

Democracy in Kyrgyzstan: Institutions and Their Features

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Abstract

In the Kyrgyz Republic Constitution Part 1 Article 1, Kyrgyzstan defined as a democratic government. At the same time, Kyrgyz Republic Constitution enshrines the democracy institutions and principles of their regulation. Thus, democracy in the Kyrgyz Republic, following article 2 in the Constitution is based on principles of ownership of all power to the people, protection of human and civil rights and freedoms, free and real access to the management of the affairs of government and society. Research aim in this work is to analyze democracy in Kyrgyz Republic and define various institutions with their features by historical narrative research methods, as well as previously published works review about concepts, fundamental principles and ideas underlying democracy.

Keywords

Democracy, Institutions, Parliament, Kyrgyzstan, Constitution, Features

1. Introduction

According to article (Kyrgyz Republic Constitution, 2021) in the Constitution, democracy in the Kyrgyz Republic is based on principles of belonging to the people power, protection of human and civil rights and freedoms, free and real access to the management of government and society affairs. Kyrgyz Republic citizens show their power directly at elections and referendums, as well as through the system of government bodies and local self-government bodies

based on the Constitution and Kyrgyz Republic laws, followed by elections and referendums, which are held as free, universal, equal and direct suffrage by secret ballot. Initially, it is prohibited to influence the freedom of choice of voters using financial, administrative and other resources prohibited by law. Kyrgyz Republic Constitution shows that local government organs are responsible for government and its authorities in the observance and implementation of laws and responsible for the local communities' results (Asanbekova et al., 2021b).

Moreover, the Constitution in Article 4 establishes the principles of the organization of government power and the activities of its bodies.

Government power in the Kyrgyz Republic firstly is based on the people principles, power supremacy, represented and ensured by a popularly elected President and the Jogorku Kenesh; secondly, on the openness of government bodies, their officials, the exercise of their powers in the people interests; thirdly, on the constitutional, legal and other responsibility of government bodies and their officials to the people.

Thus, it is obvious that the Kyrgyz Republic Constitution enshrines elections and referendums as institutions of direct democracy (Imarkulov, 2019; Haerpfer & Kizilova, 2020). Elections are “a way of forming a government and local government bodies through voting” (Sukharev & Krutskikh, 2000). Moreover, most often the concept of “elections” is applied concerning the election of deputies of parliament and other representative bodies, government official authorities and local self-government (Avakyan, 2000).

According to V. I. Fadeeva and M. V. Varlaine, “the fundamental principles and ideas underlying democracy predetermine the requirements for elections in a democratic government, determine the electoral process principles and the basic guarantees of citizens' electoral rights. All this determines not only the social value of elections, their place and functions in the general system of democracy but also the importance of the relationship and interaction of elections and other democratic institutions (Aitbaeva et al., 2021) to establish the principles of interaction between voters and deputies” (Fadeev & Varlen, 2008). Historically, for Kyrgyzstan's social structure unlike many Asian countries, parliamentarianism is the most suitable form of government (Toktosunova, 2019). In Kyrgyzstan democracy development was theoretically divided into definite stages, each presented a definite breakthrough in deepening of democratic processes (Urmanbetova, 2010). Institutionalization of political parties in Kyrgyzstan took place simultaneously with the country's democratization, and the achieved indicators of institutionalization are several times lower (Kvartalnov, 2018). Institutions in municipal democracy are considered as important elements in local self-government rights mechanisms (Hasan Ogly, 2018).

Liberal government controlled its subject only to the commitments and the limits imposed by groups and forces operating within its territorial borders and by the agencies and representatives (Perez, 2019).

It is difficult to disagree with such a detailed description of the essence of elections as an institution of democracy. Elections, being one of the main forms of

direct democracy, ensure true democracy in the government. This comes from the recognition, that the people are the only source of power in a modern democratically organized government.

2. Research Methods and Materials

Research in this article built on the Kyrgyz Republic Constitutional articles review and previously published works by a various scientists about concepts, fundamental principles and ideas underlying democracy. A historical narrative method according to the main forms in understanding the cultural experience, organization of social interaction consequences was employed (Salieva, 2012).

3. Results and Discussions

3.1. Scientists' Opinion Parliament and Deputy Mandates

This provision is reflected in many governments' fundamental laws. Thus, the Kyrgyz Republic Constitution states that the Kyrgyzstan people are the bearers of sovereignty and the only source of government power in the Kyrgyz Republic. The constitution remains evolutionary, responding piecemeal in pragmatic solutions developments through a series of specific problems (Young et al., 2019). Constitution is also a form of a contract between the ruler and the national assembly (Lavie, 2021).

Clause 1 in Art. 3 in the Kazakhstan Republic Constitution reads as: "The only source of government power are people" (Kazakhstan Republic Constitution, 1998).

The Russian Federation Constitution establishes that "the bearer of sovereignty and the only source of power in the Russian Federation is its multinational people" (Clause 1, Article 3) (Russian Federation Constitution, 1993).

In this context, we are in solidarity with the position of V. V. Pylin, when he writes that "in any government, the fullness of power can arise only from the expression of the will of the people, expressed in genuinely free and fair elections, organized at regular periods based on a universal, equal and secret ballot. Elections are a constitutionally legalized form of direct popular expression of will, the most important manifestation of direct democracy" (Pylin, 2003).

Parliament, as a government representative formed after periodically held elections, during which the people delegate legislative and other powers to deputies on urgency conditions.

In this regard, L. A. Nudnenko is absolutely right, who notes that through elections, citizens critically assess the deputy activities, determine the deputy corps new composition and the main directions of the (Nudnenko, 2004).

Moreover parliament's activities, many scholars rightly associate elections with a parliamentary mandate. So, Yu. D. Kovshuro, in particular, writes: "the deputy mandate source of legislative (representative) government power is a constituent entity in the Russian Federation is the expression of citizens will. The deputy mandate of a legislative (representative) government power is a consti-

tuent entity of the Russian Federation arises exclusively as a result of elections” (Kovshuro, 2004).

At the same time, in support of his point of view, the scientist refers to A.A. Bezuglova, who is considering the emergence of a deputy mandates, noted that government power representatives can be genuine exponents of the will and interests of the people masses, provided that they arose as a result of free expression of people masses will. If authorities represent people, then the actual basis for formation of these powers should be the people will. How a specific deputy mandate arises is determined by entire representative government power, of which the deputy is an emerging member. And this is natural: a collegial body is formed through the empowerment of individual persons with deputy mandates in aggregate and forming a government body (Bezuglov, 1971).

I. N. Fadeev and M. V. Varlaine consider directly the deputy mandate of parliament through the prism of popular sovereignty principle. In their opinion “the deputy mandate basis in a modern democratic government is the principle of popular sovereignty, according to which the only source in the government is the people, who implement their power both directly and through public authorities and local self-government bodies, in the structure of which there is a special place occupied by elected people that receive their powers directly from the people” (Fadeev & Varlen, 2008).

A somewhat different position is expressed by L. A. Nudnenko from whose point of view, elections are a form of direct expression of citizens will, which is carried out periodically based on requirements established by laws and is aimed at determining the people representatives as part of government power legislative body, who will decide on behalf of people issues of government importance (Nudnenko, 2004).

According to A. A. Bezuglov opinion, since the source of a deputy’s powers is the will of voters, then the only basis for the emergence of a deputy mandate, and the only legal fact that gives rise to the rights and obligations of a deputy is his election.

The same position adheres to S. A. Avakyan (Avakyan, 1991).

At the same time, we also share the opinion of A. V. Zinoviev, when he asserts that the content of the legal relationship associated with the emergence of a deputy mandate through elections consists of two factors. On the one hand, there is the need for a citizen to voluntarily accept a deputy mandate, on the other, the expression of the will of voters (Zinoviev, 2000).

These factors are essential, if not decisive, for the emergence of a deputy mandate. Thus, during the elections of deputies of the Jogorku Kenesh, which took place from February 27 to March 13, 2005, 14 political parties of Kyrgyzstan at their congresses and conferences nominated 227 candidates for 75 parliamentary seats. However, mainly because not all political parties, nominating candidates for deputies of the Jogorku Kenesh, secured the candidates consent themselves, only 72 representatives of parties submitted documents for registration (Deputies elections in the Kyrgyz Republic Jogorku Kenesh, 2005).

3.2. Power Transfer during Elections

During the deputies' early elections in the Jogorku Kenesh in the fourth convocation, December 2007, the Central Election Commission notified about participation of 50 political parties, 22 of which submitted candidates' registration lists, 12 political parties' candidates lists were registered with the Central Election Commission. As a result, 100 candidates from 12 political parties were nominated for 90 seats in the Jogorku Kenesh (*Kyrgyz Republic Jogorku Kenesh deputies' early elections, 2007*).

Based on this, we can conclude that elections act as the only legitimate way for parliament members to receive a mandate from the people to exercise government power, and in this case, legislative power.

It is precisely on the power implementation, according to V. I. Fadeev and M. V. Varlaine, elections do not in any way mean the transfer of people power to the bodies they elect. The point here is that the people, through elections, authorize the power bodies they form to implement their power. According to their conclusion, "in this way, power is not transferred during elections, but the right to implementation is transferred" (*Fadeev & Varlen, 2008*).

Although in the scientific legal literature, there is a slightly different opinion by N. E. Lebedeva, who believes, that during government power elections of legislative bodies, the people transfer part of their sovereign power to representatives who will carry out legislative and other functions in the legislative and representative manner (*Lebedeva, 2002*).

3.3. Opinions on Government Sovereignty

We do not agree with this position, since sovereignty as a government legal category is one and indivisible (*Sapargaliev, 1997*). According to the fair opinion by R. T. Turgunbekov, "Sovereignty by its nature, as a single indivisible concept and the qualitative government wealth which cannot be limited, narrowed or expanded" (*Turgunbekov, 1996; Asanbekova et al., 2021a*).

According to this understanding, sovereign power, in our opinion, belongs to the people, and they do not share their power with anyone. Consequently, it is legitimate to say that in the course of elections to the legislative government power, the people delegate to the deputies only a certain set of government and power for full implementation of its functions. This provision determines people recognition as the bearer of sovereignty and, accordingly, the only source of government power.

Therefore, the constitutions of most modern governments', organized on a democratic basis, consolidate legal structure, according to which the people are the bearer of sovereignty. Moreover, the people recognized as the only source of government power. This provision, in turn, determines the corresponding legal structure, according to which the people implement their power directly at elections and referendums, as well as through the system of government authorities.

These are, for example, establishment of Kyrgyz Republic Constitution (the people of Kyrgyzstan are the bearers of sovereignty and the only source of government power in the Kyrgyz Republic. The people of Kyrgyzstan implement their power directly in elections and referendums, as well as through the system of government bodies and local self-government bodies according to the Constitution and laws).

In this regard, the Constitution of Kazakhstan also unambiguously establishes that “the people implement power directly through a republican referendum and free elections, and also delegate the implementation of their power to government bodies” (paragraph 2, article 3).

Commenting on these provisions, G. Sapargaliev writes that “by government representatives” we do not mean all government representatives. The people as a whole delegate their power only to those subjects that they choose, to the President and the elected deputies of Parliament (Mazhilis deputies) (Sapargaliev, 1998).

In addition, the legal basis for deputies’ elections in the Jogorku Kenesh are several constitutional legal acts, in particular, the Constitution of the Kyrgyz Republic, the Constitutional Law on the election of the President and the Jogorku Kenesh deputies.

The Kyrgyz Republic Constitution establishes that:

- Elections are free;
- Deputies elections in Jogorku Kenesh are held based on universal, equal and direct suffrage by secret ballot;
- Kyrgyzstan citizens who have reached the age of 18 have the right to vote.

Consequently, the Basic Law of Kyrgyzstan also enshrines the principles of elections (Arabaev, 2013).

The principle of free elections means that a citizen’s participation in elections is a voluntary matter; no one has right to force a citizen to participate or not to participate in elections. Moreover, no one has the right to exert pressure or influence the free expression of citizen will. The voter himself must determine for himself which of the candidates for deputies or for the list of candidates of which political party to vote “for” or “against”. This ensures the right to choose a citizen, which is the essence of elections as an institution of direct democracy.

Part 1 in Article 2 in the Kyrgyzstan Constitutional Law on Elections shows that “elections in the Kyrgyz Republic are based on free and voluntary implementation by republic citizens of their electoral rights. Nobody has the right to influence citizens to force participation or not participation in elections, as well as freely express their will. These provisions are crucial for legitimization of parliament and the legislature in the general government.

The fact is that free expression of citizens will is “the initial beginning of the legitimizing process in the government mechanism, the formation of representative democracy” (Fadeev & Varlen, 2008).

Essential in this regard are the principles of mandatory and periodicity of par-

liamentary elections. According to Part 2 in Article 7 in the Kyrgyzstan Constitutional Law on Elections, elections of the President and the Jogorku Kenesh deputies are mandatory and are held periodically within the terms established by Constitution. Kyrgyz Republic Constitution Part 2, Article 76 indicates the period for the periodicity of parliamentary elections in five years: “The Jogorku Kenesh consists of 90 deputies and is elected for a term of 5 years”.

The urgency and compulsory nature of elections to government bodies is an indicator of democratic organization of modern civil society, where, at a certain period, through elections, government powers are legitimately transferred from “one hand to another.”

The regularity principle essence in elections is most accurately described by B.S. Ebzhev. In particular, he writes that legal power is always temporary power, since free elections are periodic in nature, and they must be held within the timeframes established by the Constitution and electoral laws (Ebzhev, 1997).

From the point of view by V. I. Fadeeva and M. V. Varlen, the frequency of elections is a prerequisite for the legitimization of power in the government. As they write, “in a democratic government, once the legitimate government cannot become autonomous: it needs the people’s confidence, its constant support, mediated by elections, and therefore it is urgent (power for a while): its legitimization must be regularly confirmed” (Fadeev & Varlen, 2008).

4. Conclusion

The constitutional legislation in Kyrgyzstan establishes many regulations designed to ensure principles of mandatory and periodicity of elections, including parliamentary elections. Thus, we can conclude that elections are the main form of direct democracy, through which the will of voters are ensured, the interests and will of people are considered as a source of government power. As a result, elections give a democratic character to the legal nature of power institutions.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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