

PARLIAMENTARISM IN KYRGYZSTAN: SPECIFIC FEATURES, PROBLEMS, AND ACHIEVEMENTS

Zaynidin KURMANOV

*D.Sc. (Hist.), Professor, Head of the Chair of International Relations,
the Yeltsin Kyrgyz-Russian Slavic University
(Bishkek, Kyrgyzstan)*

Ilyas KURMANOV

*Ph.D. candidate,
the Ishenaly Arabaev Kyrgyz State University
(Bishkek, Kyrgyzstan)*

ABSTRACT

The authors analyze the far from simple development of Kyrgyz parliamentarism, the republic's experience of building the parliament (the Jogorku Kenesh) and its objective problems and shortcomings. The article is based on the personal

experience of one of the authors who served as a deputy and speaker of one of the convocations and on the authors' scrutiny of the processes related to the parliament's activities.

KEYWORDS: *Kyrgyzstan, parliamentarism, the Jogorku Kenesh, kurultai, zhyyn, the Supreme Soviet, political parties, parliamentary factions.*

Introduction

At all times, the successful solution of large-scale problems of state importance has hinged on the degree to which the popular masses are involved in decision-making. Different forms of this involvement are determined by the specifics of the place and time in which the historical processes unfolded and, consequently, were responsible for the different forms of such involvement. This created a mechanism of cooperation between the “guiding forces” and the “guided;” the corresponding bodies of state power; the forms of their correlation and interaction; and the types, variety, and organizational forms of representative and legislative structures.

The revolutionary events in Kyrgyzstan revealed the extent to which the popular masses affected the course of events that finally transformed the country into a parliamentary republic. A closer look at parliamentarism Kyrgyz-style reveals its consistent elitism, its bias toward the interests of the nomadic nobility, its weakly developed legislative functions, and its practically total ignorance of advanced international experience. Taken together, these are symptoms of the serious problems that have accompanied and still linger in the development of parliamentarism in the Kyrgyz Republic.

What is Parliamentarism?

Social science has not yet produced a clear-cut and generally accepted description of parliamentarism; the term is applied to various forms of political regimes and governance, representative institutions, politological categories, all sorts of systems, teachings, etc. This means that from the social, political, and legal viewpoints, parliamentarism is a fairly complicated phenomenon, which explains the great interest political, legal, and other social sciences display in parliamentarism and accounts for the great and steadily increasing role of the parliament and parliamentarism as an objective phenomenon.

The above suggests that parliamentarism should be interpreted as a system of state governance, in which there is separation of powers and in which the parliament holds a special and privileged position. It should be said that the parliament and parliamentarism are not inseparable: this is best confirmed by the Soviet Union, China, Cuba, Saudi Arabia, and some other countries where there are parliaments but no parliamentarism.

In the Soviet Union, for example, there was no separation of powers and no corps of professional deputies who performed their legislative functions on a permanent basis. Legislative functions belonged to the Politburo of the C.C. C.P.S.U. and its General Secretary; the Supreme Soviet of the U.S.S.R. merely transformed the directives formulated by the top party structures into laws.

To avoid possible methodological misinterpretations, we would like to specify certain points of the concept of parliamentarism.

- First, the form of state governance is determined by the role of the head of state rather than the parliament.
- Second, “domination of the parliament” is a conventional formula: its nature and the specifics of its organization do not allow the parliament to dominate over executive power.

In fact, the executive branch represented by the president or prime minister is much stronger than any, no matter how “dominating,” parliament. It is a delusion that the parliament can govern on its own and give orders to the other branches of power. Under the parliamentary system, the prime minister, rather than the parliament speaker, is the central political figure.

Parliamentarism in our days is a product of the historical creativity of many peoples, each of which added something to this institution. Like many other peoples, the Kyrgyz too contributed to the process. Those who disagree with this postulate deny the possibility of building a parliamentary system in Kyrgyzstan, a developing country.

Specifics of Kyrgyz Parliamentarism

After it acquired its independence, Kyrgyzstan started building a law-governed state, which meant that the road would be long and tortuous.

The teaching on the law-governed state has strong roots and prerequisites; each new idea relies on all previous ideas; and each new step is prepared by the experience the people accumulate over the course of time. The Kyrgyz nomads lived without written laws for several millennia, while the rest of mankind lived through several socioeconomic stages (the Greco-Roman, Anglo-French, Modern, and Recent). It was only recently that the Kyrgyz embraced the ideas of parliamentarism that world social thought had embraced much earlier. This should not be taken to mean that the Kyrgyz never had a similar experience in the past.

Parliamentarism Kyrgyz-style relied on continuity (in the West, parliamentarism relied on the separation of powers). The source of contemporary Kyrgyz parliamentarism is found in people’s assemblies—kurultais and zhyyns—rooted in the archaic epoch, which does not agree with the West European idea of parliament as the supreme legislative and representative body of state power.

The kurultais, zhyyns, and other similar structures of people’s will (geared at national and local specifics) were natural prototypes of Kyrgyz parliamentarism as we know it today. As distinct from Western parliaments, these institutions, while remaining representative structures, never developed into legislative structures; they never became structures that defended the interests of common people, but remained assemblies of the nobility.

The Soviets (this structure was known under different names in different epochs) which disappeared in December 1991 are legal, full-fledged representative legislative organs of power acknowledged by world parliamentary practice¹; their experience played a huge role in building and strengthening statehood and law and order in former Soviet territory. This fact cannot be denied. The role and importance of the kurultais and zhyyns should be discussed in the context of Soviet heritage.

This approach can be observed in the theory and practice of parliamentarism abroad. England is commonly regarded as the birthplace of parliamentarism: since the 13th century, royal power has been limited to an assembly of the biggest feudal lords, the highest clerics (prelates), and representa-

¹ See: I. Kurmanov, *Zakonodatelnaia vlast Kyrgyzskoy Respubliki v globaliziruiushchemsia mire: evolutsia, problemy, perspektivy*, Bishkek, 2012, pp. 48-66.

tives of the cities and counties (rural territorial units). Later, similar representations of all the estates appeared in Poland, Hungary, France, Spain, and other countries; they gradually developed into representative institutions of the contemporary type or were replaced with them. One should say that continuity is one of the most important elements of Western parliamentarism; it figures prominently in world parliamentary practice.

As part of the Soviet Union, Kyrgyzstan was formally a parliamentary republic in which the First Secretary of the C.C. Communist Party of Kirghizia was the central figure. Under the Constitution of the Kirghiz S.S.R. of 1978, the Supreme Soviet of the Kirghiz S.S.R. was de jure the highest body of state power in the republic, while power de facto belonged to the Communist Party of Kirghizia. The Supreme Soviet of the Kirghiz S.S.R. of 12th convocation was the last parliament of the Soviet type.

The parliament of Kyrgyzstan remained the supreme power structure until 1994 when the two-chamber Jogorku Kenesh (the term is a literal translation of Supreme Soviet into Kyrgyz) was set up under the first constitutional amendment, which transformed the parliament from a supreme power structure into one of the branches of state power.²

In 1995, the permanent and professional Jogorku Kenesh of the first convocation started working on a permanent and professional basis. Since that time the country has elected parliaments of five convocations, two of which were disbanded. This means that the process was far from easy and definitely not smooth.

We would like to point to another specific feature of Kyrgyz parliamentary democracy, without which its main features and its survivability cannot be correctly assessed. I have in mind conformism of the deputies who mastered the art of adjusting to all sorts of political contexts while pursuing their personal interests; this is explained by the transitional nature of Kyrgyz democracy and the absence of real democratic institutions and political parties.

The Jogorku Kenesh: Development History

Let's have a closer look at each of the convocations.

➤ *The first convocation (1995-2000)* was elected on the basis of the majority electoral system, which means that the victory went to those candidates who won 50% plus one vote. The Assembly of People's Deputies, comprising 70 members, gathered for sessions, while the second chamber, the Legislative Assembly, comprising 35 deputies, worked on a permanent basis.

The candidates were either nominated mainly by work collectives and meetings of voters or were independent. The country could not afford a course on the fundamentals of parliamentarism even though the newly elected deputies had no previous knowledge of the parliamentary system.

Novel features. The country received a professional parliament with deputies elected according to their merits and potentials. Some of political parties nominated their candidates, a novelty and rarity at the early stages of parliamentarism in Kyrgyzstan. Deputies primarily represented themselves, their labor collectives and the residents of their districts, and very rarely their own political parties, the two exceptions being O. Tekebaev, who represented the Socialist Ata-Meken Party, and Zh. Zhek-sheev, who ran for the Democratic Movement of Kyrgyzstan Party.

Positive aspects. By that time there were about twenty political parties in the country (the Party of the Communists of Kyrgyzstan, the Asaba Party, Ata-Meken, Democratic Movement of Kyrgyz-

² *Konstitutsia Kyrgyzskoy Respubliki*, Bishkek, 1995.

stan (DDK), Erkin Kyrgyzstan, to name but a few), which meant that there was political pluralism. The state was functioning mainly thanks to the efforts of President Akaev and the government, the parliament having a say in what they were doing.

Shortcomings. The parliament was poorly organized, while the vestiges of Soviet parliamentarism and the political legacy of the past were manifested in slipshod legislation and slack control of the government.

The deputies were elected mainly from among top officials and directors of big industrial enterprises, which explains their conformism. There were fewer women, fewer people of the non-titular ethnicities, and fewer less-skilled people than before. The parliament was obviously more bureaucratized and looked oligarchic, mono-national, and male.

The deputies were kept together not by their political convictions, rather they were driven by personal and professional interests, friendships, and regional and tribal associations. The opposition was still disunited, its organizational structure vague, and its political demands dim. Shadow lobbying and corruption prospered unabashedly: from time to time deputies pretended that they were ready to close down all the casinos and gas stations and denounce the contract with the gold-mining Kumtor Operating Company, etc. to be paid off. People from the top echelons of power were not alien to shady deals either. The deputies were unevenly distributed among the parliamentary committees and, on the whole, ignored their sittings anyway.

The president had the informal parliamentary majority and the right to disband the parliament, which, in turn, could impeach him. The government was accountable to the parliament and responsible to the president.

➤ *The second convocation (2000-2005)* was elected on the basis of a majority-proportional system; there were 45 deputies in the Assembly of People's Representatives and 60 deputies in the Legislative Assembly, fifteen of them elected by party lists. Nine parties and two election blocs took part; five parties won; the deputies had free representational mandates.

The Assembly of People's Representatives tried to specify the political identity of the deputies, but the two groups, the result of these efforts, had no effect on the country's political life. The parliament remained fragmented into groups driven by personal preferences; deputies from the same localities tended to stick together.

Having acquired a certain (albeit not vast) amount of experience, the deputies still did nothing to improve their country's parliamentarism; it was still an assembly of bureaucrats (60% of its deputies were civil servants) and oligarchs (25% of the deputies were rich businessmen).³

Novel features. Businessmen won more seats than before; slightly more women were elected; and less-skilled people were elected to the parliament under the quotas of the parties that ran for the parliament. Deputy factions and deputy groups clarified the parliament's political makeup: On Ordo (the Right Coalition), Elkomsots (the people, communists, and socialists); Regiony Kyrgyzstana (Regions of Kyrgyzstan) and El Uchun (For the People). On Ordo formed the right wing; Regiony Kyrgyzstana and El Uchun occupied the center, while Elkomsots moved to the left to become the parliamentary opposition.

Positive aspects. Political pluralism, ensured by different factions, was one of the most striking features; out of the 24 parties prepared to join the race, seven parties and two political blocs (the Union of Democratic Forces and Manas)⁴ were registered for the elections. The state functioned

³ See: *Emergence and Development of the Parliament and Parliamentarism in Kyrgyzstan. Materials of Scientific-Practical Conference of 5-6 October, 2009*, ed. by Ch. Baekov, Z. Kurmanov, A. Jakishev et al., Bishkek, 2010, p. 29 (in Russian).

⁴ See: *Ibid.*, p. 27.

mainly thanks to the efforts of President Akaev and the government, while the parliament could correlate their policy.

Shortcomings. From the point of view of contemporary parliamentary standards and technologies, the parliament was still loosely organized; there were too many oligarchs and bureaucrats among its members and not enough representatives of national minorities. Factions and groups were loosely organized; formed by independent deputies, they lacked legally binding rules of party discipline. The opposition was fairly fluid, its composition unpredictable, its demands vague, while its members preferred to adjust to the changing political context. The inadequate number of party deputies made it impossible to finally arrive at a system of parliamentary democracy; the parliament remained fragmented into small groups kept together by personal preferences, professional, regional, and tribal affiliations. Lobbyism and corruption flourished; the scandals with the gas stations, casinos, and Kumtor Operating Company were only the beginning. The second Jogorku Kenesh was torn apart by scandals over the Turkish Impaş-Manas Company, export of dead bodies for plastination; lobbying the interests of the Marlboro Tobacco Company working in Kazakhstan to the detriment of the interests of the national Vest cigarette manufacturer, etc. It turned out that deputies and officials of executive structures were involved. Too many deputies ignored plenary sessions; there were 28 committees for 60 deputies, which looked strange, not to say absurd.

The president was supported by an informal majority: the pro-presidential bloc, the Union of Democratic Forces with four seats, came second at the proportional elections after the Party of the Communists of Kyrgyzstan and gained an unofficial majority by winning seats in the majority constituencies loyal to the president. The president could disband the Jogorku Kenesh, while the parliament could impeach the president. The government was accountable to the parliament and responsible to the president.

The second Jogorku Kenesh worked its full term.

➤ *The third convocation (2005-2007)* was elected by majority vote; its 74 deputies were either party nominees or ran as independent candidates. On the whole, two pro-presidential parties—Alga, Kyrgyzstan! and Adilet—carried the elections with about half of the seats. The deputies had free representational mandates.

Political pluralism was more obvious, but it could not be realized for lack of knowledge of how to arrive at high-quality legislation and control. The deputies were still mainly oligarchs and bureaucrats; there were even more conformist-minded businessmen in the parliament.

Novel features. The elections were obviously falsified; the cynicism of the people in power caused an outburst of popular indignation, which ended in the coup of 24 March, 2005 caused by social discontent, high inflation, massive unemployment, etc.

The opposition candidates (some of them well known and highly respected) had been kept out of the parliament by bureaucratic obstacles (they could not meet their voters) or even by physical threats. This fully applies to Kurmanbek Bakiev, who lost the elections to a dark horse candidate in his constituency. People demanded that the parliament should be disbanded, but it was preserved after the coup for the sake of stability and because the deputies unanimously supported the new government.

The majority election system was restored; there was an attempt to set up a pro-presidential majority on the basis of majority elections, the administrative resource, and the money of loyal businessmen.

There were no women among the deputies.

Structuralization attempts produced several factions and groups of 6 to 8 members, each united by political and personal preferences and regional and ethnic affiliations. The president had no reliable majority in the parliament; it tried to adopt a Constitution bypassing a referendum and introduce

new rules of organization of power and interaction among its branches. The Constitutional Court dismissed these attempts as illegal because of numerous violations of laws and procedures. Several of the deputies lost their mandates because of truancy.

Positive aspects. While its positions remained fairly strong, the parliament tried to change the constitutional order by changing the Constitution. Very soon, however, it lost its impact mainly because the new people at the helm restored the vertical of power to revive the state and because the majority of the deputies turned out to be conformists. The state restored its grip on society, while the president regained his former power status.

Shortcomings. The parliament was divided into too many factions and groups while its performance could hardly be called effective. The post-coup chaos and disorder made efficient activity impossible: nearly one out of every two laws was vetoed; shadow lobbying was as energetic as ever and attracted deputies of varied or even opposing political preferences. Attendance left much to be desired, there were far too many committees, while the structure of the parliament could not be called rational.

The president had no strong majority in the parliament; he could disband the Jogorku Kenesh, while the parliament could impeach him. The government was accountable to the Jogorku Kenesh and responsible to the president.

Finally, the president, who was fed up with the parliament, with which he had failed to find a common language, disbanded it.

➤ *The fourth extraordinary convocation (2007-2010)* consisted of 90 deputies elected on the proportional basis. Three out of 20 parties that ran for the parliament acquired seats; the pro-presidential People's Ak Zhol Party won 71 seats (an absolute majority); the Social-Democratic Party of Kyrgyzstan received 11 seats; and the Party of the Communists of Kyrgyzstan won 8 mandates.

The share of officials and rich people was still high; the deputies formed factions; two of them (the Social-Democratic Party and the Party of Communists) moved into the opposition. Political pluralism survived, but people from the same regions or tribes, irrespective of their political preferences and factions, remained close. Two deputies lost their mandates because of absenteeism and criminal charges.

Novel features. The parliament moved its activities from plenary sessions to committees and factions; the habit of delivering statements and speeches at plenary sessions was, on the whole, abandoned; and the deputies plunged into routine law-making. For the first time, the government was formed by the party majority in full accordance with the Constitution. Decision-making belonged to the president, but he lost his right to disband the parliament. The mandates were predominantly imperative; elections were based on party lists. The deputy corps became much more varied because under the newly introduced quotas there were 30% of women, 30% of young people, and 15% of ethnic minorities in the parliament.⁵ After a long interval, workers, teachers, doctors, scientists, people employed in the civil sector, etc. reappeared in the parliament probably thanks to the proportional system and quotas. Faction discipline was finally introduced.

Positive aspects. The format of parliamentary activities in the Kyrgyz Republic moved closer to common parliamentary practice. The deputies concentrated on committees and factions (which acquired secretariats). Plenary sessions became rarer; the number of committees smaller.

The deputies set up a Coordinating Committee of the speaker, vice speakers, faction heads, and committee chairmen; there appeared the practice of "consolidated" and "autonomous" voting.

The deputies began the practice of first, second, and third readings; there appeared a binding law of five obligatory types of expert assessments. Controlling activities were carefully planned; the

⁵ Summary of monitoring of media coverage of the election campaign in the Kyrgyz Republic (pre-term parliamentary elections (November-December 2007), available at [<http://www.monitoring.kg/?pid=144>], 16 December, 2007 (in Russian).

committees were formed on a party basis; within the committees the minority obeyed the decisions of the majority. Factions and committees sat on specific weekdays. For the first time in the history of parliamentarism in Kyrgyzstan, the deputies had to pass a three-day course on the principles of parliamentarism.

Shortcomings. The speaker and vice-speakers were elected from among the members of parliamentary majority; discipline in the factions left much to be desired; the same can be said about the parliamentary procedures. Despite the demand to strictly obey party discipline, shadow lobbying and corruption were as aggressive as ever: gas stations, casinos, and the Kumtor Operating Company remained on the agenda of the lobbying groups; there were attempts to denounce the contract with the United States on the airbase in the Manas airport and ban the import of cars with right-hand steering wheels; a scandal around insulin syringes produced a lot of noise: a deputy, who was also a businessman, was responsible for manufacturing faulty syringes, etc. Deputies and people from executive structures were involved in these and similar shady deals. Lobbying was open and brazen; people from the government defied public opinion and bypassed all the bans imposed by the government.

Attendance, but not the quality of the deputy corps, improved; there were still fewer professional lawyers and economists (only 3 doctors of science and 2 PhDs in law) among the deputies than was obviously needed, which explained the low quality of the legislation efforts.

The president with the constitutional majority behind him could not disband the parliament, which preserved its right of impeachment. The government was accountable to the parliament and responsible to the president.

The fourth extraordinary convocation was disbanded after the coup of 7 April, 2010 by a decree of the provisional government of 8 April.

➤ *The fifth extraordinary convocation (2010-2015)* consists of 120 deputies elected by proportional voting; they represent 5 parties (out of 28 which ran for the parliament). This produced a fairly fragmented Jogorku Kenesh with each of the parties having from 5.5% (Ata-Meken) to 9% (Ata-Jurt) seats. The parliament continues what was done by its predecessors: it set up factions and their secretariats; the laws pass several readings; the bills are subjected to five assessments; and the deputy corps is highly varied, which is explained by the system of quotas. There are still too many top bureaucrats and rich businessmen among the deputies; the parliament tends to ignore far too often the demands of the ordinary people. The deputies attended a training course on the principles of parliamentarism.

Novel features. The new Constitution introduced a mixed form of governance: prime minister-presidential; a multi-party system hitherto absent from Kyrgyzstan; free representational mandates were restored, while the parliament gained more political weight.

Positive aspects. There is no pressure from the extra-parliamentary centers of power; the deputies are free to unite into parliamentary majority and minority coalitions based on corresponding agreements; continuity is developing into a parliamentary tradition; and factions are learning the skills of cooperation and opposition. In short, a new political culture is shaped slowly but surely. There are new rules of parliamentary activity that have modernized the Jogorku Kenesh and introduced the standards of parliamentary activities accepted all over the world. Discussing bills and voting on them have become separate procedures.

Shortcomings. Free representational mandates disunite parties and factions; personal rivalries have come to the fore; ideas of progress have been pushed to the side, while the rules are barely observed or even changed to fit individual preferences or current situations; execution of decisions leaves much to be desired.

Many of the changes are dubious, to say the least, and have nothing in common either with the theory or the practice of constitutional and parliamentary law (members of the Supreme Court are

elected by the majority of those present rather than by the majority of the total number of deputies, which makes us wonder whether they will be recalled in the same manner).

The quotas did little to improve the quality of the deputy corps; highly professional lawyers and economists, qualified to write laws, are still few and far between (one PhD in economics and one PhD in law); the system of quotas brought too many deputies to the parliament by accident.

The factions have little or no say in who becomes a member of the committees; the parties have not yet acquired adequate membership, which explains why the governments are mainly “technical.” Lobbyism and corruption remain prominent and obvious to all (casinos, Kumtor, illegal sale of gasoline to Tajikistan, the fierce party struggle for control over the lucrative business of printing national passports, etc.). Deputies and people from the executive structures are equally involved. Attendance of plenary sittings is low; factions mainly avoid legal initiatives, while the number of parliamentary committees (14) remains ridiculously large.

The president has no majority in the parliament, which makes him a weak political figure; he cannot disband the parliament, while the parliament can impeach him. The government is accountable to the parliament, while the president has enough power to save his Cabinet once.

Conclusion

The road the Jogorku Kenesh has covered during the years of independence was not an easy one: failures and achievements followed one after the other; at different times the parliament of Kyrgyzstan was “dominating,” “autonomous,” “partially autonomous,” “controlled,” and “completely controlled,” which means that it has tasted all known models of legislative structures.

It should be said that the country has not yet acquired a contemporary parliament for subjective and objective reasons: the dominant traditional and Soviet type of consciousness, thinking, and culture; the isolated development of Kyrgyz parliamentarism; and the country’s isolation from advanced international experience.

The ruling elites have done nothing to set up a working parliament; indeed, a noisy Jogorku Kenesh prone to scandals cannot be described as an efficient representative structure; it is burdened by its Soviet past and patriarchal traditions.

At the same time, the president and his extended family obviously want to limit the power of the parliament and establish their control over it. Today, Kyrgyz parliamentarism is better described as rivalry between the president and the government, on the one side, and the parliament, on the other, rather than as rivalry between the executive and legislative powers typical of liberal systems.

The Jogorku Kenesh is still developing and consolidating its position; it has not yet found its best model and is still looking for it within the current democratic transformations.