

Kazaks Attack Constitution

Author: IWPR

In Kazakhstan, the president counts for everything and the constitution for nothing.

Kazakhstan marked the 6th anniversary of its constitution this August, but the president's critics still cast aspersions on its legitimacy.

The 1995 constitution is the second in Kazakhstan's recent history. The first one was adopted in 1993 and, in the opinion of many critics, was a better document than its successor.

According to Berik Imashev, of the Centre for Socio-economic Studies, the Kazak president, Nursultan Nazarbaev, demanded the changes mainly to increase his own prerogatives. "He pushed for a new constitution in 1995 because its predecessor gave too much power to the Supreme Soviet," he said.

The Soviet's deputies, many of whom wanted to see Kazakhstan develop into a parliamentary democracy, had resisted this drive towards greater presidential power, as it threatened their independent action.

But their resistance came to nothing. In 1995, President Nazarbaev disbanded the Supreme Soviet after the republic's constitutional court conveniently outlawed it.

In a move to legally consolidate his new powers, the president had the new constitution adopted, following strictly formal "nation-wide debates" and held a referendum which extended his tenure in office until 2000.

Some lawyers claim the changes were bulldozed through. As Svyatoslav Raznov, an attorney with a private law firm in Almaty recalls, "The constitutional court operated like the president's captive law practice, modifying the laws to suit the president's political needs."

And the legality of the move also remains open to question. "Under the laws then in force, only the Supreme Soviet had the power to repeal the old constitution and adopt a new one, but the Supreme Soviet had been disbanded," said Andrei Chebotaryov, a political scientist from the group Transparency International Kazakhstan.

In his view document offered far fewer safeguards of liberty than its predecessor did. "When it comes to civil rights and freedoms, the current constitution can't be compared with the former one, which guaranteed employment, housing, education, social security and free health care," he said.

Government officials disagree, insisting the strong presidential system has given Kazakhstan desperately needed political stability. According to Talgat Danakov, a deputy minister of justice, "The 1995 constitution is in tune with Kazakhstan's new stance as an independent democracy, governed by the rule by law. A presidential democracy has fostered a favourable political and legal environment for the successful reform of all aspects of society and government."

Many ordinary people side with both camps. Syrgazy Seidakhmetov, a private farmer, says the strong presidential system has its faults, but he can see the advantages, too. "How can a constitution work if there is a stronger power above it?" he complained. "But we are still better off than some of our

neighbours, who have beautifully written constitutions and incapable presidents."

For all the frequent public declarations about turning Kazakstan into a democracy ruled by law, few citizens really associate their own rights and freedoms with the provisions of the constitution.

"From time to time, you find yourself thinking: what does the constitution matter?" asks Kairat Abulgazin, a professor of civil law. "Every government bureaucrat and policeman has his own 'constitution' which is way above any other law," he joked.

This climate of public indifference explains why the recent pledge from justice minister Igor Rogov to amend the document, after a meeting with Kazak parliamentarians and lawyers, left most people unmoved.

Fatima Kulbaeva, an analyst with the Institute of Russia and China, believes all the talk of amendments is linked to questions about who will eventually succeed President Nazarbaev.

Some observers predict that the constitution will be altered to create the new post of vice-president, or will designate the premier as the successor to the president, which would bring Kazakstan into line with Russian constitutional practice.

And although the constitution seems to play such an insignificant part in political life, experts insist the changes are of more than cosmetic importance. "Kazakstan is not Turkmenistan," said Aibek Dosaev, of Delovoy Mir - Astana magazine. "It has to play according to certain civilised rules. It has to have a constitution offering a standard package of civil rights and freedom, though there is a big difference between having rights on paper and exercising them."

For the moment, the business of wielding power in Kazakstan, as in the other Central Asian states, remains intensely personal. Ordinary people look to a strong president to guarantee stability, rather than a constitution. It will be years before that starts to change.

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