6% turnout – he secured for himself a next 7-year term, with this being the outcome following the gaining of 83.92% of the vote.

In November 2015, the Assembly of Representatives of Tajikistan gave Rahmonov the official title of the «Founder of Peace and National Unity and Leader of the Nation» (Dinarszojew, 2016). A month later a motion was submitted to grant the President and all his family life-time immunity. On 10th February 2016, the Tajik Parliament took the decision to hold a constitutional referendum on 22nd May 2016 which would inter alia concern changes to the system of government. Questions posed involved the potential amendment of the Constitution via a provision to the effect that Tajikistan is a presidential republic, with term limits abandoned in the case of the «Founder of Peace and National Unity and Leader of the Nation» (with the rule that one (other) person cannot be President for more than two term in a row kept in place); and with the age requirement for the office of President being lowered from 35 to 30. Voting on this

⁵ In April 2007, President Rahmonov changed his surname to Rahmon, thus giving up the Russian ending -ov.

proceeded according to plan, such that changes in the Constitution gained the support of 94.5% of voters.

Through the above elimination of the term limit, the President secured the right to life-long office for himself, while ensuring a lowering of the minimum age for a presidential candidate in such a manner that a significant step had then been taken towards the establishment of a Rahmon dynasty. By the time Rahmon's current term of office finishes in 2020, his son Rustam will have turned 33 and thanks to the lowered age will of course enjoy the right to stand for election to the office of President.

TURKMENISTAN

Following the independence of Turkmenistan proclaimed in October 1991, a constitution was adopted on the inspiration – and under the full control – of President Saparmurat Niyazov. However, this was achieved, not via the Supreme Council, but via the “National Council” (Halk Maslahaty) of Turkmenistan, i.e., a sui generis assembly of the Turkmen nation (or, more properly, its various tribes) (Bodio, 2005). The said Constitution of the independent Turkmenistan preserved the leading role of that state's President, as well as his dominant position where the taking of political decisions is concerned.

As is made abundantly clear, a phenomenon symptomatic of one group of post-Soviet states is a direct Presidential appeal to the voice of citizens, with a view to some immediate or future departure from legal regulations on lengths of presidential terms or bans on successive terms being held. In this context, a referendum becomes a plebiscite of trust conferred upon the head of state by his fellow citizens. Social acceptance of existing political roles is deemed to allow for the possibility of constitutional assumptions being departed from, with further service to the country and its inhabitants made possible in this way.

On 15th January 1994 – at the inspiration of President of Turkmenistan, Niyazov – a referendum was held to provide for the latter to continue in post to the end of 2002. In this context, Niyazov became «Serdar», i.e., «Father, Leader and Guide of All Turkmen»^{**}. In this capacity, he is treated as pursuing the will of providence in a specific manner, through the profound good luck that saw him sent to this Earth.

As an expression of gratitude for the establishment of a sovereign and secure Turkmenistan and with a view to that process being continued, on the recommendation of the National Council of Turkmenistan, the Parliament made a 28th December 1999 proclamation to the effect that Niyazov (Türkmenbaşy) would be life-long President of Turkmenistan (notwithstanding retention of the constitutional regulation that presidential terms of office would otherwise be of 5 years duration). There was thus a resolving, albeit in perhaps a non-standard manner, of the typical problem facing the political elites of the given group of post-Soviet states, to wit the legitimisation of further time in office for an incumbent President, under circumstances in which appearances regarding election procedures are kept up.

A day after the above proclamation was made (hence on 29th December 1999), the National Council of Turkmenistan achieved a constitutional amendment that saw the President's importance within the system of power strengthened, as consent was given for extensive delegation of legislative functions to the President (in a manner not typical for contemporary states). Constitutional changes effected in subsequent years were of a similar nature.

** Ibidem.

The death of the «Father of All Turkmen» in December 2006 caused a breakdown of the construction of political leadership he had formulated. The lack of clear mechanisms by which the office of President could be taken up by others on becoming vacant was a reflection of Niyazov's failure to indicate a successor worthy of continuing the great work of the author of the Turkmen statehood. The result was naturally a crisis of power and a struggle for the Niyazov legacy. On 26th December, the National Council of Turkmenistan extended unanimous acceptance to Gurbanguli Berdimuhammedov in the capacity of Acting President, at the same time determining the procedure by which the new President was to be elected. The President's term in office was of five years, but the issue of repeat office was not established.

According to official data, 98.65% of those entitled to vote took part in the elections held on 11th February 2007. Berdimuhammedov was elected to the office of President obtaining 89.23% of the vote. However, the sunset of the Niyazov era was not confined to a change of personnel. It also had consequences, as constitutional regulations were put into effect in 2008 (Mieduszewskij, 2008). On 12th February, Berdimuhammedov – having obtained 97.14% of votes – was elected for a second, 5-year term of office.

The strengthening of the President's political leadership was reflected in the change in the constitution dated 14th September 2016. By virtue of amendments adopted, the 70 years upper age limit for holders of the office of President was abolished and the presidential term lengthened to 7 years.

KYRGYZSTAN

The will of his citizens was also sought by President of Kyrgyzstan, Akayev. Mired in a political conflict with his country's Parliament, which combined legislative obstruction with measures to block the President's use of his competences, Akayev held a January 30th referendum to confirm his continued holding of his post through to 1996. In the event, 95.90% of those entitled to vote turned out, with the great majority (some 96.36%) speaking for Akayev continuing his function. Thus, in his conflict with the Parliament, the President could apparently count on the unanimous support of his country's citizens. And, despite inevitable objections as to the correctness of the voting. Akayev could regard his popular mandate as strengthened, with a green light given for him to make intensive use of the resources of power he possessed.

22nd October 1994 brought the next referendum. This time Akayev asked citizens whether they wanted amendments to the Constitution to make the subject of a referendum. *de facto* they were thus being asked whether the Supreme Council was to be eliminated from the process whereby the state's political system was established; and (by the way) whether they accepted the establishment of a second house of parliament. The first question was answered in the affirmative by 85% of those voting, the second by 84%.

Thus, on 22nd November 1995, at the President's recommendation, the Kyrgyzstan Parliament engaged in the amendment of the constitution, gaining the support of the citizenry for this in a referendum held on 10th February 1996. In the new system of relations pertaining between the organs of central power, it was the President who was to determine the directions to foreign and internal policies. He obtained the capacity to shape the personal composition of the government and to influence the Parliament's functioning. He thus acquired features typical for the Presidents of post-Soviet republics. At the same time, the efforts to rectify relations in regard to the main centres of public power not only stabilised the political situation in Kyrgyzstan but also introduced a moderator, an arbiter of the system, into the governing mechanisms characteristic of the newly-formed office of President. That was a factor really capable of

appeasing institutional tensions and relieving political conflicts and thus of preventing tensions which might change into armed conflict, including civil war. The motif which strengthened the power of Akayev was the fact that he was perceived as the successor of the Kirghiz national tradition. We are dealing with a situation in which a President is presented as continuing the work of the great Manas as hero of a Kirghiz medieval epic. Just as Manas was supposed to have laid the cornerstone for the Kirghiz identity, so Akayev helped build an independent Kyrgyzstan (Gortat, 2009).

The building of political foundations in post-Soviet states constitutes an on-going project in which it proves difficult to speak of the devising of universal mechanisms adapted to changeable real-life conditions. Indeed, the dynamics of public life are such that mechanisms up and running must be corrected and adapted and can even then emerge as non-optimal. Although the constitutional reform pursued in Kyrgyzstan in 1996 brought the desired effects and strengthened the predictable and secure development of the state, it proved insufficient. Like the leaders of other post-Soviet states, Akayev saw the need to modernize his country and also drew attention to the need for the political system of a state to be overhauled with a view to consolidation being achieved and an elimination of tensions within the system. It was for this reason that May 1998 found Akayev proposing officially that the Constitution was in need of revision. He thus turned once more to the citizens of Kyrgyzstan, with a view to determining whether they wanted constitutional reform strengthening the institutional order in the country through, for example, a further sorting-out of parliamentary issues. In the event, 17th October 1998 saw 96.4% of those entitled to vote turning out, with 91.1% of that group voting in favour of what the President had presented.

In that same 1998, work got underway to legitimise (indeed to make legal) Mr. Akayev's candidacy for presidential elections to be held in the year 2000. As in 1995, the Opposition began to question the incumbent President's right to stand for election, arguing that this would be his fourth time running for the same office, notwithstanding the 1992 Constitution's explicit determination of the maximum number of terms in office as two. However, in August 1998, the Constitutional Court of Kyrgyzstan arrived at its judgment regarding Akayev's right to stand for re-election. It was decided that Akayev might indeed enjoy this right, since, over the period for which the 1993 constitution was binding, the office of President had been held by him only once. The elections from 1990 and 1991 had been called under another legal regime. Akayev thus took part in the presidential elections held on 20th October 2000 and won then, obtaining – according to the official data – some 74% support (Kozłowski, 2009).

Unlike in Kazakhstan or Uzbekistan, the achieved strengthening of the institutional leadership exercised by the head of state of Kyrgyzstan did not correspond with actual stability in the state. Rather, growing cracks in the power elites façade made the political system (and hence also the social and economic systems) unstable and inefficient. In those conditions, Akayev again resorted to constitutional change, gaining the acceptance of the citizens on 2nd February. Though the outcome of the referendum (which aimed to balance the competences of the Parliament in relation to those of the President), was positive for the latter, it did not relieve the conflicts among the political elites. Problems of a behavioural nature, entangled in clan and regional connections, remained unsolved and found their outlet in the so-called revolution of March 2005. This revealed degeneration in the leadership of Akayev, who did not prove equal to the challenge of preserving the fragile balance of influence in the system of the elites of power or the role of appeasing the tensions in conflicts between regional groups (Bodio & Moldawa 2009).

The overthrow of Akayev saw the function of President taken over (by the will of Parliament), first by Kadyrbekov. After he was recalled by Parliament the next day by Bakiyev internal cohesive political change was not achieved, despite loud announcements and social expectations and hopes. When Bakiyev lost interest in changing the mechanisms of governance, social frustration and bitterness only increased, in the wake of an unfulfilled revolution (or seeming revolution given that it had been reduced to a change of personnel). Public pressure and an increased risk of social protests caused the President to submit a draft Constitution to Parliament on November 6th 2006, with the reservation being that, should this not gain adoption, a direct appeal to citizens would be tried, with Deputies then being deprived of influence where the establishment of a new system of government was concerned.

Knowing the scale of social uncertainty, the latter gave their consent to the legally unplanned proceedings, adopting the new Constitution on November 9th. The document made a break (if not an absolute or fully consistent break) with the dominating role the President had enjoyed in the decision making system. This obviously denoted more of a key role for the Parliament (Mieduszewskij, 2006). Besides including typical legal constructions, the amended version contained solutions characterising local experiences and seeking to prevent phenomena and processes taking place in that part of the political world. A provision that a change of constitutional regulation need not be the basis for another election or for an extension of the period over which an incumbent President would remain in office had the value of immunising against transformation of a presidency formally based on terms of office into what would actually prove to be life-long governing.

The breakdown of the November agreement, whose foundations were extraordinarily weak and essentially focused on avoiding violent social protests, meant another crisis and another change in the legal dimensions to clan-based and political rivalry. On 30th December, Parliament repealed the November Constitution and restored the binding force of the Constitution of 5th May 1993, albeit with modified wording. The leading role of the President in the system of government was restored (Arabajew, 2008). However, on 14th September 2007, the Constitutional Court annulled the restoration of the 1993 Constitution by the Parliament that had taken place in the December of the previous year, decreeing that the binding Constitution was the one accepted by the citizens in the 2003 referendum, which had in the first place generated the superiority of presidential competences over those of the Parliament.

After the April revolution and collapse of the Bakiyev regime, the referendum held on 27th June 2010 accepted the new Constitution. Introducing a parliamentary system of governing (with a limited position for the President), this is supposed to democratise the functioning of the state and stabilise the political scene. This particular change in the Constitution was supported by 91.8% of voters, on a 69% turnout. Within two years, a complete election cycle occurred in Kyrgyzstan. The first legal change in the position of the President took place in 2011, while local elections were held in 2012.

PLEBISCITARY LEADERSHIP AS AN INSTRUMENT PREVENTING CHAOS

The culture of the East has shaped (and also petrifies) a regionally-specific way of viewing power and the ruler who wields it. It is possible to speak of respect for, but also trust in, power as a supernatural, permanent, necessary and desired phenomenon. Power ensures the ability to exist and is taken to safeguard the welfare of the people and to take care of their wellbeing. In a kind of virtuous circle, respect is both further engendered and even more required, through thus process. Trust in the leader of the state on the one hand is contrasted with

nothing more or less than chaos on the other. This is the alternative affording (little) space for political choices and alternatives to the political order capable of being put into effect.

For large groups in the societies of countries coming into being after the fall of the USSR, it is second nature to assume a subordinate position to the will of a charismatic leader who consolidates his rule in a decisive manner, while at the same time managing to guarantee a stable and secure existence. Such an attitude is deeply anchored in human psycho-social need and reflects the mentality and personality of the ruled. No opposition capable of being manifested through social protest on the part of large groups in society is likely to arise here, against the background of the political requirements (Table 1).

	Parliament actually performs a secondary function and in fact subordinated to the head of state	According to official data, the head of state has high support of the population	Cases of violations of citizens' rights and freedoms, high level of corruption	Actual lack of opposition
KAZAKHSTAN	+	+	+	+
UZBEKISTAN	+	+	+	+
TAJIKISTAN	+	+	+	+
TURKMENISTAN	+	+	+	+
KYRGYZSTAN	+	+	+	+

CONCLUSION

Fears concerning the development of the situation and anxiety as regards the shape of the emerging future offered circumstances that seemed to require any possible minimisation of the negative consequences of the collapse of the USSR and preventing of their aggravation in the future. These were then extraordinary circumstances which created stable, socially-expected and respected, culturally familiar and in fact well-grounded foundations under a strong and integrated political leadership. The hope afforded by this was that elements of chaos might be subdued, while an elementary order of a political (but also very importantly, a social and economic) nature was brought to light.

Specifically, times characterised by a decomposition of the structures of federal states in the wake of the sudden, shock collapse of an empire that had seemed indestructible were not propitious to any search for new solutions or desire to draw on innovations practised under other political and legal cultures. In particular, they seemed to have little to offer when it came to constructions, institutions and mechanisms of consensual democracies that are alien to the social as well as the political mentality of citizens in this particular part of the world.

Here, a political leader is to possess attributes typical of an authority figure appointed by divine providence to stem elements of chaos, bring elementary order and guarantee persistence. It is thus the challenges the political leader faces that necessitate trust being put in both the man

himself and the solutions he chooses. In Turkmenistan, Niyazov's divine origin, with a status as the «Father of All Turkmen» and as Allah's emissary performing work of historic importance (Bodio & Moldawa, 2009) offered the best and most effective legitimisation of his holding his post. Therefore, it is not so much the outcome of competitive elections as trust in the ruler's talent to subdue elements of disorder that make up his capacity to go on pursuing his mission. As long as the head of state guarantees maintenance of the basis for biological existence, the mechanisms of electoral democracy do not lose their importance. Rather, they become rituals which, even if they have to (or may) be performed cyclically, are not the mainspring of political change. Only the real threat of chaos (e.g. in civil war) can lead people to conclude that a given President is losing the attributes necessary for the holder of the office, with a genuine premise for the alteration of power or at least a change of person, then appearing.

To sum up, legitimisation of political leadership in a part of post-Soviet space where the legal culture does not resemble that in European countries does not essentially follow on from the formal and legal capacity of holding a post as the result of an election-inspired assuming of office. Democratic institutionalisation of leadership, though desired, sought and of key importance, is confirmed and grounded in civilizational forms of leadership. Here, the President as political leader is more than a traditional head of state in the continental and European meaning of the term or a moderator in the system of divided balanced powers. The President in fact embodies the majesty of power. As a consequence of the roles he plays, he enjoys the recognition, respect and esteem of citizens, which is followed by obedience as regards concepts for the political development of the state that he has formulated. The majesty of power creates a basis for trust many times expressed via the mechanism of the plebiscite that it is properly wielded. The consequence of this is a strengthening of the mandate of the given person to press on with their activities.

REFERENCES

- Aneschi, L. (2014). Regime-building, identity-making and foreign policy: Neo-Eurasianist rhetoric in post-Soviet Kazakhstan. *Nationalities Papers*, 42(5), 733-749.
- Arabajew, A.A. (2008). Parliamentarism and topical issues of the constitutional reform of 2005-2007 in the Kyrgyz Republic. *State Power and Local Self-Government*.
- Bader, M. (2011). Hegemonic political parties in post-Soviet Eurasia: Towards party-based authoritarianism? *Communist and Post-Communist Studies*, 44(3).
- Baszkiewicz, J. (2003). *Anatomy of Bonapartism*. Gdansk.
- Bodio, T. (2005). *Leadership and political elites. In Turkmenistan. History-society politics*. Warsaw.
- Bodio, T., Moldawa, T. (2009). *Constitutional reforms in Central Asian states*. Warsaw.
- Dinorszozjew, A. (2016). Constitutional and legal review of changes in 2016 in the Constitution of the Republic of Tajikistan. *Comparative Constitutional Review*, 6.
- Elgie, R., & Moestrup S. (2016). *Semi-Presidentialism in the Caucasus and Central Asia*. Palgrave Macmillan.
- Gel'Man, V. (2003). Post-Soviet transitions and democratization: Towards theory-building. *Democratization*, 10(2), 87-104.
- Gortat, R. (2009). *Nature of systemic changes*. Warsaw.
- Hale, H.E. (2014). *The informal politics of formal constitutions: Rethinking of effects of "presidentialism" and "parliamentarism" in the case of Kyrgyzstan, Moldova and Ukraine*. In T. Ginsburg & A. Simpser (Eds.), *Constitutions in Authoritarian Regimes*. Cambridge University Press.
- Hierman, B. (2010). What use was the election to us? Clientelism and political trust amongst ethnic Uzbeks in Kyrgyzstan and Tajikistan. *Nationalities Papers*, 38(2), 245-263.
- Hierman, B., Nekbakhtshoev, N. (2014). Whose land is it? Land reform, minorities and the titular "nation" in Kazakhstan, Kyrgyzstan and Tajikistan. *Nationalities Papers*, 42(2), 336-354.
- Kennedy, R. (2006). A colorless election: the 2005 presidential election in Kazakhstan and what it means for the future of the opposition. *Problems of Post-Communism*, 53(6), 46-58.

- Kozłowski, K. (2009). *Tulip revolution in Kyrgyzstan. In genesis. Course. The consequences.* Warsaw.
- Lankina, T., Libman, A., & Obydenkova, A. (2016). Authoritarian and democratic diffusion in post-communist regions. *Comparative Political Studies*, 49(12), 1599-1629.
- Lewis, D. (2015). "Illiberal Spaces:" Uzbekistan's extraterritorial security practices and the spatial politics of contemporary authoritarianism. *Nationalities Papers*, 43(1), 140-159.
- Luong, P.J. (2002). *Institutional change and political continuity in post-Soviet Central Asia. Power, perceptions and pacts.* Cambridge University Press.
- Malikov, M.B.M. (1995). Uzbekistan: A view from the opposition. *Problems of Post-Communism*, 42(2), 19-23.
- Mieduszecki, A. (2006). Constitutional crisis in Kyrgyzstan. *Comparative Constitutional Review*, 1.
- Mieduszecki, A. (2008). Constitutional reform in Turkmenistan: Transition to democracy or modernization of authoritarianism? *Comparative Constitutional Review*, 6.
- Mielwin, D.N. (2006). Uzbekistan: Transition to authoritarianism on the silk road. In: The countries of Central Asia at the turn of the 20th and 21st centuries: The formation of national states. Moscow.
- Miszyn, A.A. (1972). The concept of plebiscitary democracy. *Soviet State and Law*, 6.
- Morabito, M., Bourmaud, D. (1996). Constitutional and political history of France (1789-1958). Belostok.
- Morel, L. (2006). *The rise of government-initiated referendums in consolidated democracies.* In W.W. Maklakow (Ed.), Constitutional law of foreign countries. A common part. Moscow.
- Nussberger, A. (2008). Limitations of presidential power in the communist countries. *Comparative Constitutional Review*, 5.
- Rystina, I., Sadu, A., Bulegenova, B., Onuchko, M., & Kozhakhmetova, A. (2017). The state service of the Republic of Kazakhstan at a new stage of development. *Journal of Legal, Ethical & Regulatory Issues*, 20(3).
- Safarova, M.R. (1992). Separation of powers and constitutional reform of the highest legislative and executive authorities of Russia and other sovereign republics of the CIS. In A.W. Mickiewicz (Ed.), Actual problems of the constitutional legislation. Moscow.
- Szymanek, J. (2013). Constitutional constitution of Kazakhstan. Warsaw.
- Tsygankov, A.P. (2007). Modern at last? Variety of weak states in the post-Soviet World. *Communist and Post-Communist Studies*, 40(4).
- Turajonzoda, A. (1995). Tajikistan - Politics, religion and peace: A view from the opposition. *Problems of Post-Communism*, 42(4), 24-28.
- Zakajewa, L.S. (2007). Problems of legal regulation of the legislative process in the republic of Kazakhstan. *State Power and Local Self-Government*, 1.
- Zansugurova, Z.A. (1996). Problems of development in Kazakhstan. *Representative Power*, 2.