

CONSTITUTIONAL ORDER OF
KAZAKHSTAN
AND
ITS ADAPTABILITY TO THE EURASIAN
ECONOMIC UNION

Zhenis Kembayev

KIMEP University

Major Characteristics of the Constitutional Order of Kazakhstan

1. The constitutional order of Kazakhstan fully reflects the vision of the major architect of the Kazakhstan's state-building process, its first (and so far the only) President Nursultan Nazarbayev.
2. The Kazakhstan's Constitution of 1995 provides a foundation for an authoritarian mode of government pursuing the aim of economic and administrative modernization under unconditional safeguarding of political stability.

“Economy first, then Politics”

Fully in line with President Nazarbayev’s perceptions on Kazakhstan’s development, the Constitution stipulates the following main objectives of the Kazakhstan’s constitutional order:

- ✓ public concord;
- ✓ political stability;
- ✓ economic development for the benefit of the entire nation.

Major Characteristics of Kazakhstan's Foreign Policy

- Emphasizing political stability within Kazakhstan, Nazarbayev sets promoting international peace and security in Kazakhstan's neighborhood and in the wider region as the major goal of Kazakh foreign policy.
- According to the President's vision, Kazakhstan's relations with other members of the international community are predicated on a so-called *balanced or multi-vectored* approach, which is defined as "developing friendly and predictable relations with all countries that are of practical interest to Kazakhstan".

Russian Vector is of a Greater Importance

- Kazakhstan gives particular importance to maintaining and strengthening close links with Russia, as those links are crucially important to achieve the main objectives of the Kazakhstan's constitutional order.
 - Having a 7,500 km border with Russia (the longest continuous border in the world) and a significant Russian-speaking population, Kazakhstan is vitally interested in stable, predictable, and comprehensive partnership with its northern neighbor.
 - Accordingly, Kazakhstan, from the very beginning of its independence, has been in favor of and actively supported the regional integration processes in the post-Soviet area (or Eurasia).

Major Characteristics of Regional Integration Processes in Eurasia

1. Regional integration processes in Eurasia pursue both political and economic objectives: (a) “a common military-strategic space under united command”; and (b) “a common Eurasian market”.
2. Russia’s geopolitical ambitions have not been the only driving and consolidating reason of the Eurasian integration.
 - All pro-integration countries, the same as Russia, have similar centralized (semi-) authoritarian political regimes, where power is concentrated in the hands of the respective presidents.
3. Eurasian integration groupings (EAEU and CSTO) are top-down structures and their institutional frameworks are completely dominated by their supreme bodies, i.e. the presidents of the member states.

Legal Implications of the EAEU Membership for Kazakhstan

- The Constitution of Kazakhstan stipulates that ratified international treaties have priority over the Kazakhstan laws and may be directly implemented;
- Kazakhstan's legislation allows for the conclusion of international treaties enabling participation of the Republic of Kazakhstan in supranational organizations;
- In addition, the Constitutional Council ruled that the decisions of the Eurasian Economic Commission have priority over the laws of the Republic.

However:

- The Constitutional Council also ruled that ratified international treaties have only ad hoc superiority over the Kazakhstan's laws and in the case of conflict the direct application of international treaties does not imply invalidation and abolition of the respective Kazakhstan's laws.
- Any international treaty may be invalidated by the Constitutional Council, the activities of which may strongly be influenced by the President.
- In addition, the Constitutional Council has also indicated a broad range of reasons (in particular, infringement upon the constitutional rights and freedoms of individuals) that may potentially lead to the invalidation of any of the Commission's decision.

Conclusion

- The constitutional order of Kazakhstan based on highly centralized presidential form of governance and giving prominence to political stability

is fully compatible with

- integration processes in the framework of the EAEU/CSTO, an alliance of (semi-) authoritarian political regimes aimed at preserving the political status quo in Eurasia.