

## **The Anatomy of Authoritarian Governance in Uzbekistan and Kazakhstan: Normative and Political Dimensions**

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### **Abstract**

This article examines main features of authoritarian governance in Uzbekistan and Kazakhstan. According to widely held beliefs, the Soviet authoritarian legacy combined with local conservative political culture has obstructed the emergence of democratic values and a vibrant civil society in Central Asian countries. Despite the proclamation of the principle of power separation, in practice the regimes in both countries assumed an autocratic character with strong executive power in the hands of the President. The core hindrances to democratic reforms include severe limits on the freedom of expression and association, compounded by the governments' tendency of controlling the civil society. A question arises as to what extent the spread of liberal ideas and policies throughout the world that have affected the lives of millions of people, may influence the Central Asian authoritarian practices.

### **Introduction**

This article examines main features of authoritarian governance in Uzbekistan and Kazakhstan, focusing specifically on the rationale behind hyper-presidential power, unfree elections, as well as limits on freedom of expression.

According to widely held beliefs, the Soviet authoritarian legacy combined with local conservative political culture has obstructed the emergence of democratic values and a vibrant civil society in Central Asian countries (Matveeva, 1999).

Starr (2006) notes that while after the collapse of the Soviet Union western countries focused their assistance on developing new parliaments, parties, laws, and courts, gradually it became clear that the "presidential" opened the door for powerful individuals to rise to the fore and claim authoritarian powers (Starr 2006).

Some observers draw on the authoritarian promotion literature to assess the pressures for democratization and authoritarianism in Central Asia. It is argued that Western programs supporting liberal democracy and civil society have encountered resistance from authoritarian leaders in Central Asia, though the evidence for direct influence from authoritarian external actors is limited (Ziegler, 2016). Meanwhile, a process of indirect authoritarian diffusion, in combination with the region's

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illiberal societies and Western democracy promotion fatigue, undermines the development of civil society and makes authoritarian persistence in Central Asia likely (Ziegler, 2016).

Ambrosio (2008) has focused on how the Shanghai Cooperation Organization (SCO) seeks to undermine democratization in Central Asia, suggesting that the international organizations may well sustain autocracy. More specifically, authoritarian governments are increasingly adopting policies aimed at preserving their political power and the SCO represents an additional strategy in this regard: utilizing multilateral cooperation to defend themselves against regional or global democratic trends. As such, the ‘Shanghai Spirit’ may be a sign of things to come as autocratic leaders become bolder in their rejection of democratic norms (Ambrosio, 2008).

Nevertheless, the Arab Awakening, which deposed some of the world’s longest-standing autocratic rulers, showed that the autocrats are becoming increasingly vulnerable to youth-driven, social media-powered societies, craving for democracies.

A question arises as to what extent the spread of liberal ideas and policies throughout the world that have affected the lives of millions of people, influence the Central Asian authoritarian practices.

### **The Limits on Political Liberalization in Uzbekistan: Strong Presidential power**

Since 1991, Uzbekistan has drawn considerable international attention, primarily as the most populous country in post-Soviet Central Asia, and for its strategic position at the heart of the Eurasian continent (Masaru, 2006).

Although development of democracy, based on the rule of law and civil rights, has been part of Uzbekistan’s declared goal, in practice the regime assumed an autocratic character with strong executive power in the hands of the President, Islam A. Karimov, formerly executive president of the Supreme Soviet of the Uzbekistan SSR (Spechler, 2008, p. 28). Karimov, who stayed in office until his death in 2016, exercised authority over all aspects of Uzbekistan’s governance and much of its public life. The executive branch of government started to dominate the legislative and judiciary bodies (Freedom House, 2011).

The legislative branch of the state authority, which is called the Oliy Majlis (the national parliament), consists of two chambers: the Legislative Chamber (the lower chamber) and the Senate (the upper chamber). The upper chamber, the Senate is composed of 100 members of which 84 are indirectly elected by 12 regional councils, the city of Tashkent and the Republic of Karakalpakstan, and 16 are appointed by the president. The lower, legislative, chamber is composed of 150 members elected in single-mandate election districts (constituencies) (OSCE/ODIHR, 2019).

Under the 1992 Constitution, the President of the Republic of Uzbekistan can employ extraordinary powers at will in an “emergency” and dissolve parliament. Later, the agency of national legislature, with a majority always controlled by the President, has been further reduced through authorizing the President to withdraw immunity from any parliamentarian charged with “anti-constitutional actions aimed at undermining the state structure” (Spechler, 2008, p. 29).

Severe restrictions on party or NGO registration have been a common means for sidelining them in Uzbekistan. The powerful presidential apparatus would thus tighten its grip on regional and local government, as well as the media (Spechler, 2008, p. 29).

As a result, the political development in Uzbekistan has been marred by centralization of power, with the president granted broad authority over a range of government functions.

Despite the proclamation of the principle of power separation, the interaction of its three branches is coordinated by the president, who is accorded a central role as both head of state and the head of the executive branch (Yilamu, 2018, p. 52).

While the judicial branch is to operate independently studies show that Uzbekistan’s judiciary has tended to function as a tool of the executive branch, serving the President’s interests, with courts tending to imprison or fine the regime’s perceived enemies (Freedom House, 2012).

In sum, although the constitution provides for a separation of power and a system of checks and balances, in its actual arrangement of the power structure, the office of the President in the executive branch holds most of the power and is nearly unrestrained by other branches.

### **On Unfree and Unfair Elections**

In much of the former Soviet Union, new regimes combined electoral competition with varying degrees of authoritarianism. Levitsky and Way (2002) frame such regimes as competitive authoritarian - as a hybrid regime type Terry Lynn Karl (1995) introduced the term “hybrid regime” to refer to a state that contains both democratic and authoritarian forms of rule (Karl, 1995). Diamond (2015) calls hybrid regimes as pseudo-democratic, ‘in that the existence of formally democratic political institutions, such as multiparty electoral competition, masks the reality of authoritarian domination’ (Diamond, 2015). Levitsky and Way (2002) note that competitive authoritarian regimes fall short of both democracy, as well as of full-fledged authoritarianism. Although elections are regularly held and for the most part are free of massive fraud, incumbents invariably abuse administrative resources, creating an unlevel playing field between government and opposition (Levitsky and Way, 2002). As a result, the centralization of power, weak rule of law, along with considerable limits on political freedoms and civil liberties are common in hybrid regimes.

Uzbekistan is party to several international human rights instruments which establish fundamental freedoms that are essential for the holding of genuine elections. The domestic legal framework includes the 1992 Constitution (last amended in September 2019), a new Election Code (in force since June 2019), the 1996 Law on Political Parties (last amended in October 2019), the 2004 Law on Financing of Political Parties (last amended in December 2019), the 1994 Criminal Code, the 1994 Code of Administrative Responsibility (both last amended in November 2019), presidential decrees and resolutions and cabinet of ministers' resolutions (OSCE/ODIHR, 2019).

While Uzbekistan's constitution states that the same person cannot be president for more than two consecutive terms, Karimov stayed in office from 1992 to his death in 2016. In 1995 and 2002, national referendums extended his term and postponed elections. In 2002, the parliament passed a law extending the presidential term from five to seven years (OSCE/ODIHR, 2019).

The legal framework for elections underwent significant revision in 2019, with the adoption of an Election Code which unified and replaced five separate laws and dozens of normative acts, thereby enhancing the clarity and accessibility of electoral legislation (OSCE/ODIHR, 2019).

While the adoption of the Election Code has created an improved legal framework for elections, some provisions replicated from previous legislation are still at odds with international good practice, notably those related to suffrage rights. These include restricting the right to seek election to candidates nominated by political parties, the five-year residency required for candidacy, and the denial of voting rights to persons deemed by a court to be "legally incapable" including on the basis of intellectual or psychosocial disability (OSCE/ODIHR, 2019).

OSCE/ODIHR reports have set forth a series of recommendations, aimed at improving the electoral process in Uzbekistan. The reports have particularly focussed on the necessity of reviewing the legal framework on the freedom of political and civic association, assembly and expression to ensure that any restrictions on the exercise of these rights are clearly prescribed by law as well as on removing the residency requirement for candidacy. Moreover, these reports point to severe shortcomings related to the legal framework for media recommending to replace criminal defamation and insult provisions in favour of civil sanctions - proportional to the harm caused (OSCE/ODIHR, 2019). Besides, it is essential to eradicate the recurrent and serious problems of multiple and proxy voting, including prosecuting voters who attempt to vote more than once (OSCE/ODIHR, 2019).

Overall, since Uzbekistan gained independence in late 1991, no elections held there have been judged free or fair by the Organization for Security and Cooperation in Europe. The OSCE's Office for Democratic Institutions and Human Rights sent only a limited election monitoring team to the December 2014 parliamentary elections, which it assessed as "lack[ing] genuine competition and debate" (Freedom House, 2015).

### **The Limits on Freedom of Expression**

Media independence in Uzbekistan has been extremely limited since its independence, with the authorities controlling the media narrative on politically sensitive issues. As a result, Uzbekistan's national and local media outlets have tended to parrot regime rhetoric, while independent media have been almost eradicated through decades of government intimidation and censorship (Freedom House, 2014).

Through its legal framework, the state is allowed broad latitude in defining the scope of restrictive information, therefore retaining much control over the right to free expression in general and the right to free media in particular. Under the criminal code, defamation and libel are punishable with up to three years imprisonment and up to five years in cases of insult or libel regarding the president (Yilamu, 2018). All media activities in Uzbekistan are subject to state licensing and the state allows for the establishment of private media (Yilamu, 2018).

Studies show that despite some encouraging signs that Karimov's successor Shavkat Mirziyoyev's might be in favor of some press freedom, journalists continue to be targeted. With few exceptions, journalists said they still feared the professional repercussions if they exceeded the – as of now unclear – limits of the government's tolerance. Several said that at least one security services officer is assigned to every media outlet to monitor its work and ensure its reporting keeps to certain parameters: "You may not see or hear from them, but you know they are always there," one owner of a registered publication said (Human Rights Watch, 2018).

The government has also continued to prosecute journalists and critics on overbroad and vague charges of "extremism" (Human Rights Watch, 2018).

Moreover, it was not uncommon for authorities to bring "insult" charges against a citizen who used Facebook to criticize the prime minister, while detaining activists who organized a peaceful demonstration to call for an investigation into the murder of a medical student (Human Rights Watch, 2018).

Thus, the freedom of expression continues to remain limited with its ensuing adverse effects on a vibrant civil society advancement.

### **The Limits on Political Liberalization in Kazakhstan: Separation of Power and the System of Checks and Balances**

Kazakhstan's political regime can be best described as a personalistic autocracy, with the 'father' of the Kazakhstani nation Nazarbayev being perceived as the single politician capable of meeting the challenges of post-Soviet nation-building (Isaacs, 2010). Not surprisingly, the Kazakhstani

government and constitution concentrate power in the presidency, thus granting former President Nursultan Nazarbayev broad, lifetime authority over a range of government functions.

Although the constitution formally adopts the principle of separation of powers, the president is accorded a central role that makes all three branches of the government subordinate, while being granted protection from any legal persecution for wrongful conduct during the presidency even after the expiration of his term of service.

From the early stage of its post-Soviet transition, Kazakhstan has consolidated strong state power with Nazarbayev serving as the president from 24 April 1990 until his resignation on 19 March 2019.

Unlike Uzbekistan's Islam Karimov and Turkmenistan's Saparmurat Niyazov, Nazarbaev was not creating a cult of his own personality. The Constitution very clearly provided for mandatory succession by forbidding a President to serve more than two terms; it included a separation of powers between executive, legislative and judiciary and a legislature with real budgetary and law-making powers. Nevertheless, Nazarbaev successfully argued the need for strong presidential power which would enable the President to overcome the problems of a transition period demanding substantial and painful economic reform in a multiethnic state. The document was passed by an overwhelming majority at the ninth session of the Supreme Soviet of the twelfth convention on 28 January 1993 (Cummings, 2005).

Given Nazarbayev considerable presence in the political life of Kazakhstan, some observers note that Nazarbayev "stepped aside" rather than resigned. Kassym-Jomart Tokayev, Nazarbayev's political "child", was elected as the country's new leader on 9 June with 70% of the votes. That said, Kazakhstan gets new leader, but old system's grip on power remains (Higgins, 2019).

While intolerant of public dissent, Nazarbayev mostly avoided the systematic brutality of other Central Asian dictators like Islam Karimov in Uzbekistan and Saparmurat Niyazov of Turkmenistan. He also won genuine support from many Kazakhs for keeping their country stable and overseeing its transformation from a poor Soviet satrapy into an emerging and, thanks to revenue from oil, relatively prosperous regional power (Higgins, 2019).

As for the legislative branch, Kazakhstan has a bi-cameral parliament consisting of a 107-member lower house (Majilis) and a 47-member upper house (Senate). Ninetyeight Majilis deputies are elected in a nationwide constituency on the basis of proportional representation. The remaining nine members are elected by the Assembly of the People of Kazakhstan (APK), an advisory body formed by the President (OSCE/ODIHR, 2016).

This provision continues to be at odds with Paragraph 7.2 of the 1990 OSCE Copenhagen Document, which provides for “all seats in at least one chamber of the national legislature to be freely contested in a popular vote” (OSCE/ODIHR, 2016).

The President’s direct appointment to the Senate of 15 deputies—almost one third of the Senate—is a blatant restriction of the citizens’ right to vote and right to express their preferences in public decision making. Such a practice fails to meet the requirements of democracy, and is actually illiberal and authoritarian (Yilamu, 2018, p. 63).

In addition, members of the APK maintain the right to vote for the directly-elected Majilis deputies. Thus, APK members effectively enjoy two votes in the same elections. This arrangement is at odds with the principle of equality of the vote provided for by international commitments and standards for democratic elections, as well as by the constitution (OSCE/ODIHR, 2016).

Similarly, the judiciary remains effectively subservient to the executive branch, with judges being subject to political influence, and corruption (Freedom House, 2019).

The constitutional framework itself denies democratic institutional arrangements according to the principle of division of powers.

### **Elections in Kazakhstan**

Kazakhstan has a long record of unfree and unfair elections, characterized by restrictions on opposition activism and independent media, as well as widespread abuses of administrative resources that create an uneven playing field between government and opposition (Human Rights Watch, 2019).

While democratic electoral system requires that elected officials serve for a fixed term with a limited mandate, President Nazarbayev’s special status as Kazakhstan’s “first president” exempted him from term limits. In July 2018, Nazarbayev signed a decree making him chairman of the Security Council for life.

In terms of restrictive legislation it is noteworthy that constitutional amendments in 2017 abolished self-nomination of candidates, imposed additional requirements for presidential candidates and allowed for further restrictions on candidacy to be imposed by law. This was followed, in 2017 and 2018, by the introduction of new restrictions on candidate eligibility criteria in the Election Law, as well as changes in voter registration processes and election administration structure (OSCE/ODIHR, 2019).

These laws imposed further restrictions on who can become a presidential candidate, requiring at least five years of experience in public service or elected positions and the submission of medical records. The latter rule raised the possibility that candidates could be arbitrarily disqualified for health reasons. The 2017 legal changes also banned self-nomination of presidential candidates, effectively

excluding independents, and requiring a nomination from a registered party or public association (Freedom House 2019).

The constitutional guarantees of fundamental freedoms of assembly, expression, association, access to information, and the right to take part in political life, are restricted by provisions in the Criminal Code, especially those related to public assemblies, defamation, incitement to social, national and religious discord, and spreading false information, as well as other administrative restrictions (OSCE/ODIHR, 2019).

Notably, OSCE/ODIHR reports have emphasized the necessity of revising the legal framework to ensure comprehensive and meaningful election media reporting (OSCE/ODIHR, 2019).

In addition, the Kazakhstan government also retains broad restrictions on freedom of assembly and association. Any potential public gathering requires permission from the local government administration ten days in advance. Permits are routinely denied for antigovernment protests, while organizers and participants, including individuals who call for unauthorized protests on social media, are subject to fines and jail terms (Freedom House, 2019).

As a result, it has not been uncommon for elections in Kazakhstan to be tarnished by violations of fundamental freedoms such as a crackdown on public protests and voting irregularities (Reuters, 2019). The widespread irregularities, include voter intimidation, ballot stuffing, falsification of final protocols, etc. (Reuters, 2019).

To sum up, the electoral system of Kazakhstan does not fulfill three of Dahl's (1971) requirements for democracy: first, freedom to form and join organizations; second, freedom of expression; and third, institutions for making government policies dependent on votes and other expressions of preference (3). In sum, the procedures of electoral democracy in Kazakhstan are utilized by the authorities only as one of the forms of political control, and systemic guarantees of the democratic character of elections are absent (Yilamu, 2018, p. 64).

### **The Limits on Media Independence**

Since independence, the media in Kazakhstan have been de-monopolized, and the relation between the state and mass media has shifted from the old Soviet-style direct total control by the party state to indirect political control by the government. However, media independence remains severely limited.

While the constitution provides for freedom of the press, most of the media sector is controlled by the state or government-friendly owners, and the government has repeatedly harassed or shut down independent outlets (Freedom House, 2019).

The Criminal Code of the Republic of Kazakhstan contains six articles protecting the honor and dignity of officials, including the president, parliamentary deputies, and state authorities; there are more than 50 separate descriptions of administrative offences of mass media in the administrative laws (Yilamu, 2018, p. 72). All offenses are punishable by up to three years of imprisonment as well as substantial fines and exorbitant compensation for defamation, which has led to widespread restraint and self-censorship in the media and among journalists (Freedom House, 2018).

New legislation that came into force in January 2018 has further exacerbated the crackdown on the media landscape, characterized by widespread self-censorship (Freedom House, 2018). The law requires journalists to verify the accuracy of information prior to publication by consulting with the relevant government bodies or officials, obtaining consent for the publication of personal or otherwise confidential information, and acquiring accreditation as foreign journalists if they work for foreign outlets (Freedom House, 2018).

The laws have been designed for the government to be able to keep tight control over the mass media. It has been reported that the government has repeatedly harassed or shut down independent media outlets, and journalists have been frequently subject to imprisonment on charges of slander and disclosure of state secrets (Freedom House, 2018). Kazakhstan has been among the least free countries. As a result, Dahl's (1971) liberal understanding of democracy, of which the right to freedom of expression and the right to alternative sources of information are crucial components, is largely absent. Kazakhstan fails to meet the basic criteria for a democracy defined from the liberal standpoint endorsed by neoliberals (Yilamu, 2018, p. 72).

## **Conclusion**

The post-Soviet state-building in Uzbekistan and Kazakhstan has been marred by a series of authoritarian malpractices, including, but not limited to centralization of power, weak rule of law, and suppression of dissent and pluralism.

The previous discussion suggests that despite the proclamation of the principle of power separation, in practice the regimes in both countries assumed an autocratic character with strong executive power in the hands of the President.

Meanwhile, the judiciary remains effectively subservient to the executive branch, with judges being subject to political influence. The core hindrances to democratic reforms include severe limits on the freedom of expression, association, compounded by the governments' tendency of controlling the civil society. Not surprisingly, it has not been uncommon for elections in Uzbekistan and Kazakhstan to be tarnished by violations of fundamental freedoms such as a crackdown on public protests and voting irregularities, thus leaving the voters little to no chance to change governments.

Rather, both Uzbekistan and Kazakhstan governments have routinely misused administrative resources, thus creating an uneven playing field between government and society. Overall, the Soviet authoritarian legacy combined with local conservative political culture has obstructed the emergence of democratic values in both countries. Meanwhile, the spread of liberal ideas and policies throughout the world has not significantly influenced the Central Asian authoritarian practices.

Further research is essential to account for the new phase of state-building in post-Karimov Uzbekistan and post-Nazarbayev Kazakhstan.

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