

Constitutional Reform in Kazakhstan: New Amendments Will Not Lead to Clear Changes

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Introduction

On March 16 2022, Kazakhstan President Kassym-Jomart Tokayev announced reform plans. Later on, April 29 Kassym-Jomart Tokayev proposed holding a referendum on constitutional reform, instead of running the amendments through parliament. The decision to hold a nationwide referendum on changing the constitution to strengthen the role of parliament will not lead to obvious changes, but will only solve the problem of the president's image, which has worsened due to the expectation of action from the Presidential Administration after the January events.

2022 for Kazakhstan began with protests that swept the whole country. Economic instability, social inequality and a split in the establishment led to violent riots that were only put down by the foreign intervention. After the protests and the resignation of the former de facto leader, Nursultan Nazarbayev from the political arena of the country, President Kassym-Jomart Tokayev promised to introduce a number of reforms in the country that would be aimed at solving socio-economic problems. Since February, Kazakhs have been waiting for Tokayev to act quickly and deliver on his promises to implement a series of reforms, but the split in the domestic political elite and the indirect impact of sanctions against Russia (Kazakhstan's main ally) make it very difficult to provide any policy changes that would bring results in a fast manner. The main purpose of the referendum is to move from a super presidency to a stronger parliament, but despite the fact that each mayor, minister and member of parliament is appointed only after agreement "*at the top*", new changes in the constitution are only formal, which is part of the political technology to strengthen the power of the president.

Analysis of the Kazakhstan's Constitutional Referendum

Putting aside the official position of the administration, according to which the purpose of the referendum is to change the constitution to democratize society and create a system of checks and balances, several alternative purposes can be identified:

- Demonstration of people's involvement
- Preserving the reputation of the President
- Observing the people's reaction

In other words, from the point of view of political technology, this referendum is more of an image character, since at the moment the solution of the problems that caused mass protests in January 2022 requires a lot of time and financial resources.

Demonstration of People's Involvement

An important part of the referendum, which is mainly aimed at a foreign audience in the face of Western countries, is a demonstration of the beginning of "*democratization*" in Kazakhstan. At the moment, there is an active PR campaign for the EU (Taylor and Fox, 2022). The European authorities actively monitored the human rights situation in Kazakhstan, but the topic of the January events was overshadowed by the war in Ukraine. Therefore, few are calling for investigations into the events of early January. In order to reassure the "*European audience*" represented by the EU, Kazakhstan is actively demonstrating how this referendum will affect the process of democratization in Kazakhstan.

Preserving the Reputation of the President

The presidential administration is holding a referendum on changing the constitution in order to preserve the president's reputation, which was damaged after the January events. In addition to this, the president in his March address to the people promised to carry out a number of reforms, but the solution of a number of problems requires large financial injections. Therefore, the decision to hold a referendum was

quite justified, since the transfer of part of the powers of the president (albeit formally) implies the transfer of responsibility for certain problems in the state.

In the future all the "*laurels*" will be transferred to the president, as a leader who pursues a successful policy, and in case of failure - the poor work of the government, which is accountable to parliament.

Observing the Reaction of the People

Recently, the President announced the concept of a new order "*New Kazakhstan*". In this regard, fundamental innovations are required, which will lay the foundation for the further development of this concept. The previous President N. Nazarbayev, who, while pursuing an ideological policy, relied on the strategy of "*Kazakhstan 2030*" and "*Kazakhstan 2050*". Against the backdrop of the resulting information vacuum, Tokayev also needed some kind of ideological tool that could serve as a guideline in the conduct of politics.

"*New Kazakhstan*" implies that now everything will be different than under his predecessor. Holding a referendum is a serious step that demonstrates the readiness of the authorities to move to a more democratic approach, since Kazakhstanis are given the opportunity to make a choice by voting, but the purpose of the referendum is the very fact of holding a referendum. The rhetoric based on Tokayev holding the referendum will be used for a long time until the next election. This will increase the legitimacy of Tokayev in front of the voters and thus receive a new credibility. Also, according to the results of the referendum, it will be more or less clear how much the public supports Tokayev.

Problems on the Way to the Implementation of Plans

In general, despite the president's good intentions, which include the creation of checks and balances, the democratization of society by increasing involvement in the decision-making process, and the transition to a new stage after Nazarbayev's rule, there are several important problems on the way to the implementation of Tokayev's plans that should be addressed:

- Public discussion of amendments and low turnout
- Preservation of power by the president
- An attempt to solve social problems by transfers

Public Discussion of Amendments and Low Turnout

The decision to hold a national referendum, which will be held on June 5, 2022, was announced by Tokayev at the session of the Assembly of Peoples of Kazakhstan on April 29. That is, a little more than a month before the referendum itself. In such a short period of time, the proposed amendments will not have time to go through a wide public discussion. Perhaps this is what the Administration was counting on. The fact that Kazakhs were given the opportunity to vote in the referendum gave some Kazakhs a sense of self-determination, but despite this, people question whether it was the right decision to hold a referendum on such a short notice.

For many years, the main problem of Kazakhstan was that the people were not allowed in the decision-making process. This led to the fact that people don't understand how this mechanism works and don't have confidence in the transparency of the elections, so they became completely abstracted from decision-making through voting. It's no secret that the Central Electoral Committee inflates the turnout figures to ensure the legitimacy and transparency of the elections. Already through state agencies and the media, it is stated that the majority of people support the idea of a referendum (Opinion poll: More than 72% of Kazakhs support the idea of holding a referendum, 2022). *"In addition, according to many independent observers, the elections in the country do not inspire the confidence of the population, which reduces confidence in a smooth transition of power and limits the ability of voters to convey their opinions to the country's leadership"*, the S&P report says (Kazakhstan Unrest Unlikely To Spur Fundamental Reform, 2022).

During the referendum a large number of amendments will be considered in one package, rather than individual proposals that could be proposed at the discretion of the voter. Over 50 amendments have been proposed, but the typical voter sums them up into one: moving from a super presidency to a strengthened parliament. In the absence of poor information work on the part of the administration, the turnout at the referendum will be low, since few people will be familiar with a large package of amendments. But, nevertheless, this does not mean that the referendum will not take place in full. Even if there is a very low turnout, the Central Electoral Committee can always inflate the figures.

Preservation of Power by the President

The new amendments, which will be considered in a referendum, contain clauses implying a transition from a super presidency to a strengthened parliament, thereby providing a system of checks and balances. This concept will not work in any case, otherwise it would not make sense for Tokayev to (virtually) deprive himself of power against the backdrop of a possible split in the establishment, which eventually led to an attempt to seize power in January. Despite the formal transfer of power to parliament, on the contrary, Tokayev is strengthening his power through reshuffles and new appointments. For example, during the January protests, supporters of Tokayev entered the leadership of the National Security Committee. Given the specifics of the Kazakh authorities, Tokayev urgently needs to strengthen his positions more and more in order to maintain the integrity of the state management system.

Kazakh political scientist Dasym Satpayev also gives an example of the fact that Tokayev nevertheless decided to leave power in his hands. *“According to article 42, paragraph 5 of the Constitution of Kazakhstan, the same person cannot be president twice in a row. This means that Tokayev will run for president again, then find a transit figure for one term (who will keep the position for him), then return to power again. This article was not removed. This is one of those examples of what was left in the constitution precisely those points that will allow the head of state to have a wide field for maneuvers”*, D. Satpayev asserts in his interview with journalist Vadim Boreiko (Satpayev, 2022).

An Attempt to Solve Social Problems by Transfers

Nowadays, the authorities understand that the situation can get out of control at any moment and therefore they will resort in every possible way to solving problems (or imitation), primarily social ones. After the March statements of the president, Kazakhs are still waiting for the fulfillment of promises by Tokaev, who openly admitted the existence of problems associated with social inequality.

At the beginning of March, 2022, the managing partner of KPMG in Kazakhstan claimed that there were actually 2 million unemployed people in Kazakhstan (Zhumashev, 2022). Moreover, this figure was calculated before the imposition of sanctions against Russia, which nevertheless had a strong impact on the economy of

Kazakhstan. It is expected that unemployment in Kazakhstan will increase in 2022, which creates additional risks in the form of an increase in protest mood.

Conclusion

Constitutional reforms will not lead to big changes either in the short or long term. These actions of the authorities are aimed only at demonstrating the intentions of the head of state to democratize society, which in turn has an image character. The state does not have enough time and financial resources to solve the accumulated problems, so the authorities have to delay the elimination of problems through a referendum and making new promises. Summarizing all above, several conclusions can be drawn:

- Tokayev will keep power in his hands
- The referendum will be held at any turnout
- Kazakhs will adopt amendments to the constitution
- The administration will try to solve social problems by transfers
- Tokayev will continue to expose the cult of personality of his predecessor Nazarbayev through the removal of immunity and the arrests of his close associates.

The delay in the adoption of real actions due to the imitation of activities suggests that in the near future we should not expect a change in the vector of the policy pursued by the Administration, both in internal and external.

References

1. Kazakhstan Unrest Unlikely To Spur Fundamental Reform. Spglobal.com. (2022). Retrieved 25 May 2022, from <https://www.spglobal.com/ratings/en/research/pdf-articles/220202-kazakhstan-unrest-unlikely-to-spur-fundamental-reform-101115934>.
2. Opinion poll: More than 72% of Kazakhs support the idea of holding a referendum. Central Communications Service under the President of Republic of Kazakhstan. (2022). Retrieved 25 May 2022, from <https://ortcom.kz/en/deyatelnost-pravitelstva/1653277865>.
3. Satpayev, D. (2022). Dosym Satpayev: Message from Tokayev - Game of Thrones or reforms?. Youtube.com. <https://www.youtube.com/watch?v=1bqL9EYMMZk>.
4. Taylor, A. and Fox, B., (2022). Kazakhstan president calls for constitutional referendum, warns against 'provocateurs'. [online] www.euractiv.com. Retrieved 25 May 2022, from <https://www.euractiv.com/section/central-asia/news/kazakhstan-president-calls-for-constitutional-referendum-warns-against-provocateurs/>.
5. Zhumashev, S. (2022). KPMG: Two million people are actually unemployed in Kazakhstan. www.forbes.kz. Retrieved 25 May 2022, from https://forbes.kz/process/expertise/kpmg_realno_bezrobotnyih_v_kazahstane_-_2_milliona_chelovek/.