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## Facade Democracy: Democratic Transition In Kazakhstan And Uzbekistan

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FAÇADE DEMOCRACY:  
DEMOCRATIC TRANSITION IN KAZAKHSTAN AND UZBEKISTAN

by

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B.A. University of Central Florida, 1999

A thesis submitted in partial fulfillment of the requirements  
for the degree of Master of Arts  
in the Department of Political Science  
in the College of Arts and Sciences  
at the University of Central Florida  
Orlando, Florida

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## ABSTRACT

This thesis explores the reasons behind the stagnation in the transition to democracy in Kazakhstan and Uzbekistan. According to their constitutions, Kazakhstan and Uzbekistan are democracies. In actuality, however, there is little evidence to support that these are democratic systems. These states' post-Soviet constitutions outline them as democracies – yet they lack a free press; freedom of association is suppressed; religious freedom is limited; and free speech is constrained as well. While these two countries hold popular elections, much of their electoral processes are under the control of the executive branch of government - calling into question whether or not Kazakhstan and Uzbekistan really hold “fair and competitive” elections. In sum, in both of these states, democracy is *de jure* rather than *de facto*. Why is this so? Why are Kazakhstan and Uzbekistan not the democracies in practice that they are on paper?

Many scholars and policy-makers blame the stagnation in these states' democratic transitions on the firm hands used by the countries' presidents to maintain their current power and even to increase it. Other scholars point out that Central Asia has never been democratic and thus does not know how to be so. These scholars refer, in particular, to the region's history as part of the Russian Empire and later, as part of the Union of Soviet Socialist Republics (USSR).

Using frameworks drawn from Dahl's *Polyarchy* (1971) and Huntington's *The Third Wave* (1991), this thesis finds that not only are Kazakhstan and Uzbekistan straying from their constitutional democratic starting points, no single factor is to blame for the stagnation in the transitions to democracy in Kazakhstan and Uzbekistan. Rather, it is the combination of multiple factors – both internal and external – that provides the most comprehensive explanation of these states' failure to become full-fledged democracies. Combining the elements of strong dictator-like presidents with a lack of democratic history is but the tip of the iceberg. Internal factors such as “political culture” and external factors such as the influence of the international community also play major roles in the current state of affairs in these Central Asian states.

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## CHAPTER ONE: INTRODUCTION

This thesis explores the reasons behind the stagnation in the transitions to democracy in Kazakhstan and Uzbekistan. According to their constitutions, Kazakhstan and Uzbekistan are democracies. In actuality, however, there is little evidence to support that these are democratic systems. These states' post-Soviet constitutions outline them as democracies - yet they lack a free press; freedom of association is suppressed; religious freedom is limited; and free speech is constrained as well. While these two countries hold popular elections, much of their electoral processes are under the control of the executive branch of government – calling into question whether or not Kazakhstan and Uzbekistan really hold “fair and competitive” elections. In sum, in both of these states, democracy is *de jure* rather than *de facto*. Why is this so? Why are Kazakhstan and Uzbekistan not the democracies in practice that they are on paper?

Using frameworks drawn from Dahl's *Polyarchy* (1971) and Huntington's *The Third Wave* (1991), this thesis finds that not only are Kazakhstan and Uzbekistan straying from their constitutional democratic starting points, no single factor is to blame for the stagnation in the transitions to democracy in Kazakhstan and Uzbekistan. Rather, it is the combination of multiple factors – both internal and external – that provides the most comprehensive explanation of these states' failure to become full-fledged democracies. Combining the elements of strong dictator-like presidents with a lack of democratic history is but the tip of the iceberg. Internal factors such as “political culture” and external factors such as the influence of the international community also play major roles in the current state of affairs in these Central Asian states.

## Literature Review

The current literature regarding Central Asia tends to suggest two general explanations as to why the region has failed fully to transition to democracy in accordance with international standards. One explanation places the blame on the current leadership, specifically President Nursultan Nazarbaev of Kazakhstan and President Islam Karimov of Uzbekistan, in those two cases. Most often this is the viewpoint of human rights organizations like Amnesty International; however, more politically oriented groups such as Freedom House, Eurasianet, and, to an extent, media and press organizations like the International Press Institute (IPI) and Radio Free Europe (RFE) can be said to share this viewpoint as well. Most human rights activist groups assert that the governments in Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan deny their citizens civil rights and inhibit democracy outright. These governments do so because it serves their purposes in maintaining control of the countries. According to some scholars, these so-called authoritarian “despots” – mostly remnants of the earlier Soviet regime – changed the names of their Communist political parties to make them palatable to the international community but have changed little else. Some scholars believe that not much has changed since Kazakhstan and Uzbekistan declared independence, as if the current state of the countries is the same as it was under Soviet rule. It is tempting to succumb to this point of view in light of the strong sense of authoritarianism in these countries. Cummings (2002), however, makes an excellent point. She states, “all post-Soviet states have moved very far from the Marxist-Leninist model. Even if some remnants of the old system remain, the CPSU (Communist Party of the Soviet Union) no longer has the monopoly of power, a guiding ideology no longer exists, there is very little, if any, routine mobilization of the population within

state-sponsored organizations to achieve a minimum degree of compliance, and leadership recruitment is no longer restricted to the official party. The independent states of Central Asia are qualitatively new entities, with their new internal logics.” (Cummings 2002, p. 8)

The other general explanation attributes the stagnation to these states’ history, in particular, their Soviet history. Even Kazakhstan President Nursultan Nazarbaev has used this as a rationale for his firm-handedness. According to Alaolmolki (2001), “In response to criticism by American and Western European officials, he tried to justify the expansion of his power based on democratic, pragmatic, and cultural considerations...He then contended that strong presidential rule is the most effective way to promote reform unencumbered by resistance from “backward looking” forces or special interest groups. Finally, he argued that the Central Asian countries lack the tradition and culture of parliamentarianism. Although he made these points chiefly to justify his actions, the general evidence supports his view that these republics lack the background and experience for nation building.” (Alaolmolki 2001, p. 64)

Much of the literature about Central Asia after the collapse of the Soviet Union emphasized these nations’ historical background. (For example, see Akiner 1995, Alaolmolki 2001, Capisani 2000, Dannreuther 1995, and Roy 2002) Especially in Central Asia, understanding the history is important because it facilitates understanding of the region. According to these scholars, what Kazakhstan and Uzbekistan are today – and how they came to be this way – are fundamentally connected to what they were in the past. All of these authors note that the region does not have a democratic history, nor does the region have a history of existing as coherent states within their current boundaries. First and foremost, these scholars point out that the states in Central Asia are relatively new to the ranks of statehood. Even prior

to Russian and Soviet domination, there was no country known as “Kazakhstan” or “Uzbekistan” of which to speak. This is an important explanation as to why no strong senses of nationalism exist in either country. Alaolmolki (2001) mentions a statement made by a former diplomat, Bahadir Abdurazakhov, regarding the differences between the Russian and Soviet colonization of Uzbekistan and the colonialism experienced in countries colonized by European nations. This statement could describe all of the Central Asian states, not just Uzbekistan. Alaolmolki (2001) reports that Abdurazakhov says that it was not only the more brutal nature of the Central Asian colonizers that have made things difficult in the region, but that the region was never permitted to exercise the kind of self-rule found in European colonies. Thus Abdurazakhov asserts, “Our lack of political freedom in the past means we have political leaders who have no direct experience of democratic processes and procedures. The Communist Party had a monopoly of power, never sharing power with other groups, and this authoritarian tendency is still strong...In reality, we still have only a nominal independence. It has to be made real.” (Alaolmolki 2001, p. 24) While these points are all well taken, the extent to which serves as a hindrance to democratization in Kazakhstan and Uzbekistan history – especially when compared to other possible explanations – remains to be assessed fully. As noted above, while many scholars have focused exclusively on the non-democratic history of these states, one of the primary goals of this thesis is simultaneously to assess multiple, potential explanatory factors for the stagnation of democratization in Kazakhstan and Uzbekistan.

## Chapter Descriptions

The remainder of Chapter One provides an overview of the rights delineated in the Kazakhstan and Uzbekistan constitutions and also describes what happens in reality in these states. Chapter One examines the political institutions in these countries, on paper versus in practice. In other words, this chapter describes in detail how these institutions are supposed to function according to these states' constitutions – and how these political systems function in reality. The political institutions discussed are the separation of powers into the judicial, legislative, and executive (presidential) branches and the electoral system of both Kazakhstan and Uzbekistan. The two subsequent chapters present individual case studies for Kazakhstan and Uzbekistan.

Chapter Two addresses Kazakhstan alone. It begins with a description of what it is like to live in Kazakhstan now and also provides necessary background information regarding Kazakhstan's history and demographics. Next, the research question is addressed: why does reality not reflect the democratic system set forth by Kazakhstan's constitution? Drawing on the previous scholarship that proposes that the stagnation of Kazakhstan's democratization is a function of its autocratic leadership, this thesis asks: Is Nazarbaev pulling all of the strings, or do the Kazakhstani people approve of his leadership style? Drawing on the previous scholarship that proposes that the stagnation of Kazakhstan's democratization is a function of its non-democratic history, this thesis also asks: Do Kazakhstan's people not know any better than to question Nazarbaev's power? Using a framework for analysis based on Huntington (1991), both internal and external factors affecting the likelihood of democratization are examined.

Chapter Three examines Uzbekistan. Historical and demographic information is provided for Uzbekistan, and again the research question is addressed. Why is the Uzbekistan reality not a reflection of its constitution? Again, drawing on the previous scholarship that proposes that the stagnation of Uzbekistan's democratization is a function of its autocratic leadership, this thesis asks: How much is Islam Karimov and his government to blame for the regression toward authoritarianism? Again, drawing on the previous scholarship that proposes that the stagnation of Uzbekistan's democratization is a function of its non-democratic history, this thesis also asks: How much of that regression can be attributed to the Uzbekistani people's action or inaction – and unfamiliarity with democratic governance? In addition to such internal influences, pertinent external influences on the likelihood of Uzbekistan's democratization are also discussed in this chapter. Again, a framework based on Huntington (1991) is used to examine these potential internal and external explanatory factors.

The conclusion chapter, Chapter Four, begins by providing a summary of the findings from the two case studies. This chapter then compares and contrasts the cases of Kazakhstan and Uzbekistan. What obstacles to democratization do they have in common? How are they different? While they are both former Soviet republics, and both located in the same Central Asian region, there are striking differences in their development. Are Kazakhstan and Uzbekistan actually in the same predicament, though? They are both *de jure* democracies and not *de facto* democracies; however, are they what they are for the same reasons? Lastly, what implications can come out of this analysis? Can this framework explain the situations in Kyrgyzstan, Tajikistan, and/or Turkmenistan or even other transitioning democracies?

1990

During the Cold War, the international system had a bi-polar power distribution. The two major powers were the United States of America (USA) and the Union of Soviet Socialist Republics (USSR). Both powers played off of one another and all other states seemed to fall in line with one side or the other. While there was much tension between the two powers, the system was stable, a side effect of this particular bi-polar system. An event happened in the late 1980s, however, that no one seemed to have anticipated. Bi-polarity ended when the USSR collapsed. Including Russia, twenty-seven states emerged from the rubble of the fallen Iron Curtain and changed the nature of the international system. Most of these states constituted Eastern Europe and the excitement of a unified Europe allowed for hasty integration of democracy and reform. Many of these countries are in line to join the European Union or have already done so. Even Russia instituted a “semi-democratic” form of government. The West reveled in the idea of being able to assist in the spread of democracy; however, the USSR did not consist solely of Eastern European states and Russia. There are some countries that have been neglected in this rush to reform the former Soviet states. Central Asia is home to five of those countries: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan (two of which - Kazakhstan and Uzbekistan – are addressed in this thesis). Dannreuther (1994) describes it this way: “The potential reunification of Europe was viewed as the consequence of the retreat of Soviet power. The fact that an enormous territory in Central Asia, twice the size of Western Europe, had also been liberated from Soviet rule remained relatively unnoticed.” (Dannreuther 1994, p. 3)

By the end of 1991, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan became newly independent states (NIS). In a rather glorious kind of “revolution”, independence was thrust upon them despite the lack of any war of independence. Scholars such as Cummings (2002) have noted that communist elites in Central Asia in fact resisted the early signs of democratization and liberalization instituted by Mikhail Gorbachev. Cummings (2002) calls it “independence by default.” (Cummings 2002, p. 1) While independence did not necessarily take Kazakhstan and Uzbekistan by surprise, it was a rather quick transition. Instead of gradually transitioning from being members of the USSR, these countries had the exciting yet unenviable task of setting up a framework for government within a small amount of time. As well, they also had to set up the foundations for an economic system formerly provided by the USSR. Virtually overnight, these countries had fiscally to provide for their own people on smaller budgets and without the experience of having done so previously (Capisani, 2000). Their populations were also dwindling, as a mass exodus of Soviet-placed Russians in Central Asia began to return to Russia, leaving gaps in the Central Asian societies – and economies – by reducing not only the population but also the workforce. Also many Russians held positions within the Kazakhstani and Uzbekistani governments which were left vacant when those ethnic Russians departed. Estimates place the migration between the years 1991 and 1997 totaling around 2.2 million (Capisani, 2000).

### Creating New Democracies

Like the other former Soviet states, Kazakhstan and Uzbekistan had to create new forms of government and write the constitutions to go with them. Both countries chose democracy.

Did these states thoughtfully choose democracy, or did they simply follow Russia's lead? Regardless of the answer, the question remains concerning the decision to establish democratic governments. It remains because, on paper, these countries appear to be democratic; however, the extent to which Kazakhstan and Uzbekistan are democratic in practice is constantly called into question by various members of the international community, in particular international organizations like Freedom House and Amnesty International and also the United Nations Development Programme (UNDP). Not only do these states' constitutions declare them to be democratic, they do so in the very beginnings of those constitutions. Article I, sub-section 1.1 of Section I of the Constitution of the Republic of Kazakhstan states the following: "The Republic of Kazakhstan proclaims itself a democratic, secular, legal and social state whose highest values are an individual, his life, rights and freedoms".<sup>1</sup> In the Constitution of the Republic of Uzbekistan, the Preamble consists of such phrases as "affirming our fidelity to the ideals of democracy and social justice" and "setting as a goal the formation of a humanitarian democratic state operating under the rule of law". In Section I, Chapter 1, Article 1, the Uzbek Constitution states: "Uzbekistan is a sovereign democratic republic."<sup>2</sup>

#### A Framework for Analysis of *de jure* versus *de facto* Democracy

Being thus democratically described in their constitutions, an examination of the institutions in Kazakhstan and Uzbekistan will be helpful at this point to see what has been established in order for Kazakhstan and Uzbekistan to transition towards democracy. Transition to democracy is not exactly an easy thing to measure, though, and democracy itself is not any

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<sup>1</sup> The full text of Kazakhstan's Constitution is provided in Appendix A.

<sup>2</sup> The full text of Uzbekistan's Constitution is provided in Appendix B.

easier to define. There are certain indicators, however, that have been established through the previous work of political scientists and other scholars that can be useful in determining if a country is heading in a democratic direction. Two such scholars are Dahl (*Polyarchy*, 1971) and Huntington (*The Third Wave*, 1991). Dahl uses the term “polyarchy” as opposed to the term “democracy” for the main reason of differentiating between the “democracy” currently in general practice (Dahl’s “polyarchy”) and the “true” or “ideal” democracy of theory. At the very least, polyarchy is a vital part of democracy and a country which practices polyarchy can be said to be democratic. According to Dahl, there are two main, but not sole, components to polyarchy: the extent of suffrage and the extent of permissible opposition.<sup>3</sup> Dahl differentiates between the two components for a very interesting reason. He states, “the two processes – democratization and the development of public opposition – are not, in my view, identical” (Dahl 1971, p. 1). One *can* exist without the other – and does in many cases – as they are “two somewhat different theoretical dimensions of democratization” (Dahl 1971, p. 4). Further, both components (contestation and participation) are necessary in order for polyarchy to exist according to Dahl because “in the absence of the right to oppose, the right to “participate” is stripped of a very large part of the significance it has in a country where public contestation exists.” (Dahl 1971, p. 5)

In order to have polyarchy, Dahl states that the people must be able “to formulate their own preferences”; “signify their preferences to their fellow citizens and the government by individual and collective action”; and “to have their preferences weighed equally in the conduct

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<sup>3</sup> Dahl qualifies this last component, opposition, with the adjective “permissible” because he believes that there are degrees of openness in regards to opposition. This is examined upon during the case studies of Kazakhstan and Uzbekistan below.

of the government, that is, weighted with no discrimination because of the content or source of the preference” (Dahl 1971, p. 2). For these three conditions to be achieved, a government must provide eight requirements. Dahl’s list of eight requirements consists of: (1) “freedom to form and join organizations”; (2) “freedom of expression”; (3) “right to vote”; (4) “eligibility for public office”; (5) “right of political leaders to compete for support” and “the right of political leaders to compete for votes”; (6) “alternative sources of information”; (7) “free and fair elections”; and (8) “institutions for making government policies depend on votes and other expressions of preference.” (Dahl 1971, p. 3)

Huntington begins with Dahl’s typology and extends it further as he studies what he calls waves of democratization in the twentieth century. He continues Dahl’s emphasis on the importance of truly competitive elections. “The central procedure of democracy is the selection of leaders through competitive elections by the people.” (Huntington 1991, p. 6) Also, similarly to Dahl, Huntington bases his classification of a country as democratic if it exhibits the type of openness in competitive elections that Dahl feels is essential to democracy. Huntington considers contestation and participation essential as well as civil liberties such as the freedoms of speech, press, and assembly, which echo Dahl’s eight requirements. “A system is undemocratic to the extent that no opposition is permitted in elections, or that the opposition is curbed or harassed in what it can do, or that the opposition newspapers are censored or closed down, or that votes are manipulated or miscounted.” (Huntington 1991, p. 7)

## Political Institutions: The Separation of Powers and a System of Checks and Balances

Most democratic republics are separated into various branches of government, three branches (executive, legislative, and judicial) being the norm. Kazakhstan and Uzbekistan are no exceptions, at least on paper. Kazakhstan and Uzbekistan both have three branches of government, set up in accordance with their constitutions. They both have an executive branch, a legislative branch, and a judicial branch. Additionally, both constitutions establish systems of checks and balances regarding the interaction between and among branches. In Kazakhstan's Constitution the separation of powers and system of checks and balances are established in Article 3. Uzbekistan's Constitution provides for the same in Chapter II, in particular in Article 11. Although the Constitutions specifically delineate powers among the three branches of government, a higher degree of power concentration is clearly evident in the executive branches, most predominantly in the office of the president. The Kazakhstan president's duties are delineated in Section III, Articles 40 through 48 but Section V, Articles 64 through 70 could also be considered to cover the role of the president. Section V covers the government, i.e., the cabinet. Though it is considered accountable to the parliamentary chambers (Article 64, sub-section 3), it is "formed by the President of the Republic of Kazakhstan" (Article 65, sub-section 1). This is in stark contrast to other parliamentary systems where the government or cabinet is an extension and creation of the parliament itself. Chapter XIX, Articles 89 through 97, in Uzbekistan's Constitution describe the president's duties and functions. Article 89 states: "The president of the Republic of Uzbekistan is the head of state and of the executive branch in the Republic of Uzbekistan. The President of the Republic of Uzbekistan is simultaneously the Chair of the Cabinet of Ministers". He is also Supreme Commander of the Armed Forces

(Article 93, sub-section 16) and, according to Article 80 (in Section V, Chapter XVIII which covers the Parliament), the president of Uzbekistan has the right to “participate in a session of the Parliament of the Republic of Uzbekistan or one of its agencies”. Indeed, that certainly extends the presidential arm.

In the case of Kazakhstan, a referendum in 1995 gave the president even more power so that now only the president can initiate constitutional amendments. This power had previously been shared with members of parliament but is no longer. Furthermore, this referendum gave the president the ability to appoint or dismiss ministers at will, without parliamentary consent, and has given the president incredible control over the parliament and government (*Jamestown Foundation Monitor*, 11 January 1996). As well, Uzbekistan’s president maintains a firm hand of control over the other branches of government. While Uzbekistan’s president is not able to appoint ministers to the Cabinet of Ministers without the consent of the Parliament, he is no less powerful. The United States Department of State, in its *2003 Country Reports on Human Rights Practices*, in fact labels Uzbekistan an authoritarian state. This report states that “President Islam Karimov and the centralized executive branch that serves him dominate political life and exercise nearly complete control over the other branches... The Oliy Majlis (Parliament) consists almost entirely of officials appointed by the President and members of parties that support him. Despite constitutional provisions for an independent judiciary, the executive branch heavily influenced the courts in both civil and criminal cases and did not ensure due process.” (*Country Reports on Human Rights Practices: Uzbekistan, 2003*)

While the constitutions of Kazakhstan and Uzbekistan dictate a separation of powers and systems of checks and balances, in reality the executive branch holds most of the influence and is

virtually autonomous. This does not meet the standard of Dahl's requirement of the establishment of "institutions for making government policies depend on votes and other expressions or preference" (Dahl 1971, p. 3). If only one person can initiate constitutional amendments, how can the elected representatives of the people (i.e., parliamentarians and others) truly voice the preferences of the people? As well, with the power of the presidents being so firmly rooted in place, they become less dependent upon votes and thus less accountable to the populace. Further, such presidential power inhibits political competition, another requirement of Dahl's. The discussion below of the electoral system will supplement this last point and also elaborate upon some of the other Dahl requirements. In sum, based on Dahl's criteria for polyarchy (democracy) – in particular, "institutions for making government policies depend on votes and other expressions of preference" (Dahl 1971, p. 3) – despite their constitutions, both Kazakhstan and Uzbekistan fail to meet the standard for a *de facto* institutional separation of powers and a properly functioning systems of checks and balances.

#### Political Institutions: The Electoral System and Opposition Parties

Elections are another important democratic institution that all newly transitioning countries employ. Both the president of Kazakhstan and the president of Uzbekistan are constitutionally declared to be directly elected. Kazakhstan's Constitution, as stated previously, declares that there are to be free elections (Article 3). Every citizen has "the right to elect and be elected into public and local self-administrations as well as to participate in an all-nation

referendum” (Article 33).<sup>4</sup> The election of the President is to be no exception. Article 41 of Section III states: “The President of the Republic shall be elected by universal, equal and direct suffrage under a secret ballot for a seven-year term in accordance with the constitutional law by the citizens of the Republic who have come of age.” Uzbekistan’s constitution makes similar provisions as well. Article 90 of Uzbekistan’s Constitution covers the “general, equal, and direct” election of the president by secret ballot. Unlike Kazakhstan’s constitution however, Uzbekistan’s constitution has a specific Chapter dedicated to the Electoral System (Article 117 of Chapter XXIII of Section V). Article 117, like its Kazakhstani counterpart, includes the provision that citizens of Uzbekistan have the right to elect and be elected to representative agencies, but it goes further by stating “the right to vote, equality of votes, and freedom of expression through voting are guaranteed by law”. It grants universal suffrage to all Uzbekistani citizens 18 and older. While it is difficult to determine if universal suffrage is being denied, outright, to citizens (for instance, if discrimination is demonstrable as during the Jim Crow days of the Southern United States), the “fairness” of Kazakhstan’s and Uzbekistan’s elections is called into question by international organizations that monitor the elections such as Freedom House, Election Watch, and the OSCE (Organization for Security and Co-operation in Europe). According to one election monitoring organization, “Nevertheless electoral abuses remain a serious problem in most of the newly independent states, especially in Central Asia and the Caucasus, and the mere presence of international monitoring groups, though numerous, by no means guarantee that elections are carried out properly. In fact, the overall trend in these regions is towards worse elections.” (Election Watch, May 22, 2004) Even the United States

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<sup>4</sup> Restrictions apply, however, to citizens legally declared to be incapable as well as “those held in places of confinement on a court’s sentence” (Article 33 of the Kazakhstan Constitution).

Department of State refers to this when it describes a referendum that occurred in January of 2002. “Following a January 2002 referendum judged to be neither free nor fair, the President’s term in office was extended by two years. Previous elections were neither free nor fair.”

(*Country Reports on Human Rights Practices: Uzbekistan, 2003*) The most scathing indictment of Kazakhstan’s, as well as Uzbekistan’s, presidential elections asks how elections can be considered democratic (i.e., free, fair and competitive) when opposition parties are, for the most part, banned. As the discussion below of civil liberties elaborates, one who wishes to criticize the president and/or the government must walk a very fine line. Opposition political parties are usually banned entirely or else the law makes it so difficult for them to be considered officially recognized that they cannot be declared legitimate and thus cannot participate in elections. A January 31, 2002, article in *The Economist* described electoral competition regarding the previously mentioned 2002 Kazakhstan presidential term-extending referendum: “Thousands of opponents have been jailed, most of them accused of Islamic fundamentalism.” (*Such a Popular President, January 31, 2002*)

The Freedom House survey, *Nations in Transit*, specifically monitors the electoral processes of democratizing countries, paying particular attention to former Soviet republics. Freedom House guidelines for democratic elections examine states’ electoral processes<sup>5</sup> by focusing on “national executive and legislative elections, the development of multiparty systems, and popular participation in the political process.” (*Nations in Transit 2003*, p. xiii) Freedom House lists some of the survey guidelines in its Methodology section. Some of the primary

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<sup>5</sup> This is but one of four components of democratization studied by Freedom House, the other three being civil society, independent media, and governance. The guidelines and methodology for assessing these components are explained in *Nations in Transit 2003*.

considerations include whether or not the electoral system is stable – and whether or not viable political parties, including opposition parties, function at all levels of government (*Nations in Transit 2003*, p. xiv). Freedom House surveys also consider barriers to political organization, the types of members of political organizations, and the role of minorities. They want to know who monitored the elections, how recently elections were held, who the participants were in the election(s), and voter turnout percentages. The ratings are scored on a scale of one (1) to seven (7), with one (1) representing the highest level of progress towards democratization and seven (7) representing the lowest level of progress. The ratings given to Kazakhstan and Uzbekistan over the past few years have not been at all favorable. Kazakhstan rated a 5.50 on this scale in 1997 and has steadily worsened to 6.50 in 2003. (*Nations in Transit 2003*, p. 308) As for Uzbekistan, the scores have been worse. In 1997, the electoral processes score was a low 6.25, slowly increasing to 6.75 – which Uzbekistan received in 2001, 2002, and 2003. (*Nations in Transit 2003*, p. 630) These scores indicate that both Kazakhstan and Uzbekistan are far from holding free and fair elections.

Why did Freedom House assign such low scores to Kazakhstan and Uzbekistan? As part of the explanation for Kazakhstan's scores, a good illustration is Freedom House's description of this state's most recent presidential election. It took place in 1999, and Nazarbaev won a seven-year term. Freedom House doubts the competitiveness of the election and cites that the OSCE, among other international election monitors, does not consider that election free or fair. (*Nations in Transit 2003*, p. 311) According to the *Nations in Transit 2003* report, "former Prime Minister Akezhan Kazhegeldin, [who was] considered the president's most serious challenger, was barred from running." (*Nations in Transit 2003*, p. 311)

Although in general Kazakhstan's party system lacks considerable structure and organization, for the most part, political parties in Kazakhstan fall into one of two categories: pro-presidential or opposition. Kazakhstan's Constitution prohibits the president from having membership in a political party (Article 43), meaning he or she must abstain from party membership during his or her tenure as president. Nazarbaev took this a step further when he abstained from taking a position as leader of the Kazakhstan Socialist Party, "maintaining that he 'had to be president of all the Kazaks.'" (Capisani 2000, p. 4) The pro-presidential parties praise Nazarbaev himself and support the man, but they direct criticism, whether deserved or not, to the Parliament or the Cabinet. Opposition parties do just the opposite. They direct their criticism towards Nazarbaev, the man himself. It is increasingly difficult, however, for opposition parties to even exist. The Law on Political Parties, passed in June of 2002, has been criticized by the OSCE, among others, as a means to push out all opposition parties by making legal registration extremely difficult and placing questionable burdens upon the opposition. (*Nations in Transit 2003*; UN Office for the Coordination of Humanitarian Affairs through IRIN News.org) As an illustration, consider Nazarbaev's initial post-independence election. "On 1 December 1991, Nazarbaev's presidency was ratified by universal suffrage, obtaining (under the strictest of Soviet procedures) 98.6 percent of the vote. His only opponent, the leader of the nationalist Jeltoqsan Party, obtained a mere 38,000 of the 100,000 signatures required for candidature." (Capisani 2000, p. 3)

Uzbekistan, too, has legitimacy problems with elections and political parties. The Central Electoral Commission (CEC) oversees the Uzbek electoral process. In theory, the CEC is an independent board of 14 members "established by the Oliy Majlis (Parliament) on the

advice of the president;” however, in practice, it defers quite regularly to the executive. (*Nations in Transit 2003*, p. 634) The CEC exists thanks to the 1993 Law on Parliamentary Elections (amendments were made in 1997 and 1999). In order to run for an office, a candidate must be nominated by a political party that is registered with the Ministry of Justice; however, opposition parties have a difficult time registering. As well, the parties must be registered at least six months prior to the election – further complicating the process. In particular, the Ministry of Justice refuses to register Islamic parties such as the IRP (Islamic Renaissance Party) and the Adolat, citing that these parties violate the constitutional provision of separation of church and state (Article 61 and to a lesser degree, Article 12) as well as the 1996 Law on Political Parties. (*Nations in Transit 2003*, p. 635) Islamic parties, however, are not the only opposition parties. Others exist that oppose the government on nationalistic or policy grounds (such as the Birlik party, the Erk party, the Uzbek Social Progress Party, and the Otechestvo Party).

Uzbekistan’s president, Islam Karimov, has been in power since March 24, 1990, when he was elected by the Soviet-era parliament as a replacement for Rafik Nichanov, president of the Soviet Republic of Uzbekistan. Karimov called for elections almost immediately after independence, himself running as a moderate nationalist (Capisani, 2000). Although Uzbekistan’s constitution declares a two-term limit for presidents (Article 90), Karimov has remained in power and is expected to continue to do so at least until the next presidential election in December of 2007. His incredibly long tenure in office has been made possible by both referenda and parliamentary extensions. The last “official” presidential election took place in January of 2000. Official results reported that Karimov was preferred by 95 percent of eligible voters over his competitor, Abdulhafiz Dzhalalov; however, as Freedom House reports, “leading

international organizations refused to send observers, and the election was widely regarded as a travesty of the democratic process.” (*Nations in Transit 2003*, p. 637)

The preceding discussion is evidence that Kazakhstan and Uzbekistan on paper appear to meet some of Dahl’s requirements, specifically that countries provide citizens the “freedom to form and join organizations”, the “right to vote”, the “right of political leaders to compete for support and votes,” “institutions for making government policies depend on votes and other expressions or preference” and most importantly, “free and fair elections”. In practice, what has been described is that Kazakhstan and Uzbekistan fail to meet those requirements in almost every capacity. In particular, with regard to the two basic components of Dahl’s polyarchy, contestation and participation, Kazakhstan and Uzbekistan are nowhere near providing the uninhibited flow of citizen expression that Dahl believes is such a vital part of polyarchy. As thus far established, these countries are simply not polyarchies according to Dahl’s definitions and requirements – leading to the conclusion that they are not democracies. Citizens in Kazakhstan and Uzbekistan simply do not have the right “to formulate their own preferences”; “to signify their preferences to their fellow citizens and the government by individual and collective action”; and “to have their preferences weighed equally in the conduct of the government, that is, weighted with no discrimination because of the content or source of the preference” (Dahl 1971, p. 2). Huntington (1991) would agree that without truly competitive elections a democracy cannot exist. According to Huntington, “Elections, open, free, and fair, are the essence of democracy, the inescapable sine qua non.” (Huntington 1991, p. 9)

In addition to the preceding examinations of the separation of powers, the system of checks and balances, the electoral system, and opposition parties, an examination of civil

liberties using Dahl's framework is necessary to assess further the extent of "democracy" in Kazakhstan and Uzbekistan.

### Civil Liberties

Democratic elements can be seen in regard to government institutions, *de jure* at least, but how do Kazakhstan and Uzbekistan fair in terms of providing for civil liberties? In Kazakhstan's constitution, it is Section II that describes the rights and duties of the individual citizen. Section II contains Articles 10 through 39. "Human rights and freedoms" are provided for in Article 12; however, the article fails to define what those rights and freedoms are. Other civil liberties listed in Section II are characteristically democratic. There are provisions for equality before the law (Article 14), the right to life (Article 15), protection against torture (Article 17), the right to privacy (Article 18), property protections including the right to own private property (Article 26), and even an article regarding the right to respect, specifically that "everyone must... respect the rights, freedoms, honor and dignity of other persons" (Article 34). Kazakhstan also declares that individuals have a right to healthcare (Article 29) and to an education (Article 30).

Referring back to Dahl's list of eight requirements for polyarchy, this discussion of civil liberties in Kazakhstan and Uzbekistan directly addresses the "freedom to form and join organizations", "freedom of expression", and "alternative sources of information." (Dahl 1971, p. 3) Also, this overlaps with Huntington (1991) who considers the freedoms of speech, press, and assembly so vital to a democracy. The Constitution of the Republic of Kazakhstan promises freedom of speech in Article 20, freedom of religious affiliation in Article 19, and freedom of

association in Article 23. Freedom of peaceful assembly is protected in Article 32. The Constitution does not explicitly guarantee freedom of the press, but it does guarantee freedom of expression. There are also other laws, such as the 1999 Press and Media Law, which address media issues outright. Yet freedom of the press is still a major stumbling block for Kazakhstan. Reminiscent of Soviet days, Kazakhstan is often severely criticized by the international community for the way media rights are restricted (for example, by Freedom House and Eurasianet)<sup>6</sup>.

Uzbekistan's constitution states that certain civil liberties, similar to most modern democracies, are to be protected. Article 7 in Chapter II states the people are the only source of power. It is in Section II, beginning with Chapter V, that one finds the rights, freedoms, and obligations of the person and citizen of Uzbekistan. Article 18 begins Chapter V with a general "disclaimer" of equality before the law "regardless of differences in gender, race, nationality, language, religious, social origin, beliefs, and personal or social position". To support this further, Article 46 in Chapter X states "women and men have equal rights."

It is Chapter VII in Section II that specifies personal rights and freedoms. The right to life is found in Article 24. Article 25 is where the protection against unlawful arrest and detention is stated. Article 26 contains more legal protections such as being innocent until proven guilty and having an open trial. Further, Article 26 has a statement condemning "torture, violence, or other cruel or humanly degrading treatment." Article 27 outlaws unlawful search and seizure, while Article 28 declares freedom of movement in Uzbekistan. "Each person has the right of freedom of thought, speech, and belief" is stated in Article 29; however, this same

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<sup>6</sup> These criticisms are discussed more extensively below.

article contains the caveat that “freedom of opinion and the expression of opinion may be limited by law in order to safeguard state or other secrets.” Article 31 has to do with freedom of conscience and also mentions freedom of religion. Uzbekistan’s citizens are told in Article 31 that “each person has the right to practice any, or no, religion. Forced imposition of religious views is not permitted.”

Chapter VIII of the Constitution of the Republic of Uzbekistan specifically addresses “political rights.” This Chapter contains articles allowing for participation in government (Article 32), the right to be socially active with “protests, meetings, and demonstrations” (Article 33), to join “trade unions, political parties, and other social associations” (Article 34). Chapter XIII further illustrates social associations and also delineates a kind of restriction on the freedom of association. Similarly to Kazakhstan’s constitution, Uzbekistan’s constitution forbids membership in political parties or social associations of a certain ilk. These forbidden groups are those which “have as their goal violent change of the constitutional system; protest against sovereignty, integrity, or security of the republic or the constitutional rights and freedoms of its citizens; advocacy of war, social, national, racial, or religious animosity; encroachment on the health or morality of the people; or that are militaristic formations or ethnically or religiously based political parties.” (Article 57)

In Chapter IX, the rights listed are considered economic and social. The right to own property (Article 36), the right to work (Article 37), the right to medical care (Article 40), and the right to an education (Article 41) with the stipulation of free general education to all can be found in Chapter IX. Also included in Chapter IX is a provision that “hired employees have the right to paid vacation” (Article 38). Other interesting democratic, constitutional provisions are

delineated in Article 61 in Chapter XIII regarding Social Associations, which provides for separation of church and state – and especially Article 67 of Chapter XV on the Mass Media. Article 67 states, “Mass media are not hindered and operate in accordance with the law. They are, in the established manner, responsible for the reliability of their information. Censorship is not allowed.” Such a mass media provision is not evident in Kazakhstan’s Constitution, as stated previously.

On paper then, at least, both Kazakhstan’s and Uzbekistan’s constitutions appear to provide the guarantees necessary for Dahl’s polyarchy to exist. However, when these *de jure* provisions are compared to the already discussed lack of free and fair elections and institutional guarantees required by Dahl, Dahl’s assertion that “in the absence of the right to oppose, the right to ‘participate’...” (Dahl 1971, p. 5) loses much of its significance and is only more illuminated. Additional material regarding *de facto* civil liberties provided in the case studies in Chapters Two and Three below demonstrates that Kazakhstan’s and Uzbekistan’s citizens do not fully enjoy the following Dahl requirements for polyarchy (and thus, democracy): (1) “freedom to form and join organizations”; (2) “freedom of expression”; and (6) “alternative sources of information.” (Dahl 1971, p. 3)

Here, I would note that Huntington (1991) comes into play in Chapters Two and Three as well. Based on Dahl’s requirements, we can assert that Kazakhstan and Uzbekistan are not *de facto* democracies (polyarchies in Dahl’s terms). Huntington’s work (1991) addresses the actual process of democratization. In the following case studies, using a framework based on Huntington (1991), the *de facto* state of affairs in Kazakhstan and Uzbekistan is further explored,

and the reasons for the stagnation of the transitions to democracy in these two countries are examined.

Huntington (1991) believes that three waves of democratization have occurred in the twentieth century and each, save the last, has also been reversed, as if the trend towards democratizing ebbs and flows like the ocean tides. By studying the various waves, Huntington shows also how liberalization does not always lead to democratization and that there are and have been numerous authoritarian regimes that have liberalized without democratizing. These regimes do so by instituting certain liberal democratic qualities but do not institute or do not fully institute the mechanisms necessary for participation and contestation and thus for democratization. Huntington also notes that political scientists have observed that even governments that do originate in democracy may be among those in the “reverse wave.” All democracies do not always remain democracies. He notes that, in particular, the countries of the “second wave” were quite perplexing to the political scientists of the day. This led them to look into alternative explanations for such a trend; yet, as Huntington points out, by the time they began, the “third wave” of democratization was already beginning. “They attempted to explain the swing away from democracy in the 1960s and 1970s by pointing to the inappropriateness of democracy in poor countries, the advantages of authoritarianism for political order and economic growth, and the reasons why economic development itself tended to produce a new and more enduring form of bureaucratic-authoritarianism. The transition of countries back toward democracy began even as these theories were elaborated.” (Huntington 1991, p. 26) This was useful because it caused authors and scholars to continue examining the pre-conditions for democracy. Huntington is quick to point out, however, that when it comes to political science

there are almost always multiple causes for a phenomenon. This is especially true for democratization.

Huntington (1991, p. 37) lists numerous variables which can be used to explain democratization. While he does not assert that the list is exhaustive, it has been compiled to encompass a wide range of democratization variables based upon the current theories. Huntington issues a disclaimer that “each variable and theory, however, is likely to have relevance to only a few cases.” (Huntington 1991, p. 38) Thus, not all factors are employed here to examine Kazakhstan and Uzbekistan. Variables listed by Huntington but not used here include: “a feudal aristocracy at some point in the history of society”, “the absence of feudalism in the society”, “a strong bourgeoisie”, “Protestantism”, “low levels of political polarization and extremism”, “democratic authority structures within social groups, especially political groups”, “experience as a British colony”, and “occupation by a pro-democratic foreign power”<sup>7</sup>. These variables are either not applicable to Kazakhstan and Uzbekistan (such as Protestantism, history as a British colony, or occupation by a pro-democratic foreign power), or they are not measurable for Kazakhstan and Uzbekistan within the scope of this thesis (such as democratic authority structures within social groups, particularly those closely connected to politics). This last variable mentioned would, however, be interesting to examine in a future research endeavor. Perhaps in a later study regarding Central Asian democratic transitions, this variable, in addition to Huntington’s proposed explanatory factors of “a strong middle class”, “social pluralism and strong intermediate groups”, and “elite desire to emulate democratic nations”, should receive

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<sup>7</sup> The remaining Huntington variables not utilized are: “traditions of tolerance and compromise,” “traditions of respect for law and individual rights,” “consensus on political and social values,” and “absence of consensus on political and social values”. These factors are excluded for the same reasons discussed here.

attention. Even though these would be interesting variables to include, there simply is not enough information available at this time regarding such structures to include them in this thesis with a reasonable degree of validity and/or reliability.

Thus, the specific potential precursors to democratization used in this study are: economic (“a high overall level of economic wealth,” “relatively equal distribution of income and/or wealth,” “a market economy,” and “economic development and social modernization”); education-based (“high levels of literacy and education”); social [“an instrumental rather than consummatory culture,” “communal (ethnic, racial, religious) homogeneity,” and “communal (ethnic, racial, religious) heterogeneity”]; and political (“the development of political contestation before the expansion of political participation,” “low levels of civil violence,” “political leaders committed to democracy,” and “influence by a pro-democratic foreign power”). (Huntington 1991, p. 37) These indicators were chosen because they are the most appropriate and most useful for this thesis. In contrast to the excluded potential explanatory factors listed above, one can more accurately determine the extent to which these chosen indicators are operative in Kazakhstan and Uzbekistan based on the information available at this time.

Again, as Huntington mentions, the democratization indicators (variables) he proposes are neither exhaustive nor mutually exclusive; however, they serve as observable measures which can help to determine the extent to which Kazakhstan and Uzbekistan are progressing or not progressing towards democracy. According to Huntington, “the causes of democratization differ substantially from one place to another and from one time to another.” (Huntington 1991, p. 38) That being said, using some of the more common indicators aids in comparison. Also, given that the causes for democratization can be so varied from place to place and from time to

time, it might follow that the reasons for problematic transitions to democracy could be just as complex and varied. Is it merely a coincidence that all Central Asian countries are stagnant in their democratization? Perhaps not, but it is entirely plausible that their transitions to democracy have stagnated for dissimilar reasons. To draw out both the similarities and the differences between the stalled democratic transition in Kazakhstan and the stalled democratic transition in Uzbekistan, frameworks based on Dahl's requirements for "polyarchy" and Huntington's precursors to democratization are used to examine each country separately in the next two chapters.

## CHAPTER TWO: KAZAKHSTAN

Kazakhstan is the largest country in Central Asia in terms of size. It borders Russia on the North, China on the East, and Kyrgyzstan, Uzbekistan and Turkmenistan on the South. As well it shares part of the Caspian Sea with Russia, Azerbaijan, Iran and Turkmenistan. Together they make up five littoral states with Caspian “ownership” (Alaolmolki, 2001). Sheer size alone gives Kazakhstan an advantage in the region however it does not have the largest population (that would be Uzbekistan). While part of the Soviet Union, Kazakhstan was also home to the launch site of the Soviet Space Program as well as home to its nuclear arsenals (Alaolmolki, 2001; Capisani, 2000).<sup>8</sup>

Kazakhstan has an assorted landscape of mountainous areas (as in the North with the Mugodzhary mountain ranges and the southern end of the Ural Mountains and the Southeast with parts of the Tian Shan range), steppe regions (in the southern central area called the Turanian Lowlands for example) and even deserts like Ryn Peski and Peski Sary Ishikotrau. The climate is equally as diverse. Hot summers and very cold winters give witness to the wide range of weather in Kazakhstan. (Capisani 2000) Some scholars, like Alaolmolki (2001), date the early formations of the present-day Kazakhstani state around the sixteenth century with the immigration of various nomadic tribes; while others like Akiner (1995), date the true beginnings around the fifteenth century. However most scholars will concede that, at the earliest, the area

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<sup>8</sup> According to Capisani, Kazakhstan became the world’s fourth-largest nuclear power between 1980 and 1990 with a total of 1410 nuclear devices and 40 heavy bombers (Capisani 2000). This made nuclear proliferation a major issue between Kazakhstan and both Russia and the United States during the initial independence period following the collapse of the Soviet Union. While many Kazakh nationalists wanted to keep the nuclear capabilities for fear of re-emergence of Russian imperialism, Kazakhstan participated in both the Strategic Arms Reduction Talks (START) I Treaty and the Nuclear Non-Proliferation Treaty (NPT) (Dannreuther 1994).

we now call Kazakhstan did not really amalgamate until the break up of the Mongol Empire in the fifteenth century.

### From Tribalism to Russification

“The most common historical perception of Central Asia is a backwardness and barbarism... The actual history of Central Asia is far removed from this popular image.” (Dannreuther, p. 7) While there have been myriad influences in the region over the centuries, it is not so much important that foreign conquerors from places like Greece, Persia or China invaded Central Asia however. What is more important is that Central Asian history consists of a mixture of neighboring influences and nomadic tribalism which has *resulted* in a region divided into multiple khanates or hordes but no overarching form of organization. Instead of adapting their nomadic lifestyle to incorporate those foreign influences, early Kazakhs only incorporated those features of foreign influence which could be suited and adapted to fit into their nomadic culture. However because the region lacked a significant structural backbone of organization, the region eventually became susceptible to colonization. Add to this the repressive and brutal qualities of Russification and the harshness of Sovietization, it is not surprising that Central Asian history is so muddled and questions of ethnicity and nationalism are so confusing. Roy (2000) believes this is a point that serves to obfuscate those who try to draw ethnic and nationalistic lines in Central Asia. “The major ethnic affiliations, corresponding to the ‘nationalities’ as they exist today, do not date back to the origins of time, as protagonists would have us believe. The only major objective distinction in terms of the peopling of the region (Turkic-speaking populations having gradually taken over a previously Indo-Iranian

space), no longer really explains anything. Modern identities are the products of history.” (Roy 2000, p. 15)

The territory of present day Kazakhstan has not been historically associated with dense populations and settlements. For the most part, present-day Kazakhstan was home to pastoral nomadic tribes wandering the steppes, existing in klan-like associations called hordes. Scholars like Akiner (1995) point out that both the climate and topography of Kazakhstan were quite well suited for such a lifestyle, as size alone was the only obstacle restricting human movement. Yet the nomadic tradition has made it difficult to fully trace the lineage of both the Kazakh people as well as any kind of “Kazakh state”. Grandiose settlements like Pompeii will not be found in Kazakhstan and neither will much in the way of a written historical record. For example, the nomadic tradition did not revere the cultivation of “fine arts,” as they are commonly known. “Their aesthetic sensibility was expressed through applied and functional arts. Much of their culture was, by its very nature, ephemeral, shaped by a long, in many ways highly sophisticated tradition, but enacted in the present, in response to immediate needs.” (Akiner 1995, p.18) Akiner (1995) further describes how this present perspective also did not create the need for “elaborate explanations and documentation.” (Akiner 1995, p.18) For the most part, oral tradition served as the historical medium.

However this nomadic way of life in no way should lead to the assumption that the Kazakh lifestyle had no structure whatsoever or lacked permanence. The horde structure provided rigidity but also allowed for the freedom and flexibility commonly associated with nomadic culture. Akiner (1995) calls this a blend of dependence and independence. Strong ties and loyalty existed but there was also fluidity within the tribal structure allowing for ease of

movement to seek more favorable accommodations, if such a need or desire arose. “This flexibility gave the tribal structure a dynamism that enabled it to accommodate the constantly changing shape and balance of regional power politics. It only lost this elasticity when, after annexation and sedentarization, the tribes ceased to have any real function and were reduced to the status of genealogical markers.” (Akiner 1995, p. 14)

There is another interesting element of this nomadic culture that is important to note before a discussion of the Russian influence is pertinent and that is the structure of the clans and tribes themselves. The clan was the basic socio-economic unit in the Kazakh nomad society (Akiner 1995). Clans primarily existed by raising animals like cattle, goats, camels, sheep and horses. Similarly to Native American Indian tribes, these nomadic clans used every bit of their livestock for subsistence. These clans would gather together into larger groups in the summer months and go out on their own during the winter months, but each clan “had its own elected leader, who would make the major decisions concerning the well-being of the community.” (Akiner 1995, p.15) There was a sense of community in these clans, as well, and elements of a “civilized” culture. There were also hierarchical structures of aristocracy. Akiner (1995) describes a dual aristocracy which existed between the ‘white bones’ and the ‘black bones’. The ‘white bone’ nobles, known as sultans, claimed lineage from Mongol princes, in particular Genghiz Khan but they “did not form part of the clan-tribal system, although they ‘possessed’ groups of clan or tribes, on whose support they depended in their bids for supremacy within the Khanate.” (Akiner 1995, p.16) The ‘black bone’ aristocracy, on the other hand, was another type of elite supposedly elected but Akiner (1995) points out that ascendance was mostly often due to nepotism. These aristocrats, however, *were* part of the clan-tribal structure. The ‘black bones’

were either military or legal leaders and “such men were as powerful and independent as any ‘white bone’ sultan; not infrequently they conducted separate negotiations with rulers of neighbouring states, including, eventually, the Russians.” (Akiner 1995, p16) Even the aristocratic structure shows a glimpse of the unorganized structure of the early Kazakh region.

Territorial divisions existed where land was divided between hordes. The three major hordes who divided up what is now present-day Kazakhstan were the Big or Greater Horde (Ulu zhus), the Middle Horde (Orta zhus) and the Little Horde (Kishi zhus) (Akiner 1995). All of the hordes joined together, substantively at least, around the mid-fifteenth century and formed the Kazakh Khanate; however this was not a solidly formed entity and eventually eroded into three separate hordes again. While there were loose ties maintained between the separated hordes, they pretty much acted independently of each other, more like a confederacy. This division actually illuminates the interconnectedness of the current people of Kazakhstan and hence the historical “confusion”. The nomadic culture and the various divisions into clans (khans) and hordes made it easy for members of the same tribe to simultaneously be members of different hordes (Akiner 1995).

### The Russian Experience

It was not until the late seventeenth century that the Hordes were exposed to formidable challenges to their authority. “Two powerful new contenders for mastery of the steppes emerged: the Dzhungars (a nomadic Mongol people) in the east and the Russians in the west.” (Akiner 1995, p.19) Many of the individual khans and sultans sought Russian assistance in warding off the Dzhungars, but the divisions among the Kazakh Khanate also pit many of the

khans and sultans against one another which also factored into the requests for Russian assistance. The Russian tsars, recognizing this weakness in structure, took hold of the opportunities to take over much of the lands. By 1845 Russian dominance in the region was virtually assured (Akiner 1995). Russian annexation of the Kazakh region disrupted the nomadic way of life and irrespectively cut across tribal boundaries. A particular administrative reallocation which took place from 1867 to 1868 aimed to “unite the subject peoples of Russia under one administration, to distance the local aristocracy from power, [and] to weaken clan links, in order to achieve the gradual merging of the Kirghiz steppes with other parts of Russia.” (Akiner 1995, p. 24) This initiative split the region into divisions that did not mesh with the horde or clan and tribal divisions and effectively destabilized what little unity that had previously existed. “The borders of the present states of Central Asia have no pre-Russian heritage. It was Russian and Soviet administrators who demarcated them and then set about building nations to fit the states.” (Dannreuther 1994, p.10)

Russification took place soon after the territorial assimilation. The predominant device was state-sponsored education. At first these educational facilities were for the use of the Russians implanted in the region but the “courtesy” was later extended to Kazakh aristocracy. “The intention was ‘to facilitate the rapprochement of Asiatics to Russians, to inspire in the former love and confidence towards the Russian government and to provide the region with educated personnel.’” (Akiner 1995, p.26) And thus the infiltration of Russification began at the levels of nobility, beginning with education and eventually through the mediums of style and fashion as European-inspired living became popular among the Kazakh hierarchy. Akiner (1995) describes the cultural change as occurring on many levels - from the promise of

industrialization and urbanization to intellectual culture and the arts. Further, the Russians began to transform the Kazakh nomadic history by recording it according to Russian interpretation and not necessarily “reality” (Akiner 1995). Other methods of Russification employed involved the conversion of the mostly Islamic Kazakhs to Christianity<sup>9</sup> and then the conversion to socialism. “The Tsarist military historian, Mikhail Venyukov, emphasized this distinctive aspect of Russian imperial policy by comparing Russians to ‘Englishman in India who do their utmost to avoid mingling with the natives... Our strength lies in the fact that... we have assimilated subject races, mingling affably with them.’” (Dannreuther 1994, p. 9)

### Sovietization

Dannreuther states that the Bolshevik revolutionaries had the same thing in mind for the region however their goal was to “forge a common Soviet identity which would affirm its loyalty to revolutionary internationalism rather than local nationalism.” (Dannreuther 1994, p.9) To illustrate the pivotal role the Soviet Union had on present-day Kazakhstan, consider the following comment from Akiner (1995): “Soviet rule was the definitive experience for the formation of the modern Kazakh identity. It was responsible not only for the radical transformation of contemporary society, but also for the comprehensive reinterpretation of the past – the cultural legacy as well as the historical chronicle – in accordance with the determinist philosophy of Marxism-Leninism.” (Akiner 1995, p.34) Akiner (1995) says that Central Asians, in particular Kazakhs, were quite susceptible to the Sovietization since they were still so close to

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<sup>9</sup> Later during the Soviet period, the Soviet anti-religion campaign would seek to abolish all forms of religion but in particular in Central Asia, it sought to wipe out the existence of Islam in the region. By 1928, it began phasing out Islamic seminaries, schools and mosques (Alaolmolki 2001, p.28). This occurred in Uzbekistan as well; indeed it was primarily focused on Uzbekistan and as such will be discussed further in Chapter 3.

their traditional existence of “nomadic pastoralism and orally transmitted culture” that they “were especially vulnerable to Soviet ethnic engineering.” (Akiner 1995, p.34)

Another territorial boundary allocation took place during the Soviet era. From 1924 to 1936, the National Delimitation of Central Asia took place and created the territorial borders of the five Central Asian states that still exist, for the most part, to this day (Akiner 1995 and Dannreuther 1994). Dannreuther (1994) further qualifies that these divisions were intentionally messy and artificial while Capisani (2000) references their haphazard construction and Roy (2000) describes the process as manipulatory and strategic. “Stalin’s principle political objective in structuring a new ethnically based order was to prevent the diffusion of other potentially more powerful and integrative political identities.” (Dannreuther 1994, p.12)

The Soviet influence, having been the most recent, has had a particularly salient effect on independent Kazakhstan. “The social transformation imposed by sovietism took place after the national division of 1924 (the reform of law courts and codes of law in 1927 and 1928, collectivization from 1927 to 1932, and the change of alphabet). The new societies thus know only this frame of reference.” (Roy 2000, p.116) Even prior to independence, many of the current institutions in Kazakhstan existed or were at least in their beginnings of formation. Cummings (2002) suggests Kazakhstan was resistant to the change and Roy (2000) also suggests that Kazakhstan, being the last of the Soviet republics to declare independence, did not necessarily want to free itself from the Soviet system; but the fact that these institutions were created prior to dissolution could suggest that there was a perceived inevitability about the collapse. Kazakhstan had its own leader - separate from Moscow leadership (of course the fact that it was Nazarbaev both pre- and post-independence is noteworthy) - and it also already had

its own parliament. However nominal their presence was beforehand, after independence these institutions provided a modicum of stability during the initial transition. To further illustrate this stability, the reference to a “glorious” kind of revolution in Chapter One can be used again; independence came without war or any kind of serious demand for it. Unlike many governmental and regime changes that occur in a country, Kazakhstan’s transition from a communist system to a democratic one was relatively smooth.

However there is one last point regarding the suggested clinginess to Soviet association of Kazakhstan. Perhaps an implied loyalty of Kazakhstan towards Moscow could be perceived but this may not necessarily be the case. Some scholars are quick to point out that the people of Kazakhstan may have simply resisted change due to Kazakh dissimilation rather than a lack of nationalism (Dannreuther 1994). “Liberated from the Soviet embrace, the Kazakhs have viewed the creation of an independent state as a historic vindication of their national rights.”

(Dannreuther 1994, p.43) This vindication is bittersweet, however, because there really is not a Kazakh ethnic majority in Kazakhstan. In fact Kazakhstan still maintains the largest population of Russians in the former Soviet Central Asia. According to the State Department of the United States, Kazakhstan’s ethnic distribution, as of 2002, is as follows: 55.8% Kazakh, 28.3% Russian, 3.3% Ukrainian, 2.6% Uzbek, 1.8% German, 1.5% Uyghur and 5.0% Other (U.S. State Department, *Background Note: Kazakhstan*). Sharing such a large border with Russia has had a significant impact on the percentage of Russians in Kazakhstan. It allowed for a more intensive settlement of Russians. As well, this geographic point can be illustrated by a perceived north-south divide in Kazakhstan. There is a large Russian majority in the North of the land, while the Kazakh ethnic majority occupies much of the southern area of Kazakhstan. Additionally, there is

a strong Russian presence in the business sector of Kazakhstan making Russian-Kazakh relations an important issue in Kazakhstan. These ethnic divisions could be considered potentially dangerous but Dannreuther (1994) suggests there are mutual interests between the Kazakhs and Russians that facilitate self-imposed restraints regarding an escalation of ethnic conflict or rivalry, i.e. both groups perceive a self-interest in maintaining relative ethnic peace.

### Independent Kazakhstan

Lack of nationalism is one of the rationales given as to why Kazakhstan has failed to substantively progress towards democracy. Considering the above statements, however, it can be shown to not necessarily be the case. However another point regarding nationalism is that its use as a unifying factor can be sketchy. Used for legitimacy purposes, nationalism can backfire. Previously regimes used tradition and religion to maintain legitimacy of rule, such as the Divine Right of Kings, however Huntington (1991) asserts that “in an age of literate, mobilized populations, these traditional rationales for authoritarianism lose their efficacy. In modern times authoritarianism has been justified by nationalism and ideology.” (Huntington 1991, p. 46) What makes nationalism a problematic issue for an authoritarian regime and thus a sketchy device according to Huntington (1991) is that it only works so long as there is a credible enemy or a perceived threat that can unify a people into a single nationalistic direction. Also, nationalism can be used by democratic regimes as well and so it is not merely an authoritarian device. Returning to Huntington’s list of democratization indicators, two of them concerned communal heterogeneity and communal homogeneity. Depending upon the level of diversity, or even the level of perceived unity, either indicator can be a support for a country’s transition to democracy.

Since Kazakhstan has neither a unifying overall nationalist ideology, nor does it have such a significant rift between ethnic groups as in Tajikistan or even Uzbekistan for that matter (recall the mutual, self-imposed restraint on ethnic conflict), nationalism seems to not be a major factor inhibiting democratization. There is seems to be neither too little nor too much.

If lack of nationalism is not a culprit, then what hinders the current democratic transition? It was said previously in this thesis that the President of Kazakhstan, Nursultan Nazarbaev, is one, indeed the predominant, reason often cited as to why the democratization process is regressing toward authoritarianism. Recalling again the Huntington (1991) indicators, a country is more likely to have an easier time during democratization if it has political leaders committed to democracy, and many scholars and journalists doubt Nazarbaev's dedication to the transition. Not merely Nazarbaev the president, but Nazarbaev the man himself is caught up in such indictments. As Chapter One described, the Kazakhstani Constitution gives the president much power. To review, some important powers include the presidential right of decree and to veto parliamentary legislation as well as the capability to appoint and dismiss ministers and government officials and dissolve parliament. One of the most important presidential powers though is that only the president can initiate amendments to the Constitution. Since Nazarbaev is the only president in independent Kazakhstan's history, the increase in presidential power can be completely accredited to him and not viewed as a gradual increase and enhancement of strength over time. Many of Nazarbaev's implementations and expansions of executive power can be seen as direct attempts to maintain his own, personal powerful influence and presence. There are numerous Constitutional provisions for life after the presidency. Article 46 of the Constitution (see Appendix A) provides for the protection of the honor and dignity of the president, but

Paragraph 2 gets even more specific when it provides bodily protection for the president. It states: “Provision, service, and guard of the President of the Republic and his family shall be carried out at the state’s expense” and Paragraph 3 adds “the provisions of this article shall extend to ex-Presidents of the Republic”. While these provisions are made in many other democratic countries, including the United States, the constitutional guarantee extending to ex-presidents nonetheless had Nazarbaev in mind.

Perhaps as better example of Nazarbaev’s influence is that the Constitution guarantees all ex-presidents of Kazakhstan shall have a permanent place on the Constitutional Council (Article 71). This is interesting because the Constitutional Council of the Republic of Kazakhstan only consists of seven members who hold their positions for six years, yet once an ex-President joins the Council, he will not be subject to this term limit. They, according to Article 71, “have the right to be life-long members of the Constitutional Council”.<sup>10</sup> However this all becomes more interesting with the following Constitutional provision in Paragraph 5 of Article 71. It states: “The Chairperson and members of the Constitutional Council during their term in office may not be arrested, subject to detention, measures of administrative punishment imposed by a court of law, arraigned on a criminal charge without the consent of Parliament, except in cases of being apprehended on the scene of a crime or committing grave crimes”. Nazarbaev has the potential to be an influential power in the government of Kazakhstan, virtually without fear of legal entanglements, for the rest of his natural life even if he is not holding the office of President. “All [Central Asian] presidents have crafted institutions to retain power in the post-Soviet period and they have done so with considerable success. The varying degrees of authoritarianism and

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<sup>10</sup> Considering the limited number of seats on this Council, perhaps it is not in Kazakhstan’s best interest to have too many “ex-Presidents”.

effective leadership stem from personalities, skills, sequencing and policies"... suggesting "that there is nothing predetermined about presidential regimes being authoritarian, rather that regime type is partly determined by actors' choices. The uniform regression [towards authoritarianism] suggests the importance of viewing institutional choice as a dynamic" (Cummings, p.20).

Referring back to Dahl's (1971) requirement that institutions should make government policies depend upon voters' preferences, Kazakhstan's institutions seem crafted more as protectorates of the president than as vessels for democratization and channels for voter preferences. As well this description only further illuminates that Kazakhstan's leaders do not meet with the Huntington (1991) precursor of leaders committed to democracy. Again, the lack of such elements calls into question the extent to which Kazakhstan is actually democratizing. Reasons such as those illustrate why so many scholars and journalists alike believe Kazakhstan is becoming authoritarian rather than democratic.

The link between an increase in presidential power and authoritarianism is not new. Authors such as Thomas Hobbes have advocated for a strong, single leader as the most effective form of leadership and even Nazarbaev has suggested such. As mentioned previously, Nazarbaev defends the increase in presidential power as a necessity to guide Kazakhstan into democracy. While this tough love approach to democratic reform is controversial to say the least, the actual observed effects of Nazarbaev's approach suggest patterns of backsliding and a lack of progress in many ways. In fact, nowhere in his list of precursors to democratization does Huntington (1991) mention that a country must be firmly guided by an autocrat while democratizing in order for democratization to be successful. Instead it is when leadership is committed to democracy that democratization is successful (Huntington 1991).

It was noted earlier in this thesis that some authors have argued that Nazarbaev is leading Kazakhstan into a regression backwards to the Soviet system, but other authors, like Cummings (2002), have stated that whatever form of government Kazakhstan is heading towards, it is definitely not regressing into the Soviet system - that in fact it is completely opposite of the Marxist-Leninist model. Cummings (2002) further addresses this issue by stating that "even if some remnants of the old system remain, the CPSU [Communist Party of the Soviet Union] no longer has the monopoly of power, a guiding ideology no longer exists, there is very little, if any, routine mobilization of the population within state-sponsored organizations to achieve a minimum degree of compliance, and leadership recruitment is no longer restricted to the official party." (Cummings, p.8) What Cummings (2002) and scholars like her believe is happening is that Kazakhstan is turning into an authoritarian state. An IRINnews report on July 31, 2002, tells that a "United Nations Development Programme (UNDP) report named Kazakhstan as one of a handful of countries slipping into authoritarian rule." (*Kazakhstan: Focus on Civil Liberties*, IRINnews.org, July 31, 2002) Others, such as the US State Department, are reluctant to make such a classification as they have with Uzbekistan for instance. Perhaps this is due to the significant progress that Nazarbaev and Kazakhstan have made in the transition toward a market economy. As was stated previously in Chapter One, Huntington (1991) lists a market economy as a variable indicator of democratization as well as "economic development and social modernization." (Huntington 1991, p. 37) For review, the other two economic indicators used in this study are "a high overall level of economic wealth" and a "relatively equal distribution of income and/or wealth." (Huntington 1991, p. 37)

While remarkable progress towards a market economy has been made, many problems have arisen, problems which are almost indicative of all newly forming market economies in transitioning countries. For one thing, while GDP (Gross Domestic Product) has been increasing at an extraordinary pace, new wealth is not necessarily evenly distributed. To illustrate, consider the fact that, while Kazakhstan is the richest country in the region, “nearly one person in four lives below the poverty line – though that is an improvement on 1996, when the figure was one in three. And such averages hide huge disparities not only between urban and rural areas, but also among regions. In Mangystau province, which borders the Caspian Sea, over 95% of the rural population live in poverty, whereas in Astana, the capital, only 2% of the residents lack basic necessities.” (The Economist, *Cottoning On*, July 24, 2003) The major economic boon has been due to Kazakhstan’s expanding oil industry. Under the Soviet system, Central Asia served as the main source of oil and natural gas but now Kazakhstan has the potential to make a major mark in the oil industry as an independent nation. Its share alone of the Caspian Sea oil wealth gives Kazakhstan the potential to become the fourth or fifth largest oil-exporting country in the world in this century (Alaolmolki 2001). Since the Caspian Sea is outside of OPEC (Organization of Petroleum Exporting Countries) jurisdiction, Kazakhstani oil exports are not likely to be inhibited by OPEC pricing mechanisms (Alaolmolki 2001). Thus far the only significant hindrance to this progression is the problem of distribution. As a Soviet Republic Kazakhstan’s oil industry answered to Moscow, the main result of which being that all major pipelines go through Russia for distribution. For many reasons, not the least of which is to lessen Kazakhstani dependence on Russia, Kazakhstan has sought and attracted a lot of foreign investment. The European Union, the United States and foreign multinational oil corporations

have all tried to get a piece of this potentially large source of energy. The oil and gas industry accounted for twenty-five percent of Kazakhstan's GDP in 2001 and the energy sector itself has been the recipient of over half of all foreign investment (The Economist, *Cottoning On*, July 24, 2003). Yet all of this good has brought along the bad with it. "Competition and uncertainty have cast a shadow over Kazakhstan's economy and given pause to once enthusiastic foreign investors." (Freedom House, *Nations in Transit 2003*, p.309) Scandals around the oil industry are numerous. One notable case has been dubbed "Kazakhgate". This case involves allegations of top Kazakhstani officials, including the president, transferring money from state oil investments into personal Swiss bank accounts. The sum of these transfers is in the millions. Freedom House reports that when journalists and opposition activists tried to cover this and other stories like it, they were retaliated against by the state (Freedom House, *Nations in Transit 2003*).

An example of this is given in the same report of an independent journalist named Sergei Duvanov. Freedom House (2003) says that when Mr. Duvanov "documented in an on-line article the involvement of President Nazarbaev and his close associates in Kazakhgate, he was arrested on fabricated charges of raping a minor and sentenced in January 2003 to 3.5 years in jail." (Freedom House, *Nations in Transit 2003*, p. 310) The above story highlights both the challenging issue of civil liberties in Kazakhstan and the problematic economic situation. Considering that all four of the economic democratization indicators are less than successful, Kazakhstan's lack of economic "progress" could be one of the reasons why the democratization process has taken a downturn. However, as the frameworks drawn from Dahl (1971) and Huntington (1991) indicate, civil liberties are a highly important necessity for democracy and democratization; economic precursors alone cannot account for a lack of democratization. Such

explanations are incomplete at best. Adding the details of civil liberties provisions to such explanations will allow for a more thorough analysis of how well Kazakhstan meets or does not meet the standards for “polyarchy” set forth by Dahl (1971).

The last story can serve as an illustration of Kazakhstan’s civil liberties problem and thus begin the analysis of Kazakhstan’s civil liberties using the frameworks drawn from Dahl (1971) and Huntington (1991). Kazakhstan is primarily criticized for its actions regarding freedom of speech and freedom of the press (for example, Freedom House and Eurasianet). Increasingly, independent news media outlets are being shutdown by the government either temporarily or permanently. Procedural violations are the typical causes for suspension according to the government, however the media and press, supported by international organizations like Radio Free Europe (RFE), Eurasianet, Organization for Security and Co-operation in Europe (OSCE) and International Press Institute (IPI) as well as individual countries like the United States, claim the suspensions and shutdowns are rooted in political motives.

Television stations and newspapers are running into problems, particularly if they receive financial assistance from the government’s opposition. A March 9, 2002, article entitled “Kazakh Government Clamps Down on Independent Media” on Eurasianet’s website gives the example of a six-month suspension for TAN-TV. The official reason for the suspension mentioned “a number of procedural violations including use of a faulty transmitter, improper registration of equipment, and poor sanitary working conditions” (*Kazakh Government Clamps Down on Independent Media*, Eurasianet.org, March 9, 2002). Yet TAN-TV receives some of its financial support from Mukhtar Abliyazov, one of Nazarbaev’s staunchest critics. Abliyazov is the former head of the DCK party (Democratic Choice of Kazakhstan), which is a party that

opposes the president and his government. This same article described how TAN-TV had had a five hour broadcast in January of 2002 which featured opposition political parties and non-governmental organizations (NGO) criticizing government policy. Such instances violate the three components which Dahl (1971) stated a government must provide its citizens. By shutting down media outlets of any kind, citizens are not allowed to formulate their preferences, signify their preferences or express their preferences without discrimination (Dahl 1971). Further, Dahl (1971) stated the importance of the freedom of expression and alternative sources of information within his “eight requirements” for polyarchic governments. As well, by denying the above, Nazarbaev and his government only show too well their lack of commitment to democracy, a democratization precursor according to Huntington (1991).

The previously mentioned article also cites concerns from Marilyn Greene, the executive director of World Press Freedom Committee (WPFC) that the restrictions will only intensify and that journalists will engage in self-censorship. Svetlana Dylevskaya, an employee for Internews Kazakhstan, also has concerns that even if journalists do not engage in self-censorship, they may have difficulty in the way of getting their writing printed. ““From the beginning of the year [2002], newspapers containing critical articles regarding the government have had serious problems,” Dylevskaya said. “Publishing houses under the control of the authorities refuse to print newspapers like ‘Respublika-delovoye obozreniye,’ ‘Vremya po – The Globe’ and ‘Soldat’” (*Kazakh Government Clamps Down on Independent Media*, Eurasianet.org, March 9, 2002). Kazakhstan’s law itself, being interpreted to allow for censorship, is another concern of the WPFC. Kazakhstani law forbids comments that could be considered critical of the president. According to Greene, public officials make use of the law as well. She says in the

Eurasianet article, “‘It’s [the law] even embodied in the constitution of the country in Article 18<sup>11</sup>, which says everyone should have the right to private life, personal or family secrets, and the protection of honor and dignity,’... ‘This is a very broad brush which can be used by public officials to prevent any kind of scrutiny of their actions, policies, or activities. And then Article 45<sup>12</sup> of the constitution is the one that specifically protects the president and his honor and dignity’” (*Kazakh Government Clamps Down on Independent Media*, Eurasianet.org, March 9, 2002).

What makes matters worse is that Nazarbaev’s daughter, Dariga Nazarbaeva, and her husband, Rakhat Aliev, control most of the major newspapers and broadcast channels by using “auxiliary companies that have majority stakes in nominally privatized newspapers as (*Vremya, Karavan, Novoe Pololenie, Argumenty i Fakty, Komsomolskaya Gazeta*) and television stations (*Khabar* and *KTK*).” (Freedom House, *Nations in Transit 2003*, p. 317) Freedom House also reports that another son-in-law of Nazarbaev’s owns *Panorama* and *Delovaya Gazeta*, two prominent Kazakhstani newspapers (*Nations in Transit 2003*). This government control by proxy has led many independent journalists and publishers to either engage in the kind of self-censorship of which Greene describes, or they seek to post their articles on the internet. Freedom House reports that this internet trend is increasingly gaining in popularity. Many of these websites are run by the opposition and they post Russian translations of articles critical of Nazarbaev’s regime. A couple of these sites are Eurasia ([www.eurasianet.org](http://www.eurasianet.org)) and Kazakhstan’s Democratic Forces Forum ([www.forumkz.org](http://www.forumkz.org)). Freedom House’s *Nations in Transit 2003* reports that there are about 150,000 internet users in Kazakhstan. (Freedom House *Nations in*

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<sup>11</sup> For more information, see Appendix A.

<sup>12</sup> *ibid.*

*Transit 2003*, p. 319) While this is an emerging forum for freedom of speech and the press, the government of Kazakhstan is not oblivious to its potential. “The government has tried to maintain control of the Internet, and the two largest Internet providers, Kazaktelecom and Nursat, periodically have blocked access to popular Web sites.” (Freedom House, *Nations in Transit 2003*, p.319)

Since 1994, Freedom House’s annual *Survey of Press Freedom* has declared Kazakhstan “Not Free” (Freedom House *Nations in Transit 2003*). Using the frameworks drawn from Dahl’s (1971) *Polyarchy* and Huntington’s (1991) *The Third Wave*, this is not surprising. As demonstrated above, the current Kazakhstani government inhibits much of the democratization process by denying many of the elements to democratization considered essential by Dahl (1971) and Huntington (1991). Again returning to Huntington’s (1991) indicators of democratization, the social element – “an instrumental rather than consummatory culture” (Huntington 1991, p. 37) – is demonstrated in a way with the lack of civil liberties. It also underscores the importance of Huntington’s (1991) political indicator “political leaders committed to democracy” (Huntington 1991, p. 37). If the government is not committed to supporting the basic democratic freedoms of conventional wisdom, they demonstrate their lack of commitment to democracy itself. As previously stated, Dahl (1971) declares as one of his requirements for polyarchy that a government must allow for “alternative sources of information” (Dahl 1971, p. 3). By denying a truly free press, allowing censorship, encouraging self-censorship and trying limit internet access, Nazarbaev’s regime is yet again failing to meet Dahl’s (1971) definition of polyarchy and inhibiting citizens’ ability to “formulate their own preferences” (Dahl 1971, p. 2).

Thus far it can be seen how acts of President Nazarbaev's administration only create difficulty for the country to progress towards democracy and meet the international standards of a democracy. The frameworks drawn from Dahl (1971) and Huntington (1991) demonstrate this quite well. Even though Kazakhstan has an official reform plan called Strategy 2030 which calls for the establishment of a democratic society and rule of law by the year 2030, "increased censorship and regulation of the civic sphere contradict these stated goals." (Freedom House, *Nations in Transit 2003*, p.314) While the Constitution should protect the rights of Kazakhstani citizens to assemble, in reality, Kazakhstani citizens have a tough time organizing in public – yet another "violation" of one of Dahl's (1971) components, in this case the ability for citizens to signify their preferences by "individual and collective action." (Dahl 1971, p. 2) The constitutional right to assemble is actually nullified by the Law on Public Associations which requires the permission of public authorities before a public meeting can be held. As well, provisions in the Kazakhstani criminal code impose harsh penalties on unauthorized associations. Protesting usually leads to arrest and jail time.

Opposition voices have a hard time getting themselves heard but there is hope. In May of 2004, a new opposition party did receive official recognition however. Democratic Choice of Kazakhstan (DCK) is a party that resulted out of the leading opposition. IRINnews.org suggests that with its new officially legal status, the DCK could present a serious challenge to President Nazarbaev (*Interview with new opposition leader*, IRINnews.org, May 18, 2004). According to the same article, the "DCK seeks to curtail presidential powers and establish a parliamentary democracy". The leader of the DCK is Asylbek Kozhakhmetov who describes this victory as "quite simply a huge step. A moral barrier has been removed. Now people see that the

opposition is legal and therefore to be against the president is not a crime.” (*Interview with new opposition leader*, IRINnews.org, May 18, 2004) However, just by making the party legal does not mean that people feel able to publicly announcing their support for the DCK. Kozhakhmetov says that many businessmen who provide financial support for the DCK still wish to remain anonymous for fear of retaliation from the government in the way of tax inspections and the like. He also states that even ordinary citizens who support the DCK in private are still afraid to be identified. Kozhakhmetov believes the Kazakhstani citizens deserve better and that proper allocation of Kazakhstani resources and funding, as well as its favorable geographic position, can give Kazakhstan the potential to be compared with European countries. While Kozhakhmetov does not believe future elections will be free and fair immediately, he does hope that recognition of the DCK while allow the Kazakhstani people to feel allowed to express their opinions and that the current authorities will recognize that they must behave more democratically. “I hope that now the authorities will act less cynically than earlier, when district heads openly told people to support particular candidates. Certainly, they will continue such actions, but will apply more refined, artful methods. And this, too, is a step towards democracy.” (*Interview with new opposition leader*, IRINnews.org, May 18, 2004) Kozhakhmetov is correct however that this is a step towards democracy. Both Dahl (1971) and Huntington (1991) clearly and repeatedly state that political contestation is a vital component of democracy. Again reiterating Dahl (1971), lack of contestation negates the importance of suffrage altogether.

Additionally, if we remember one of Huntington’s democratization indicators was the “development of political contestation *before* the expansion of political participation.” (Huntington 1991, p. 37, emphasis mine) It cannot be stated enough that universal suffrage does

no good when there is not a true choice to be made and people are unable to truly signify their preferences. A voter in Kazakhstan does not have a true choice in an election when opposition parties are banned outright or so imposed upon that they can not even form.

The above only illustrates the potential for problematic democratization as described by both Dahl and Huntington when democratic elements exist only partially. Remembering that a country can liberalize without democratizing (Huntington 1991, p. 9, cited above), the appearance of only some democratic institutions is not enough for true democracy. The most dominant inhibitor for democratization based on Dahl's *Polyarchy* is the lack of contestation. When the government dictates who can and can not enter into political contestation, when the government determines who may "compete for votes" (Dahl 1971, p. 3), not only does that government deny its citizens their right to both formulate and signify their own preferences (Dahl 1971, p. 2), that government does not have polyarchy or democracy. Based on the democratization indicators listed by Huntington, this particular government, Nazarbaev's in Kazakhstan, is part of the problem but not the only contributing factor. Of the economic democratization indicators used in this study, Kazakhstan is well on its way to creating a "high overall level of economic wealth", especially in regards to its oil-exporting potential and Kazakhstan is liberalizing its economy into a "market economy", however there is not yet a "relatively equal distribution of income and/or wealth". The many areas of the country that are still underdeveloped and the wide gap between the rich and the poor highlight the slow "economic development and social modernization" which Huntington considers a potentially significant element for a democratizing country. While Kazakhstan meets one indicator in that there is a "low level of civil violence", the significant lack of other important indicators so

overshadows that “plus” that it might as well be another “minus” with the rest of the indicators thus demonstrating the multiple causation for stagnant democratization in Kazakhstan.

In sum, Kazakhstan may be a democracy according to its Constitution and it may have all of the “normal” democratic institutions but the government is failing to provide the most nominal democratic elements and thus is inhibiting actual, real democracy. So what does Uzbekistan look like? Will Uzbekistan exhibit similar problems and if so, in the same degree? The next chapter will answer those questions. Applying the similar frameworks based upon the models of Dahl and Huntington, Chapter Three will hopefully provide the same insight regarding Uzbekistan that Chapter Two has done for Kazakhstan.

### CHAPTER THREE: UZBEKISTAN

Uzbekistan shares many characteristics with its Central Asian neighbor Kazakhstan but at the same time it is quite unique in many ways. Looking at Uzbekistan can serve as an interesting comparison to Kazakhstan and also as an enlightening contrast with Kazakhstan. What they share can be attributed to their proximity, but the many ways in which they are different helps to show how such a small region can be so diverse. For neighboring countries, their histories are remarkably dissimilar. Also, a discussion on Uzbekistan can show how neighboring influences have made a difference in the development of the Central Asian countries and that it does matter who one's neighbors are.

Regarding location, Uzbekistan is right in the middle of the region known as Central Asia. A unique property to Uzbekistan is that it is the only one of the five Central Asian countries to share borders with all of the others. In addition to Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan, Uzbekistan also shares a border with Afghanistan and thus has more of an Islamic influence than does Kazakhstan. The border shared with Afghanistan is a natural border formed by the river Amu Darya. "Uzbekistan is the only country in the world except Liechtenstein to be separated from the sea by two states, a fact which highlights its economic isolation." (Capisani 2000, p.91) There are both mountainous and desert regions in Uzbekistan but the climate is generally considered to be continental. Moreover, since it does not have direct access to seas, water has become a major issue for Uzbekistan. In addition to the Amu Darya, the other major river in Uzbekistan is the Syr Darya. All other waterways in Uzbekistan are off-shoots of some kind of the Amu Darya and the Syr Darya. "The sources of

the major rivers are beyond the Uzbek borders, a fact which highlights the strategic importance of the so-called water issue.” (Capisani 2000, p. 92)

There is another region located within Uzbekistan that is noteworthy. That region is called Karakalpakstan. It is a separate autonomous republic within the Uzbekistani borders. This area was once under Kazakhstani control and then later Russian domination. The Constitution of Uzbekistan has a special section devoted just to Karakalpakstan, Chapter XVII which contains Articles 70 through 75. In this section the Uzbekistani Constitution recognizes Karakalpakstan as a separate republic and states that Karakalpakstan has its own constitution and acts administratively independently. The Uzbekistani Constitution also stipulates that the Republic of Karakalpakstan, while it is recognized to be a part of the Republic of Uzbekistan, may withdraw from that association by popular referendum (Article 74).

Uzbekistan differs from Kazakhstan in another way too. While most ethnic Kazakhs live in Kazakhstan, there is a large ethnic Uzbek population that resides in the Kyrgyzstani section of the Ferghana Valley and a smaller ethnic Uzbek population that inhabits part of Tajikistan just across the Uzbek-Tajik border. Additionally, there are many ethnic Uzbeks who reside in neighboring Afghanistan<sup>13</sup>. However Uzbeks are not the only ethnic group to reside in Uzbekistan. Alaolmolki (2001) reports that 120 nationalities make up the population of the republic. When mixed with an increasing Radical Islamic influence the mixture becomes volatile. Because of this, Uzbekistan is more known for being a hotbed of potential ethnic violence as opposed to Kazakhstan where ethnic conflict has remained subdued and less threatening. An example of this is described by Alaolmolki (2001): “In Kyrgyzstan, the Oymag

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<sup>13</sup> The Uzbek population in Afghanistan is mostly the result of a massive emigration that took place between 1920 and 1936 of those fleeing forced collectivization under the Soviet system (Capisani 2000).

tribe of Osh is trying to clear the region of its Uzbek minority. Osh is located in the Ferghana Valley, adjacent to the border of Uzbekistan. This was the scene of a horrific organized massacre of Uzbek families that occurred in June 1990.” (Alaolmolki 2000, p.76) It is in the land of Uzbekistan where the results of the Russian and Soviet delimitation movements can be seen to be so destructive. Perhaps Kazakhstan has had less significant a problem in this way due to its large territory but that is little comfort to Uzbekistan where ethnic and territorial divisions have culminated in a more hostile ethnic environment.<sup>14</sup>

### Early Uzbek Foundations

Uzbekistan shares in the Central Asian nomadic history but where Uzbekistan differs from Kazakhstan is that there were a surprising number of lasting settlements in the area where modern Uzbekistan exists. Roy (2000) points out that there is a fundamental cultural split between the nomads like the Kazakhs and the Uzbeks whom he describes as a more sedentary group. It is this split that has manifested into the cultural, religious and political differences that still exist to this day. While the Kazakhs were able to maintain their nomadic structure in light of foreign intrusions and influence, Uzbek’s were not so unaffected. How this relates to the split between Kazakhs and Uzbeks, Roy (2000) explains by saying “the name Kazakh refers not to a[n] ethnic group but to a political choice: the split with the Uzbek confederation and the maintenance of a nomadic way of life.” (Roy 2000, p.17)

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<sup>14</sup> Alaolmolki (2001) also mentions “a senior official in the Interior Ministry of Uzbekistan [who] recently stated that the Ferghana Valley is ready to explode at any time” (p.76). Alaolmolki quotes the official directly as saying “Central Asia’s next flash point is likely to be in Uzbekistan’s Ferghana Valley, where a combination of looming economic collapse and persistent ethnic nationalism are threatening the survival of President Islam Karimov’s government” (p.76).

Similarly to Kazakhstan, Uzbekistan history does not contain an Uzbekistan nation prior to Russian creation. Yet the area currently known as Uzbekistan has a rich history of major cities and settlements, including the leading cities of the famous Silk Road. One such city is Bukhara (or Bukhoro) and another is Samarquand (or Samarkand)<sup>15</sup>, both located in the central region of the present-day country. Khiva is another leading city of the past. Bukhara is an ancient city dating back to the fifth century B.C. (Capisani, 2000). It served as a major trade center and a main cultural center for Islam. It has been a prominent city since its inception and was even named a United Nations Educational, Scientific and Cultural Organization (UNESCO) ‘city of arts of international value’ (Capisani, 2000). Samarquand has a magnificent history as well. Alexander the Great conquered the area of Samarquand in 329 B.C. and it also served as the capital of Tamburlaine’s empire in the fourteenth century. The city of Khiva was the capital of the Khiva Khanate which was established in the fifteen century. The “Khiva khanate was notorious for its violent rulers and slave market.” (Alaolmolki 2001, p.75) It is said that the people of Khiva khanate were keen to get their hands on any foreign travelers or whomever to sustain their thriving slave trade. Uzbekistan’s capital city, Tashkent (or Toshkent) also has a lengthy historical presence. It was originally Iranian and dates back to the seventh century. “It was an ancient trading-post on the Silk Route, and was captured by the nomadic Turkic tribes between the eleventh and twelfth centuries. They named it Tash-kent (‘city of stone’). It then fell under the Arabs (in 751), the Mongols (in 1221), the Tatars (in 1361), the Uzbeks (in 1503) and the Kalmyks (in 1733), until in 1865 when it was decisively conquered by the Russians, who built the ‘new city’ to the northeast” (Capisani 2000, p. 94). Now Tashkent is a relatively

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<sup>15</sup> Roy (2000) states that Samarquand was actually a Tajik city that only became a part of Uzbekistan under the Soviet realignment.

modern metropolis that even has an impressive underground railway, but like many major urban cities, it has its fair share of slums.

These major ancient cities also served as artistic and cultural centers. For example, in Samarquand there is still evidence of the Persian art influence particularly in the way of decorative ceramics (*majolica mosaic*). Majolica Mosaic makes use of turquoise-green tiles called kashi kari. Other forms of artwork include miniatures, ceramics and paintings. This is in stark contrast to the practical arts of the Kazakh culture. Another difference is the establishment of fixed farming and other non-nomadic agricultural methods.

Over all, the region that is currently called Uzbekistan has been an area of much change and conquest. This was not merely confined to the major cities. Genghis Khan ruled the area after his conquest in 1220 and later, as mentioned previously, the great Tamburlaine ruled during the 1300s. Uzbek khanates began forming in 1500 in what is now considered Uzbekistan, Tajikistan and Turkmenistan. Abul Khair (1412-1468), a descendent of Genghis Khan, had tried to form an Uzbek state during the fifteenth century. While he was able to bring many of the region's nomadic tribes together, he was unable to maintain control over them. In order to have such control, Khair would have needed the kind of power that would have required other khan rulers (princes) to give up their autonomy. The nomadic princes were not willing to do that and thus war was waged against Abul Khair. Capisani (2000) writes that the dissident clans later became known as Kazakhs<sup>16</sup>. After Khair's death in a battle against the Buddhist Oyrats, a man named Muhammad Shaybani Khan, an Uzbek, continued where Khair left off. The Uzbek

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<sup>16</sup> Another interesting note about the names Kazakh and Uzbek comes from Alaolmolki (2001). "The name Uzbek became official under the Soviet system in 1918. However, there was a Khan named Uzbek (1282-1342), who roamed with his people in present day Kazakhstan. He is credited with a role in the conversion of his people, the *Golden Horde*, to Islam. (p.75) In the fifteenth century these people moved South establishing the Khiva, Bukhara and Kukhand khanates.

khanate remained intact for the most part under the rule of Shaybani Khan's descendents until the Russian takeover from 1868 to 1873.

Unlike its Kazakh counterpart, the Uzbek nomads eventually settled down into an agricultural community. Capisani (2000) attributes the settlement to the emergence of an 'Uzbek confederation' in the sixteenth century in an area in the Western region where all of the major rivers crossed that was more hospitable to a permanent type of community. Another precursor to the settlement of the nomads of the region is the settlement of the actual Uzbeks themselves and their subsequent identity to the area. "The Uzbeks were a nomadic people and the last of the numerous invaders in the fifteenth century to settle in and mingle with the indigenous population. Eventually, they were, to a large degree, assimilated. Yet their name remained attached to the indigenous Old Iranian, town-dwelling population of the region." (Alaolmolki 2001, p. 75) Further, though there were problems of frequent Turkmen raids into settled Uzbek areas of the Uzbek Khanates, "a communal national identity was able to emerge on an ethnic, linguistic and literary level." (Capisani 2000, p. 105)

Not only was an identity formed, the art forms associated with most settled civilizations, like the visual arts and literature, flourished in the region. Actually it is the Persian influence that has had the most impact on Uzbek culture. Community customs and a culture of hospitality emerged around the beginning of the nineteenth century. Wealthier families with banquet halls would have their walls ornamented with arabesque murals and lavish parties would be held in these halls with lively music and dancing (Capisani 2000). Chaghatay literature developed alongside Persian literature while both of them supplemented the oral traditions of the nomadic

culture. This could possibly explain the more structured cultural identity of the people of Uzbekistan versus the people of Kazakhstan.

### Russian Subjugation and Sovietization

When Russia became interested in Central Asia, it had a tougher time dealing with Uzbekistan. Kazakhstan was immediately to the South, which was an advantage for Russia, but there was not much in the way of competition for the area once the Dzhungars were defeated. It is with Russian infiltration into the area now called Uzbekistan that we also see a glimpse of the impact of the Great Game between Russia and Great Britain, when both countries sought imperial conquests in the Indian subcontinent and beyond. Between roughly 1870 and 1880, Russian and Great Britain clashed over who would get the most influence in the area. An additional problem with the southern end of Central Asia for Russia was that Russia had to squelch more revolts in the Uzbek region than in the Kazakh region. Some of the Uzbek khanates were overtaken, as Tashkent was occupied by 1865, but it was not until the end of the nineteenth century that “Russia had conquered all of Central Asia” (US State Department, *Background Note: Uzbekistan*). Even still, many Uzbek khanates remained autonomous up until 1920. Finally, in 1924, Uzbekistan became a Soviet Socialist Republic with much of the same territorial designation that it has currently.

The Soviet experience for Uzbekistan was equally unique. Moscow chose Uzbekistan to serve as the center in Central Asia. In particular, Moscow wanted Tashkent to serve as the Muslim center, more specifically the Soviet planning called for Uzbekistan to be the lead country of Soviet Islam (Capisani 2000). Since there was such a large Muslim population in southern

Central Asia in particular, this caused the USSR to specifically address the Islam issue as it was salient to the area. Important religious centers were headquartered in Uzbekistan, particularly in Tashkent, the most important being the Muslim Religious Board.<sup>17</sup> At first, many Muslims believed that Islam and socialism could come together. While Muslim resistance minority groups formed in the early 1900s in Uzbekistan, most of them were tolerant of an alliance with Russia. Negotiations were started towards the first Muslim socialist organization as well. However when a Soviet was elected in Tashkent in late 1917, Bolshevik rule took place practically immediately and the exclusion of the Muslim intelligentsia followed (Capisani 2000). This was not to be the only instance of Soviet anti-Islamic action. “The gradual expulsion of nationalist Muslims, the state’s weakness, and the ever-increasing presence of Russian and Tatar Communist political leaders led to incorporation of the new entity into the USSR in 1924.” (Capisani 2000, p.107)

The moves taken by Moscow to reconfigure territorial boundaries, as mentioned in the chapter on Kazakhstan, were also taken in Uzbekistan. The lines were drawn in particular to disrupt communities and inhibit any kind of Muslim relationships from developing, especially Muslim resistance movements in existence during the Russian period. In general there was a reordering of society and traditional society was no exception. “In 1927 and 1928, the Soviets launched a direct attack on traditional customs, concentrating on the status of women, which was seen as the keystone of a closed family system which operated as a screen to block the ideological and cultural influence of the Russian model.” (Roy 2000, p. 79) The aggressive campaign against Islam led to the closing of all but a few mosques in addition to wide-spread

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<sup>17</sup> According to Capisani (2000), the Muslim Religious Board was also known as the Spiritual Administration of Religious Affairs of Central Asia and Kazakstan.

persecution of clergy and destruction of religious literature (Bohr 1998). One major campaign was called “assault” (*hujum*) which focused on the emancipation of women. Roy (2000) accounts that on March 8, 1927, public unveiling ceremonies were held throughout Uzbekistan, emulating the force unveiling in Kemalist Turkey from 1925 through 1927. Perhaps even more extreme was the Soviet attempt to get women involved in political parties and in the labor market. Like many Soviet campaigns however, this one too meet with much resistance and what little effects it had on the role of women in traditional society was superficial to say the least. Done less to actually improve the status and life of Soviet women, the attack on the traditional roles of women was simply a way for the Soviets to disrupt the Islamic culture of the region. To this day, little has changed or improved for Muslim women in Uzbekistan or in Central Asia over all.

Other Soviet contributions to Uzbekistan were agricultural and industrial. Cotton became a major agricultural product for Uzbekistan and the cotton industry is still important to Uzbekistan. The Soviets also saw the great potential for natural resources in the country. While the cotton produced in Uzbekistan is of a poorer quality, it nonetheless became the major crop under the Soviet system, with grain coming in second. During the Soviet era, most of the cotton produced by Uzbekistan remained in the USSR, distributed throughout as Moscow saw fit. Cotton remains an important part of Uzbekistan economics today but it is so at a detriment to the environment. Uzbekistan’s climate is not the best-suited for cotton cultivation, experiencing freezes every year. As well irrigation was problematic in Uzbekistan’s mostly desert climate and varying rainfall, necessitating extensive irrigation for not only the cotton crops but for all other forms of agriculture. However cotton in particular is a major culprit in the extensive soil

deterioration seen in Uzbekistan due to its exhaustion of the soil as well as the use of harmful pesticides like DDT which exacerbated the soil deterioration. Further, as Moscow pushed cotton as a crop, it became a profitable enterprise despite low quality and eventually the cotton industry became rotten with corruption. “The economic and political structure of Uzbekistan (which some have described as a ‘cotton republic’) dangerously predisposed it to a system of patronage and corruption.” (Capisani 2000, p.79) In the ‘cotton scandal’ of 1983 and with the advent of *perestroika*, a mass purging of Uzbek authorities took place. Dubbed the ‘cotton mafia’ or the ‘Uzbek mafia’, these officials were accused of reporting of false cotton crop figures and bilking the USSR of a large sum of money in the process (Roy 2000). Incidentally this purging and the subsequent restructuring of the CPSU paved the way for Islam Karimov and his ascension to presidency.

Yet cotton is not the only commodity that the Soviet system created for Uzbekistan. The country’s wealth of natural resources, in particular natural gas, allowed for an industrial boom. Necessary industrial infrastructure was developed early on in the Soviet period, roughly during the 1930s. Factories were built up and the mining industry was pursued as well to support manufacturing. As Capisani (2000) indicates, the chemical sector was and still is important too. In particular Capisani (2000) notes that the production of cellulose triacetate in the Ferghana Valley has been advantageous since it is a substance used to create photographic and cinematographic film, varnish and yarn and such products are highly exportable.

Not to be overshadowed however is Uzbekistan’s crude-oil refining supported by its petroleum deposits and its production of scrap iron. “The entire region’s most important iron and steel plant, built towards the end of the 1930s, is situated in Bekabad.” (Capisani 2000, p.

114) The iron and steel plants are the major reasons why Uzbekistan is also a large producer of farming and other industrial equipments. With the largest population in Central Asia, Uzbekistan also had the labor force available to support increased industrialization. These Soviet creations have even helped to ease the strain on Uzbekistani independence. At least from a resource standpoint, Uzbekistan is an attractive investment. Also, Uzbekistan is rather self-sufficient in the ways of both food cultivation and energy production. An additional advantage compared to Kazakhstan is the fact that Uzbekistan's main industries are not hindered by distribution problems the way the Kazakhstani oil industry is burdened.

Lastly, another important impact of *perestroika* was how it affected public opinion. "During the second half of the 1980s, Moscow's attitude gave the Uzbek population the impression that they were living at a historic time. The atmosphere of tolerance assured by *perestroika* favoured the emergence of numerous and varied associations and informal groups (including anti-nuclear ones)." (Capisani 2000, p.79) Not only did this atmosphere also generate an increase in publications but many political parties that will impact Uzbekistan after Independence emerge out of this new sense of expressiveness. Some of the major parties that developed during this time were the Birlik ("Unity") Peoples' Movement (BPM), the Erk ("Freedom") party and the Islamic Renaissance Party (IRP). The BPM was founded in 1988 by Uzbek intellectuals and consisted of both secular and national movements. Erk was developed in 1990 by a splinter group from Birlik and was made up of groups of moderate nationalists who had among its agenda ideas of pan-Turkism. The IRP was created in 1990 by people who, similarly to those of the early twentieth century, believe the Communist and Muslim traditions can be combined successfully. It was actually founded in Russia, in Astrakhan specifically.

Their support is mostly from rural areas however the party has not been officially recognized. Freedom House also reports that the IRP's leader, Abdulla Utaev, "disappeared" in 1992 (Freedom House, *Nations in Transit* 2003).

### Sudden Independence

Unlike its neighbor to the North, Uzbekistan took advantage of the crumbling Soviet system and began to separate right away. Islam Karimov was elected by the Supreme Soviet on March 24, 1990, after serving as first secretary of the party. Even before the Soviet Union officially broke up Uzbekistan declared sovereignty on June 20, 1989. Independence was declared on August 31, 1991. Uzbekistan and Kyrgyzstan were the first of the Central Asian republics to do so. However by mid-1991 Uzbekistan was no longer this bastion of self-expression encouraged by *perestroika*. Rather, it was "more like a country 'on the way to underdevelopment' than the Soviet Islamic 'showcase' for the Middle and Near East." (Capisani 2000, p.81)

Shortly after independence, Uzbekistan had problems acting like an independent nation. There were political, economic and social problems which worsened and the Uzbekistani government responded by trying to calm the waters with nationalistic propaganda. Even though Uzbekistan was a 'Soviet creation', because of its shared historical identity it seemed most like a nation-state of all of the Central Asian republics. Karimov played on this. Attempts were made to inspire the Uzbekistani people with heroic images of their past (like Tamburlaine) to reunite them with their powerful heritage. Effigies of Tamburlaine were erected in place of those of Marx and Lenin in major Uzbekistani public places. Another example is that Lenin College was

renamed Timur College. As was mentioned previously in Chapter Two regarding the volatility of using “nationalism” as a propaganda device, Uzbekistan had difficulty congealing under a shared nationality and lacked the “communal homogeneity” of which Huntington (1991) described as a democratization precursor.

Karimov immediately called for elections after declaring independence. He “assumed the image of a guarantor of political stability and defender of national traditions, including even those most remote from him, like religion” (Capisani 2000, p. 82). He was elected with 86% of the votes (with a reported 95% voter turnout) but only two parties were allowed to run in the 1991 elections, the Erk party and the Peoples’ Democratic Party - which was founded by former “conservative” communists in the fall of 1991. Karimov’s only opposition was Muhammad Salih of the Erk party and he received a meager 12.3% of the vote. By the end of 1992, both the Birlik and Erk parties were banned. Over the next two years, opposition parties continued to be banned and many opposition leaders were either exiled or imprisoned, or worse, as was the case for IRP leader Utaev. Again, similarly to its neighbor Kazakhstan, Uzbekistan, even at its onset of independence as a new nation, failed to provide the protections of one’s individual opinion and thus violate an important Dahl (1971) factor “freedom of expression”. It also shows how the Huntington (1991) precursor of having political contestation prior to democratization was absent. Uzbekistan clearly states universal suffrage within its constitution however there is still lack of freedom of political parties in Uzbekistan.

Immediately Karimov sought to increase the power of the presidency. Karimov succeeded with the December 8, 1992, Uzbekistan Constitution. While it looks democratic, the Constitution is actually authoritarian masked in democratic verbiage. “According to the new

President, a presidential and authoritarian style of leadership was the best, if not only, means of overcoming instability and social and ethnic conflict. (Capisani 2000, p.82) Campaigns “against repression” effectively shut down opposition movements and political parties by imposing restrictions and suspensions to those whom the administration felt were “hindering” the process of democratization.

These campaigns specifically targeted Islamic groups heavily as Karimov also pushed the nationalistic images and propaganda on the people to further inspire unity. Karimov had seemed so embracing of Uzbekistan’s Muslim heritage and seemed to want to support it in the beginnings of independence yet he quickly shifted gears. While tolerant of some forms of “re-Islamization”, even swearing his oath of presidential responsibility in January 1992 on the Koran as well as the former constitution, he instituted a campaign reminiscent of the old Soviet anti-religious movements. The Ferghana Valley has always been considered a cradle of Islam and radicalism was again beginning to spread. Capisani (2000) tells of actions which took place in Ferghana Valley that evoke memories of the Soviet unveiling campaigns of the 1920s. “The police sift the bazaars for bearded men (an external sign of religious zeal) and force them to submit to public and communal ‘shaving.’” (Capisani 2000, p.83) However this was not the Soviet system in the 1920s, this was an independent Uzbekistan in the 1990s; an independent Uzbekistan with a constitution which was supposed to guarantee freedom of religion and association.

The civil war in Tajikistan and the Taliban take over in Afghanistan only furthered Karimov’s anti-Islamic stance. “In a radio speech of 1 May 1998, he declared that ‘such people [meaning Islamic extremists] must be shot in the forehead. If necessary I will shoot them

myself.” (Capisani 2000, p. 84) Perhaps Karimov is afraid of Uzbekistan becoming an Islamic caliphate like Iran, or worse, being rebuilt in the image of Taliban Afghanistan. Perhaps he is simply afraid of losing his own personal power altogether. Regardless, the examples of Uzbekistan’s neighbors leave Karimov many excuses. Determined not to allow Uzbekistan to go the way of Tajikistan, Karimov “was amazed that the West failed to support his efforts to combat Islamic radicalism.” (Alaolmolki 2001, p. 76) While Karimov has support from fearful Uzbekistani citizens, it is ironically his lashing out at Islamic groups that has created the resurgence of Islamic radicalism in the area. They become appealing especially to those who feel they have no true voice in Uzbekistan. Two recent incidents have also propelled the crusade against Islamic radicals, the first occurring on February 16, 1999, in Tashkent, the second occurring on September 11, 2001, in the United States. As well, bombings in Uzbekistan in March of 2004 have not lessened the tension.

On February 16, 1999, Karimov was heading to government headquarters to give a cabinet speech when a total of six bombs exploded, one inside the headquarters itself. A gun battle followed. Reports by Russian television stations showed the extensive damage of the blasts and the nation was shocked at what was “the first unprecedented act of violence in [the] country since its independence. Fifteen people were killed and more than 150 were injured.<sup>18</sup> The attack shattered the country’s reputation as a safe, stable place.” (Alaolmolki 2001, p. 78) Whether this was a direct attempt to assassinate him or merely an act against the government in general, Karimov wasted no time blaming the bombings on Islamic extremists based in Tajikistan. Many critics believe that Karimov used the bombings as excuses to further persecute

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<sup>18</sup> Some reports have the death toll at sixteen, however.

religious groups which he feels threaten his power. “However, Karimov’s tough stance against the suspected bombers is supported by a nation worried by the threat of the kind of violence that has left neighboring Tajikistan and Afghanistan in ruins” (Alaolmolki 2001, p. 79).

Alaolmolki (2001) states that Islamic militants were not the only ones with grudges against Karimov and his government, however. He cites that there were other disaffected groups that included several former government officials to whom Karimov had given the boot the previous year. Also drug trafficking has become a serious problem and so there is a plausible argument that one of those groups could have easily perpetrated the crime. “Last, but not least, the bombing and attempted assassination could have also been the work of internal dissidents spurred by the worsening economy.” (Alaolmolki 2001, p. 78)

However Karimov named Ulugbek Babajanov (still at large as of 2001) as one of the primary suspects and also blamed the Wahhbis and Hezbollah for participation. The Supreme Court of Uzbekistan sentenced six men to death for the February bombings on June 28, 1999. Twenty-two men were charged and tried altogether with sentences ranging from ten to eighteen years in hard labor camps and twenty years in prison besides the six death penalties. Those six men have since been executed. The personal property of the twenty-two was confiscated and the family members of the men on trial were not permitted access to the courtrooms for those trials, only learning of the verdicts through journalists. Erk party leader, Mohammad Salih who, since running in the 1991 elections has been exiled, condemned the court decisions and blasted Karimov’s repressive policies. He also chided the West and Russia for being complacent and tacit during the entire affair (Alaolmolki 2001).

The terrorist attacks against the United States on September 11, 2001, added another log to this fire. The resulting “war on terror” has brought much attention to Uzbekistan and has reasserted Uzbekistan’s position in the region (which does not bother Uzbekistan a bit as it is used to being a dominating figure in the region). Uzbekistan has proven to be highly useful and strategic during the U.S. war on terror, in particular with the U.S. military campaign against the Taliban in Afghanistan. Uzbekistan is the only Central Asian country to allow the United States to have a military base on its soil. This did not sit well with the Taliban government in Afghanistan which “was embittered by Uzbekistan’s role as [a] staging ground in the decade-long Russian-Afghani war” and in a letter to Uzbekistan’s Foreign Minister Kamilov the Taliban “issued a grave warning: “This was not the first aggression which has been carried out from your territory on our sacred soil [...] The Islamic Emirate of Afghanistan also warns the Muslim people of Uzbekistan to make their government understand that it must not get involved in the war, otherwise it will be difficult for it to find a way out.” (Danielson 2001, *Stan by Me? Uzbekistan and US*)<sup>19</sup> Even though the Taliban threat has proven hollow, Uzbekistan nonetheless felt threatened at that time. The stern warning from the Taliban even caused some concern in Karimov and so he toned down his eagerness to assist the United States, going so far as to announce that any activity originating in Uzbekistan will be for humanitarian efforts only (Danielson 2001, *Stan by Me? Uzbekistan and US*). The downside to the Uzbekistani role in the war on terror is that many human rights activists fear that the U.S. and other nations will be

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<sup>19</sup> While hindsight gives the advantage of knowing that the Taliban’s threat would turn out to be hollow, it did make Karimov nervous at the time. When he met with US Defense Secretary Donald Rumsfeld after the September 24, 2001, letter from the Taliban, he asserted that any American efforts launched from Uzbekistan’s soil would be for humanitarian operations and search and rescue efforts (Danielson 2001, *Stan by Me? Uzbekistan and US*).

willing to overlook the deplorable record of human rights violations that Uzbekistan has and they also fear that Karimov is counting on it.

Now with the major part of the U.S. campaign in Afghanistan over, the war on terror is still having an effect on the region. Karimov's crusade against Islamic groups is not having the intended effect. Hizb-ut-Tahrir (HT) is one of the main Islamic groups active in Uzbekistan whose aim is the establishment of an Islamic caliphate in the "old Ottoman empire". The Economist reports that its membership is not in jeopardy, rather in fact it "is believed to be gaining ground due to economic hardship and lack of basic freedoms." (The Economist, *Karimov Fights Back*, March 31, 2004) As well, another string of recent bombings in Uzbekistan have only made matters worse. On Monday, March 29, 2004, several bomb blasts occurred at a market in Tashkent, the capital of Uzbekistan, and this just after the major train bombings in Madrid, Spain. A female suicide-bomber blew herself up, killing two people and injuring at least twenty according to an MSNBC.com report (MSNBC.com, *Explosion Rips through Uzbek Market*, March 29, 2004). "The bombs in the capital were set off by suicide bombers, a first for the region. The explosions seem to have targeted the local police, widely hated and dreaded in Uzbekistan, and not civilians, as was the case in the terror attacks in New York, Bali and Madrid." (The Economist, *Cui Bono?*, April 1, 2004) The Uzbekistani administration was quick to call it a terrorist attack and blame Islamic militants before any group had claimed credit. The very next day Uzbekistani police and security groups attacked the hideout of an alleged terrorist group, killing twenty "terrorists" and three policemen in the exchange.

Obviously there is much fodder for both the anti-Islamic groups as well as the anti-Karimov and anti-government groups. Added to the ethnic violence in the Ferghana Valley, civil

violence is a concern in Uzbekistan. Clearly however this is not a good thing for Uzbekistan's democratic transition, especially according to Huntington's democratization indicators. At this point, a review of Huntington and Dahl's frameworks will be helpful before going any further. Can these guides help to make any sense of Uzbekistan thus far in the discussion?

Although an ethnic population distribution has not been presented, there have been hints as to the homogeneity of ethnicity in the Uzbekistani population. The 1996 population estimates confirm this. According to the State Department of the United States, the breakdown is as follows: Uzbek 80%, Russian 5.5%, Tajik 5%, Kazakh 3%, Karakalpak 2.5%, Tatar 1.5%, Other 2.5% (U.S. State Department, *Background Note: Uzbekistan*). While Uzbekistan has the potential to have the communal homogeneity which Huntington lists as an indicator of democratization looking at figures alone, Uzbekistan has underlying, almost historical, diversity which complicates any kind of homogenization. This can be seen in both the lack of a significant opposition uprising as well as in the way Karimov handles the elite population. "In Uzbekistan, the ruling elite is made up of a variety of conflicting clans and interest groups, but Mr. Karimov has skillfully managed to keep them all within the system, and no one from this heterogeneous group has crossed over to the opposition." (The Economist, *What's the Rush?*, July 24, 2003) Also, the heterogeneity mentioned above is not developed to the point of being a democratic promoter either, as important cross-cutting cleavages do not exist to the extent that democracy becomes highly desired by the population. In addition, this leads to another Huntington indicator: "an instrumental rather than consummatory culture". It seems that the culture in Uzbekistan, while not necessarily consummatory, is certainly not instrumental in promoting democracy in any form.

The above paragraphs also described the lack of opposition in Uzbekistan. Similarly to Kazakhstan, the president may restrict parties from competing in elections. Karimov can ban political parties outright. Both Huntington (1991) and Dahl (1971) describe how this is perhaps the most serious hindrance to democratization. Another of Huntington's indicators is "the development of political contestation before the expansion of political participation" (Huntington 1991, p. 37). Clearly this was not the case for Uzbekistan. There is arguably still a lack of political contestation; in fact that is one of the major claims of this paper. Not only is this a major issue for Huntington (1991), but Dahl (1971), as mentioned previously, took a strenuous position that without true contestation, democracy (or more specifically, his term polyarchy) can not exist. Lastly Karimov's authoritarian actions, tight control of the government and persecution of any kind of opposition demonstrate his lack of commitment to democracy. Recalling that Huntington (1991) lists prodemocratic leadership as an important democratization indicator, there is ample evidence that Karimov and his government are not promoting the democratic values established by the Uzbekistani constitution. Thus the social and political indicators point toward a deficiency in Uzbekistan's democratic transition.

#### Economic and Foreign Policy Issues

In the name of stability, Karimov certainly has taken a heavy handed (some say iron fisted) approach to his opposition. Similarly he has not been lax in his approach to economics. While Kazakhstan instituted rather liberal economic reform from the onset of independence, Uzbekistan's approach to economic and democratic liberalization has resisted the "shock therapy" style of approach. As mentioned previously, Moscow had taken care of fiscal matters

and so it was quite an adjustment for Tashkent to now bear all of the responsibility. “No longer able to count on the state subsidies which were vital to its economy, Uzbekistan had to hastily increase its income by relying on its primary resource, cotton.” (Capisani 2000, p. 85) Why this was problematic was because Uzbekistan also needed to step up its agricultural food production to meet the domestic need or risk becoming dependent upon foreign supplies, in particular Russian supplies. This rush to be economically independent led to disputes with Russian and ultimately to Uzbekistan seeking trade partners outside of the CIS (Commonwealth of Independent States).<sup>20</sup> At first, post-Soviet economic policy in Uzbekistan followed the Soviet style – economic subsidies and price and production controls – but Uzbekistan gave into “real” reform by 1994. High inflation forced the government to loosen economic controls and expand privatization. Nevertheless, state controls are still tight and governmental decisions continue to dominate the economy. The reforms thus far instituted have still managed to be insufficient because they do not provide any significant change in configuration. “The administration is ‘attempting the impossible: reforming the system without changing anything at all’” (Eurasianet Insight, “*Bad Analysis Makes for Bad Policy*” in *Uzbekistan*, May 20, 2004. This has resulted in limited progress towards a market economy (another indicator of Huntington’s) but has also hurt foreign investment. “Much foreign trade has been strangled by a series of restrictions introduced in the past two years and by regular border closures. As a result, part of the economy has gone underground.” (The Economist, *Karimov Fights Back*, May 31, 2004) Banking and currency problems plague foreign investors to the point of discouragement, examples of which are confusing and complicated regulations imposed by the government or currency restrictions that

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<sup>20</sup> Later, relations with Russia were restored in conjunction with the Treaty for Collective Security. This treaty concerned an integrative CIS military intervention force and became effective in July of 2003.

have investors being trapped with currency which they cannot convert. ““You know that the real market economy has come when McDonald’s moves in,’ says another foreign entrepreneur. ‘Do you see one anywhere around here?’ A foreign diplomat is equally critical. ‘Heaven and hell are in Uzbekistan,’ he says. ‘If you read the local newspapers, it feels like heaven, but if you try to set up a joint venture, you’re in hell.’” (The Economist, *Cottoning On*, July 24, 2003)

Further complicating the economy is Uzbekistan’s horrible human rights record which has put the country in jeopardy of losing valuable financial assistance from the United States. Some human rights advocates and some journalists fear that the war on terror will negate the human rights issue in regards to funding, which is has in some instances, but that funding is not necessarily guaranteed. Certain funding programs are still contingent upon Uzbekistan holding a certified status with the U.S. government. In January 2004, “the United States “decertified” Uzbekistan for aid eligibility under its nonproliferation-assistance programme, because it had made no progress towards ending police torture and other abuses.” (The Economist, *Karimov Fights Back*, March 31<sup>st</sup>, 2004) In addition, the World Bank and the European Bank for Reconstruction and Development also grow impatient with the slow economic reform in Uzbekistan and are considering very carefully how to proceed in future funding. The economic liberalization of Kazakhstan is not occurring in neighboring Uzbekistan and other potentially influential regional powers are not able sway the direction in Uzbekistan.

Uzbekistan had tried to solidify a relationship with Turkey in the beginnings of independence. There was a lot of potential for a cozy relationship between the pair due to the fact that they “share an historical, linguistic and cultural affinity, but [they] are also profoundly different.” (Capisani 2000, p. 86) In a way, an amiable relationship with Turkey was practically

expected after independence, not only for Uzbekistan but for all of Central Asia. A movement known as pan-Turkism, developed in Russia ironically, met with resurgence as Central Asia was reformulating after the collapse of the Soviet Union. This movement envisioned the unification of all Turkic peoples on an ethnic basis.

Many advocated that Uzbekistan should emulate the Turkish model of a secular government and many Uzbekistan politicians favored such emulation. Relations began in the communications sector with “an important accord regarding radio and television broadcasting.” (Capisani 2000, p. 86) However it is interesting to note how Turkish-Uzbek relations deteriorated. According to Capisani (2000), this deterioration occurred on the linguistic level, thus blowing apart any pan-Turkism hopes of unification, when “Uzbek authorities refused to use Turkish to substitute Russian terms which had been absorbed into the Uzbek language, preferring to make use of nineteenth-century Arabic-Persian vocabulary, known as ‘old Uzbek.’” (Capisani 2000, p. 86) Rather than becoming a supportive, fellow Turkic-speaking associate, Turkey was instead viewed as competition.

In some instances, indeed many, Uzbekistan is seen as a regional bully. An article in *The Economist* entitled “Day of the Bully: Uzbekistan’s New Role Worries Its Neighbours” described the ambitions of Karimov to make Uzbekistan the regional leader. Such desire should not be surprising however since Uzbekistan was so favored under the Soviet system and enjoyed its supremacy. “It is at the geographic centre of the region and has the largest population: 25m out of the total of 57m in the five Central Asian states. Some Uzbeks regard the once-nomadic Kazakhs and Kirgiz as culturally their inferiors.” (*The Economist, Day of the Bully*, October 25, 2001)

Evidence of the desperation to remain the dominant regional power can be seen in Uzbekistan's relations internationally and its foreign policy directions. Uzbekistan's alignments are wishy-washy at times but they are always strategic. For instance, even though Uzbekistan has tried to disconnect itself from Russia, at times Uzbekistan is compelled to acquiesce and cooperate with Russia. The civil war in Tajikistan is one time when Uzbekistan welcomed a relationship with Russia. In turn, Uzbekistan also cozies up to the United States for financial assistance and foreign investment. In November of 2002, Uzbekistan became a member of the Organisation for Economic Co-operation (OCE), a founding member of which includes Iran. In spite of this association, "Karimov was the only president of all the Central Asian countries to approve the [U.S.] embargo on Iran and Iraq and declare himself in favour of NATO's Peace Partnership... [Further, Karimov's] crusade against radical Islam displeases neither the White House nor the Kremlin." (Capisani 2000, p.88) The burden upon the international community will be how to keep the authoritarianism of Karimov under control and press for the democratic reform promised to the people of Uzbekistan by their very own constitution.

If Kazakhstan can be said to be on the low end in regards to meeting some of the economic democratization indicators listed by Huntington (1991), then Uzbekistan could be said to be off-the-charts low. Undoubtedly the Karimov administration is making a minimal effort to introduce and implement the type of reform necessary to push Uzbekistan into a true market economy. The current state of the economy under the authoritarianism of the government included with the Soviet hangover elements has also lead to a relatively low overall level of economic wealth and relatively unequal distribution of income and/or wealth (recall that Huntington (1991) stated that there should be a high overall level of economic wealth and

relatively equal distribution of it). Similar to Kazakhstan, most of the economic wealth in Uzbekistan is concentrated into the hands of an elite minority. In essence, just as in Kazakhstan, the most basic and vital components that indicate a country is in the process of democratizing are substantially low if not completely missing. Where Kazakhstan's major problems lie in the political sector with regards to inhibiting opposition and thus inhibiting citizens' expression of preferences, Uzbekistan's problems lie mostly in both the economic and political sectors.<sup>21</sup> Though both countries may exhibit similar problematic indicators, the reasons behind each have significant differences. While the next chapter will more specifically address these subtleties, in conclusion let it be said that by using both Dahl's (1971) and Huntington's (1991) typologies, Uzbekistan quite visibly does not appear to be among those countries riding the incoming "Third Wave" of democratization. It could reasonably be said that Uzbekistan is among those in the beginning of the third "reverse wave," however it may be too soon to make such a declaration.

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<sup>21</sup> Kazakhstan also faces a huge challenge with its economic structures but its earlier moves toward economic liberalization have lessened its impact compared to Uzbekistan.

## CHAPTER FOUR: CONCLUSION AND FUTURE RESEARCH

The goal of this thesis has been to investigate the reasons why Kazakhstan and Uzbekistan are not the democracies in reality that they claim to be in their constitutions. In order to do this, I had to investigate the qualities and characteristics of democratic countries to determine what it takes to be a “democracy”. I turned to Dahl (1971) and Huntington (1991) to establish a guiding framework which I could use to study the situations in Kazakhstan and Uzbekistan. Most scholars, policy-makers, and journalists have posed two types of explanations for the stagnation in the democratization processes in Kazakhstan and Uzbekistan: this stagnation is either due to the authoritarian-like regimes of their former-Soviet presidents or it is due to the people’s “inability” to be democratic. The utilization of guidelines based on Dahl (1971) and Huntington (1991) has aided in illustrating that such explanations are inadequate and do not sufficiently explain the situations in Kazakhstan and Uzbekistan. As Huntington (1991) points out, democratization is a complex process involving multiple factors and influences and is not necessarily a uniform process that a country can just perform and instantly and unproblematically become a democracy.

According to Dahl (1971), in a democratic country people must be able to “formulate their own preferences,” “signify their own preferences to their fellow citizens and the government by individual and collective action,” and “have their preferences weighed equally in the conduct of the government.” (Dahl 1971, p. 2) Without these criteria, Dahl (1971) says that polyarchy (or modern “democracy”) cannot exist. Dahl (1971) further lists eight requirements that enable citizens to be able to hold and indicate their own personal preferences. He calls these factors “requirements” because they are all necessary conditions for polyarchy. The eight

requirements are: “freedom to form and join organizations,” “freedom of expression,” the “right to vote,” “eligibility for public office,” the “right of political leaders to compete for support” and “votes,” “alternative sources of information,” “free and fair elections,” and “institutions for making government policies depend on votes and other expressions or preferences.” (Dahl 1971, p.3) Reading this list brings to mind the characteristics which conventional wisdom has come to equate with democracy. All of these requirements support Dahl’s (1971) assertion that in order for a country to be a polyarchy, two things matter: contestation and participation. (Dahl 1971, p.5) In this thesis, Dahl’s (1971) requirements were used to describe how Kazakhstan and Uzbekistan, despite their constitutions, are not democratic in practice.

Huntington (1991), as mentioned in previous chapters, also follows Dahl’s (1971) assertions regarding the defining conditions for country to be classified a “democracy.” Huntington’s *The Third Wave* “defines a twentieth-century political system as democratic to the extent that it’s most powerful collective decision makers are selected through fair, honest, and periodic elections in which candidates freely compete for votes and in which virtually all the adult population is eligible to vote.” (Huntington 1991, p. 7) Huntington (1991), however, also proposes and investigates the characteristics a country likely to democratize might possess. That is, while he, too, explains that contestation and participation are paramount for “democracy,” Huntington also considers multiple economic, social, and political pre-conditions useful for examining (and perhaps even predicting) the likelihood that a country will successfully be able to democratize. Of these multiple, potential explanatory factors, this thesis has shown the following to be the most useful for understanding Kazakhstan and Uzbekistan’s stalled transitions to democracy: “a high overall level of economic wealth,” “a market economy,” “an

instrumental rather than consummatory culture,” “political leaders committed to democracy,” and “influence by a pro-democratic foreign power.” (Huntington 1991, p. 37) In this thesis, these indicators were used to help measure the extent to which Kazakhstan and Uzbekistan are democratizing and, as discussed below, can also be used to help determine the likelihood of successful democratization in the future.

Chapter One provided an extensive list of constitutional pledges, describing how Kazakhstan and Uzbekistan had, at least on paper, set up their political institutions and protections of civil liberties. There was also ample evidence provided, however, that demonstrates that neither country has yet attained those democratic ambitions. The principal failure “to democratize” stems from the lack of competitive and fair elections in that there is no real opposition allowed in either country. As noted previously, both Nazarbaev of Kazakhstan and Karimov of Uzbekistan are Soviet remnants who secured footholds in the newly independent countries after the fall of the Soviet Union. Again, as noted previously, both Kazakhstan and Uzbekistan originate as countries from Russian and Soviet interventions, while the people share a nomadic and Islamic cultural heritage. However, are Kazakhstan and Uzbekistan stalling in their democratizations for the same reasons? How similar are these two neighbors? Do they differ in any significant and important ways?

In the case of Kazakhstan, it has been shown that Dahl’s (1971) definition of polyarchy does not describe what is happening in this state. This self-declared democracy outright denies its citizens the essential components, according to Dahl (1971), for polyarchy. Even though the Constitution of Kazakhstan explicitly declares that citizens have the right to free speech and the right to freedom of association, the government limits speech by limiting the press and forcing

the media into self-censorship (or else they risk dubious governmental intervention for questionable “violations” of various kinds). Furthermore, the government forbids opposition political parties to form and compete in elections. Uzbekistan is similar to Kazakhstan. The Constitution of Uzbekistan explicitly states those same rights, and also specifically mentions “freedom of the press”, and just as blatantly denies the practice of those rights and civil liberties. Opposition parties are illegal in Uzbekistan, and none can compete in elections at any level. Though both Kazakhstan and Uzbekistan have universal suffrage, for the most part, again, as Dahl (1971) so transparently puts it, what good is participation without true contestation?

#### A Final Comparison of Kazakhstan and Uzbekistan With Framework

Examining both Kazakhstan and Uzbekistan using indicators drawn from Huntington (1991), there are also some similarities. While both countries have the potential for high overall levels of economic wealth, they do not at this point in time. As well, the distribution of wealth is not even remotely equal. Both countries have considerably high literacy levels (98.8% for Kazakhstan and 99% for Uzbekistan according to the *United States Department of State Background Notes* for each country). Secondary education is mandatory in both countries – which can help account for the high literacy rates. Many scholars point out that one of the positive Soviet influences has been the education system the USSR created. (Alaolmolki 2001, Dannreuther 1994). Kazakhstan and Uzbekistan lack the instrumental culture that Huntington (1991) mentions as a pre-condition for democratization, however. Whether or not this is a result of the lack of a democratic history and the regions’ nomadic heritage is contestable though<sup>22</sup>.

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<sup>22</sup> This is addressed further later in this chapter.

Continuing with the similarities between Kazakhstan and Uzbekistan in terms of the indicators drawn from Huntington (1991), both countries provided for universal political participation prior to developing political contestation. This is further hampered by the lack of political leaders committed to democracy in both countries. Both countries exert so much influence via the executive branches regarding which parties are allowed to participate in the political system that they could be said to have closed party systems. Lastly, both Kazakhstan and Uzbekistan, until recently, did not have any major influence put upon them by pro-democratic foreign powers and, as is discussed in more detail below, the recent foreign interest in Kazakhstan and Uzbekistan now is seriously wanting.

A few indicators drawn from Huntington describe differences between Kazakhstan and Uzbekistan. Those indicators are: “a market economy,” “economic development and social modernization,” and “low levels of civil violence.” (Huntington 1991, p. 37) These differences are important because they demonstrate the fundamental ways in which the two countries differ in both their approaches to democratization and their future prospects for democracy. As stated earlier, Kazakhstan embraced market economy reform early in its independence by privatizing much of what had been public under the Soviet regime and also encouraging foreign investment. Kazakhstan also embraced some of the monetary reforms necessary to make it more attractive to foreign investors. While, again as stated earlier, this has created some problems in the way of corruption, Kazakhstan reports the highest amount of foreign investment in the region, completely overshadowing the other four Central Asian countries (The Economist, *Cottoning On*, July 24, 2003). In contrast, Uzbekistan’s government still wants to maintain a tight control on imports and exports and has failed in introduce investment-friendly reforms like Kazakhstan.

It also has failed to make life easier on its own businessmen and women. Recall the problems SMEs faced with lengthy and costly inspections and the like described in Chapter Three.

“Competition within the elite – between powerful clans, or between reformers and supporters of the status quo – also helps to explain the inconsistencies of economic policy. Perhaps most important, there is a lack of understanding of how a market economy works. ‘Karimov thinks he is an economist,’ explains a foreign diplomat, ‘and by Soviet standards he is. But what he practices is voodoo, not economics’” (The Economist, *Cottoning On*, July 24, 2003).

The other major difference between Kazakhstan and Uzbekistan is in relation to “low levels of civil violence.” (Huntington 1991, p.37) Chapter Three described how both ethnic violence and “terrorism” have become problem issues for Uzbekistan. Kazakhstan, while it is certainly no ethnic and religious Garden of Eden, is better off than in Uzbekistan in this regard. While this might simply be “relative” – given Kazakhstan’s proximity to other, more violence-prone countries – nonetheless this is one less obstacle that, at least thus far, Kazakhstan has to overcome on its road to democracy.

#### Future Research

In future research it would be interesting to explore some of the other Huntington (1991) variables not used in the present study. First, Huntington (1991) included in his list of precursors to democratization that a “strong bourgeoisie” and a “strong middle class” were usually indicative of a country becoming democratic; however, there is not much information regarding either for these countries. There is information about the ruling elite and also about the rampant poverty in the region – but very little mention of the “in between.” Such might not even exist,

but if it does, there could be some interesting deductions made. Second, although to date there is not much information available regarding public opinion in Kazakhstan and Uzbekistan, collecting public opinion data would be highly beneficial for understanding the stagnant democracies there. While some authors have suggested that the people, in general, are not ready for democracy (as well as the leaders Nazarbaev and Karimov themselves), maybe there are reasons which we do not yet know that could explain why the people of these countries have not fought harder for democracy or for their constitutionally promised civil liberties. Perhaps they find themselves trapped in a type of “rebel’s dilemma” to use Lichbach’s (1995) terminology. Perhaps the costs of attaining the goals of democratization outweigh the expected benefits, and thus the citizens, at this time, choose not to act. Information about public opinion in these areas would help scholars better understand these stalled transitions toward democracy.

The collection of such data would also be useful in light of political culture arguments such as the one mentioned above that people have to be “ready” for democracy. According to Gregory Gleason, “The greatest irony of independence in Central Asia [was that it came] as had Soviet-style colonialism several decades before – it was imposed by Moscow.” (Cummings 2002, p.1) Does this mean that the people do not want democracy now? Are the people locked into a conception of their political culture that makes it impossible for them to change? According to Pye (1965), “a political culture is the product of both the collective history of a political system and the life histories of the individuals who currently make up the system” (p. 8); however, this does not mean that the system should be implacable and rigid. Pye (1965) also indicates that “the presence of diffuse distrust seems to impede seriously the creation of the kinds of public organizations essential for national development. An equal obstacle to development,

however, is the widespread existence of an uncritical and childlike trust in the rulers and in all forms of higher authority.” (Pye 1965, p. 22) A comprehensive study of the citizenry could shed some light on additional hindrances such as those Pye has described. Further, when looking for explanations for why some countries are able to democratize while others fail, Weiner (as quoted by Huntington 1991), states “one should look at the ‘strategies available to those who seek a democratic revolution.’” (Huntington 1991, p. 38) Since opposition parties are banned, finding out who would or could institute such strategies for democratic revolution may prove to be difficult. Perhaps using a framework similar to the Rebel’s Dilemma (Lichbach 1995) could be useful as it would allow one to make determinations based upon a cost benefit type of analysis and draw out the types of “strategists” who would have more to gain from a democratic revolution as well as those who may believe themselves to be better off with the status quo, based again upon a cost benefit analysis.

Also of interest for future research would be an extended comparison of Kazakhstan and Uzbekistan with the other three countries in Central Asia, Kyrgyzstan, Tajikistan, and Turkmenistan. There are many unique characteristics of each of those countries that would be fascinating to examine. For instance, Tajikistan has gone through a civil war, and Kyrgyzstan has had problems with ethnic violence. Turkmenistan has a president-for-life in Niyazov who is reportedly much more authoritarian than even Karimov (The Economist, *What’s the Rush?*, July 24, 2003). Even though the former Soviet republics of Central Asia share somewhat similar histories, it is very possible that each of these new states may have significant, unique factors that account for their particular stage of democratization – as this discussion of Kazakhstan and Uzbekistan has demonstrated. We cannot simply treat all of these transitioning states as the

same. On a grander scale, it would be an interesting enterprise to use the frameworks drawn from Dahl (1971) and Huntington (1991) to study both the extent and processes of democratization in all twenty-seven of the former Soviet Socialist Republics. There is a substantial difference between the developments of the Eastern and Central European former Soviet republics and those of Central Asia and the Caucasus, the subtleties of which could be drawn out using these frameworks based on Dahl (1971) and Huntington (1991).

### Where Do We Go From Here?

We can see how Kazakhstan and Uzbekistan are not democracies although their constitutions declare them to be. Yet what happens next? Will they continue to regress into authoritarianism, or will democracy prevail? Recent events suggest which direction each state is headed; however, I dare say that these directions have been foreshadowed using the Dahl (1971) and Huntington (1991) frameworks. In order for democracy to prevail, external forces must play a more discerning role. Internal factors alone are insufficient explanations for the stalled democratizations in Kazakhstan and Uzbekistan. This is where the last Huntington (1991) indicator used in this study takes center stage. Huntington (1991) stated that an indicator of whether or not a country would democratize successfully is whether an “influence by a pro-democratic foreign power” is evident (Huntington 1991, p. 37).<sup>23</sup>

International pressure on Kazakhstan and Uzbekistan may prove to be very important for democratization. Even though there are illegal oppositions in both Kazakhstan and Uzbekistan,

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<sup>23</sup> This would be a significantly important indicator to study in the future during a comparison of the former Soviet Republics in Europe – as the European Union, among other powers, was especially instrumental in the transitions to democracy of those countries.

these groups are criticized for having no viable alternatives to offer. Vague policies and the lack of both financial support and membership beleaguer the opposition parties at present. While there is a chance that change could occur during regime change and “such a transition period might then lead to genuine elections further down the line” (The Economist, *What’s the Rush?*, July 24, 2003), international pressure would drastically increase that chance.

Evidence of what a little international pressure can do is found in recent events in Kazakhstan and Uzbekistan. As stated earlier, these events can possibly foreshadow what is to come. Kazakhstan has recently made a positive step in regard to its laws on the media, while Uzbekistan has experienced a serious setback as the United States has withdrawn its financial aid. In Chapter Two the suspension of the independent television TAN-TV in 2002 was described as an illustration of Kazakhstan’s poor record on freedom of speech and freedom of the press. This station was shut down officially for “procedural violations” however these violations occurred only two months after a controversial political broadcast which contained criticism of the president. In January of 2004, there was much concern over pending legislation that could seriously restrict independent media even further. The lower house of parliament, the Mazhilis, had passed a bill on Christmas Day, 2003, which would have given the Ministry of Information Affairs “nearly unlimited powers to suspend a media organization’s operations. The law places no restrictions on monopolies, and does little to guarantee journalists’ rights... [and] the legislation mandates that media organizations perform certain functions as defined by the Ministry of Information – a requirement critics fear could be used to deny registration to media outlets that anger the government.” (Eurasianet Internews, *Passage Likely for Restrictive Media Legislation in Kazakhstan*, January 12, 2004) Critics of the law believed that Western support

could help to ensure that the law would be fair and that international reaction could be “pivotal;” however, “at a December 23 meeting, Nazarbayev reportedly rebuffed an offer from the Organization for Security and Cooperation in Europe (OSCE) to help ensure that the media law met international human rights standards... [characterizing] the OSCE’s offer as an unwarranted intervention in Kazakhstan’s internal affairs.” (Eurasianet Internews, *Passage Likely for Restrictive Media Legislation in Kazakhstan*, January 12, 2004) The upper house of parliament, the Senate, also passed the legislation in March; however, in an interesting turn of events, Nazarbaev vetoed the bill in April, citing that “he made the decision after the country’s Constitutional Council found the bill violated the Kazakh Constitution.” (Eurasianet, *Kazakh Veto of Media Law Welcomed*, April 22, 2004) He also cited that public opinion also played a role in that decision, an equally shocking remark. The OSCE, the European Union, and the United States were all pleased with the news but still expressed concerns over a new election law that will also impose some limitations on journalists by “restrict[ing] the media’s coverage of Kazakhstan’s parliamentary elections later this year.” (Eurasianet, *Kazakh Veto of Media Law Welcomed*, April 22, 2004) But the veto of the media legislation is a positive step according to Johann Fritz, director of the International Press Institute (IPI) who stated in an interview “while this may be a small step for Nazarbayev, this is a great step for the journalism community of Kazakhstan.” (IPI Press Release, *IPI Welcomes Kazakh President’s Veto Law on Mass Media*, April 22, 2004) Fritz is right. It is a small but positive step, and it illustrates that perhaps Kazakhstan can be influenced by other countries and international organizations to continue making these small but positive steps towards democratization. As well, do not forget that it was

just this year that the Democratic Choice of Kazakhstan (DCK) was granted legal status as an opposition party. To say the least, these small but positive steps provide hope.

Uzbekistan is, however, another story. Karimov has increasingly tightened his control over every aspect of life in the country, and many human rights groups are extremely worried. In particular, these groups have been especially concerned that Uzbekistan's allegiance with the United States in the war on terror would allow Karimov to 'get away with' anything he desires. These groups' fears were exacerbated by the European Bank for Reconstruction and Development's (EBRD) decision to hold its annual meeting in 2003 in Tashkent. Despite the fact that the EBRD is not a political organization, it nonetheless garnered serious protest for its choice of this locale as "Uzbekistan... is one of the world's most repressive states, with thousands of political prisoners and little sign of improvement." (The Economist, *The European Bank for Repression and Dictatorship?*, October 2, 2002) The United States Department of State's *Country Reports on Human Rights Practices – 2003* notes that Uzbekistan continues to have a very poor record of human rights and has continued to commit serious abuses. It also states that the use of torture is common, in particular, as it is used by the police and the National Security Service.

The EBRD did not change its annual meeting venue despite the criticism, but perhaps it did serve some good purpose. According to an article in *The Economist*, "after arduous negotiations by the EBRD, th[e] opening session was transmitted live on local television. So local viewers at least had a chance to hear an alternative view of Uzbekistan's record. By Uzbekistan's standards, this may be progress." (The Economist, *Freedom for a Day*, May 8, 2003) This same article later mentions, though, that the local media spun the meeting as a stamp

of approval for Uzbekistan's policies. However Karimov's time might be beginning to run out. The EBRD has suspended its financial support to Uzbekistan, and as of 2003, the International Monetary Fund (IMF) was withholding funding as well. It also seems that the United States has also had enough of Karimov's dodging the democracy and human rights issues. In January 2004, the U.S. denied non-proliferation assistance to Uzbekistan, but a national-security waiver allowed some funding to go through. More recently, Uzbekistan was not so fortunate. The United States decided officially to suspend aid to Uzbekistan on July 13, 2004. "Citing lack of progress on democratic reform, the State Department announced that Uzbekistan's government had not passed the test for assistance this year." (The Economist, *An Embarrassing Friend*, July 17, 2004) Despite Uzbekistan's allegiance and strategic position for the war on terror, the United States could no longer support its "embarrassing friend". The Uzbekistani government has lost about \$31 million in aid in 2004 alone. This latest cut could mean a loss of both military and economic reform assistance. *The Economist* reports that if the funding is not entirely cut, it will only be redirected through non-governmental organizations (NGOs) (The Economist, *An Embarrassing Friend*, July 17, 2004).

#### Why Democratization in Kazakhstan and Uzbekistan Matters

While Kazakhstan is making a bit of progress in its transition to democracy, it has much further to go if it means to become fully democratic. The glimmers of hope in the events of 2004 show that Kazakhstan has promise; however, as the frameworks drawn from Dahl (1971) and Huntington (1991) indicate, the road to democracy will be both bumpy and long. As well, the latest events in Uzbekistan are both drastic and potentially telling. Will the loss of substantial

funding be enough to convince Karimov of the need to turn from his “wicked ways”? Has his time for dancing around the issue of democracy run out? With fingers crossed, human rights groups hope that it has. This kind of pressure is exactly what is required to promote democracy in Central Asia. According to Huntington, “the United States is the premier democratic country of the modern world, and its identity as a nation is inseparable from its commitment to liberal and democratic values. Other nations may fundamentally change their political systems and continue their existence as nations. The United States does not have that option. Hence Americans have a special interest in the development of a global environment congenial to democracy.” (Huntington 1991, p. 29) Huntington (1991) succinctly sums up why the United States should take an interest in the development of democracy around the world and its interest should be no less focused on Central Asia. Kazakhstan and Uzbekistan potentially have the necessary tools for democracy; they just need to use them correctly. The loosened dictatorial grips of Nazarbaev and Karimov, in combination with the influence of foreign pro-democratic regimes, could well be the spurs that Kazakhstan and Uzbekistan need to take the giant steps necessary on the road to democratization.

## APPENDIX A: CONSTITUTION OF THE REPUBLIC OF KAZAKHSTAN

\*Obtained from the official Kazakhstan website, URL: [www.president.kz](http://www.president.kz) on May 31, 2004.

### The Constitution of the Republic of Kazakhstan

We, the people of Kazakhstan, united by a common historic fate, creating a state on the indigenous Kazakh land, considering ourselves a peace-loving and civil society, dedicated to the ideals of freedom, equality and concord, wishing to take a worthy place in the world community, realizing our high responsibility before the present and future generations, proceeding from our sovereign right, accept this Constitution.

#### Section I GENERAL PROVISIONS

##### Article 1

1. The Republic of Kazakhstan proclaims itself a democratic, secular, legal and social state whose highest values are an individual, his life, rights and freedoms.
2. The fundamental principles of the activity of the Republic are public concord and political stability; economic development for the benefit of all the nation; Kazakhstan patriotism and resolution of the most important issues of the affairs of state by democratic methods including voting at an all-nation referendum or in the Parliament.

##### Article 2

1. The Republic of Kazakhstan is a unitary state with a presidential form of government.
2. The sovereignty of the Republic extends to its entire territory. The state ensures the integrity, inviolability and inalienability of its territory.
3. The administrative and territorial division of the Republic of Kazakhstan, location and status of its capital are determined by law.
4. The names "Republic of Kazakhstan" and "Kazakhstan" have the same meaning.

##### Article 3

1. The people shall be the only source of state power.
2. The people shall exercise power directly through an all-nation referendum and free elections as well as delegate the execution of their power to state institutions.
3. Nobody shall have the right to appropriate power in the Republic of Kazakhstan. Appropriation of power shall be persecuted by law. The right to act on behalf of the people and

the state shall belong to the President as well as to the Parliament of the Republic within the limits of the constitutional powers. The government and other state bodies shall act on behalf of the state only within the limits of their delegated authorities.

4. The state power in the Republic of Kazakhstan is unified and executed on the basis of the Constitution and laws in accordance with the principle of its division into the legislative, executive and judicial branches and a system of checks and balances that governs their interaction.

#### Article 4

1. The provisions of the Constitution, the laws corresponding to it, other regulatory legal acts, international treaty and other commitments of the Republic as well as regulatory resolutions of Constitutional Council and the Supreme Court of the Republic shall be the functioning law in the Republic of Kazakhstan.

2. The Constitution shall have the highest juridical force and direct effect on the entire territory of the Republic.

3. International treaties ratified by the Republic shall have priority over its laws and be directly implemented except in cases when the application of an international treaty shall require the promulgation of a law.

4. All laws, international treaties of which the Republic is a party shall be published. Official publication of regulatory legal acts dealing with the rights, freedoms and responsibilities of citizens shall be a necessary condition for their application.

#### Article 5

1. The Republic of Kazakhstan shall recognize ideological and political diversity. The merging of public and state institutions, and the formation of political party organizations in state bodies shall not be permitted.

2. Public associations shall be equal before the law. Illegal interference of the state in the affairs of public associations and of public associations in the affairs of the state, imposing the functions of state institutions on public associations, and financing of public associations by the state shall not be permitted.

3. Formation and functioning of public associations pursuing the goals or actions directed toward a violent change of the constitutional system, violation of the integrity of the Republic, undermining the security of the state, inciting social, racial, national, religious, class and tribal enmity, as well as formation of unauthorized paramilitary units shall be prohibited.

4. Activities of political parties and trade unions of other states, religious parties as well as financing political parties and trade unions by foreign legal entities and citizens, foreign states and international organizations shall not be permitted in the Republic.

5. Activities of foreign religious associations on the territory of the Republic as well as appointment of heads of religious associations in the Republic by foreign religious centers shall be carried out in coordination with the respective state institutions of the Republic.

#### Article 6

1. The Republic of Kazakhstan shall recognize and by the same token protect state and private property.

2. Property shall impose obligations, and its use must simultaneously benefit the society. Subjects and objects of ownership, the scope and limits of the rights of proprietors, and guarantees of their protection shall be determined by law.

3. The land and underground resources, waters, flora and fauna, other natural resources shall be owned by the state. The land may also be privately owned on terms, conditions and within the limits established by legislation.

#### Article 7

1. The state language of the Republic of Kazakhstan shall be the Kazak language.

2. In state institutions and local self-administrative bodies the Russian language shall be officially used on equal grounds along with the Kazak language.

3. The state shall promote conditions for the study and development of the languages of the people of Kazakhstan.

#### Article 8

The Republic of Kazakhstan shall respect principles and norms of international law, pursue the policy of cooperation and good-neighborly relations between states, their equality and non-interference in each other's domestic affairs, peaceful settlement of international disputes and renounce the first use of the military force.

#### Article 9

The Republic of Kazakhstan shall have its state symbols - the flag, emblem and anthem. Their description and order of official use shall be established by the constitutional law.

### Section II THE INDIVIDUAL AND CITIZEN

#### Article 10

1. Citizenship of the Republic of Kazakhstan shall be acquired and terminated as prescribed by law, shall be indivisible and equal regardless of the grounds of its acquisition.

2. A citizen of the Republic of Kazakhstan under no circumstances may be deprived of citizenship of the right to change his citizenship, and may not be exiled from the territory of Kazakhstan.

3. Foreign citizenship of a citizen of the Republic shall not be recognized.

#### Article 11

1. A citizen of the Republic of Kazakhstan may not be extradited to a foreign state unless otherwise stipulated by international treaties of the Republic.

2. The Republic shall guarantee its citizens protection and patronage outside its boundaries.

#### Article 12

1. Human rights and freedoms in the Republic of Kazakhstan shall be recognized and guaranteed in accordance with this Constitution.

2. Human rights and freedoms shall belong to everyone by virtue of birth, be recognized as absolute and inalienable, and define the contents and implementation of laws and other regulatory legal acts.

3. Every citizen of the Republic shall have rights and bear responsibilities owing to his citizenship.

4. Foreigners and stateless persons in the Republic shall enjoy rights and freedoms as well as bear responsibilities established for the citizens unless otherwise stipulated by the Constitution, laws and international treaties.

5. Exercise of a citizen's human rights and freedoms must not violate rights and freedoms of other persons, infringe on the constitutional system and public morals.

#### Article 13

1. Everyone shall have the right to be recognized as subject of the law and protect his rights and freedoms with all means not contradicting the law including self-defense.

2. Everyone shall have the right to judicial defense of his rights and freedoms.

3. Everyone shall have the right to qualified legal assistance. In cases stipulated by law, legal assistance shall be provided free of charge.

#### Article 14

1. Everyone shall be equal before the law and court.

2. No one shall be subject to any discrimination for reasons of origin, social, property status, occupation, sex, race, nationality, language, attitude towards religion, convictions, place of residence or any other circumstances.

#### Article 15

1. Everyone shall have the right to life.

2. No one shall have the right to arbitrarily deprive a person of life. The law shall establish the death penalty as an extraordinary measure of punishment for especially grave crimes and grant the sentenced person the right to appeal for pardon.

#### Article 16

1. Everyone shall have the right to personal freedom.

2. Arrest and detention shall be allowed only in cases stipulated by law and only with the sanction of a court or prosecutor of law. The detained person shall be provided with the right to appeal. Without the sanction of a procurator, a person may be detained for a period no more than seventy-two hours.

3. Every person detained, arrested and accused of committing a crime shall have the right to the assistance of a defense lawyer (defender) from the moment of detention, arrest or accusation.

#### Article 17

1. A person's dignity shall be inviolable.

2. No one must be subject to torture, violence or other treatment and punishment that is cruel or humiliating to human dignity.

#### Article 18

I. Everyone shall have the right to inviolability of private life, personal or family secrets, protection of honor and dignity.

2. Everyone shall have the right to confidentiality of personal deposits and savings, correspondence, telephone conversations, postal, telegraph and other messages. Limitation of this right shall be permitted only in the cases and according to the procedure directly established by law.

3. State bodies, public associations, officials, and the mass media must provide every citizen with the possibility to obtain access to documents, decisions and other sources of information concerning his rights and interests.

#### Article 19

1. Everyone shall have the right to determine and indicate or not to indicate his national, party and religious affiliation.

2. Everyone shall have the right to use his native language and culture, to freely choose the language of communication, education, instruction and creative activities.

#### Article 20

1. The freedom of speech and creative activities shall be guaranteed. Censorship shall be prohibited.

2. Everyone shall have the right to freely receive and disseminate information by any means not prohibited by law. The list of items constituting state secrets of the Republic of Kazakhstan shall be determined by law.

3. Propaganda of or agitation for the forcible change of the constitutional system, violation of the integrity of the Republic, undermining of state security, and advocating war, social, racial, national, religious, class and clannish superiority as well as the cult of cruelty and violence shall not be allowed.

#### Article 21

1. Everyone who has a legal right to stay on the territory of the Republic of Kazakhstan shall have the right to freely move about its territory and freely choose a place of residence except in cases stipulated by law.

2. Everyone shall have the right to leave the territory of the Republic. Citizens of the Republic shall have the right to freely return to the Republic .

#### Article 22

1. Everyone shall have the right to freedom of conscience.

2. The right to freedom of conscience must not specify or limit universal human and civil rights and responsibilities before the state.

#### Article 23

1. Citizens of the Republic of Kazakhstan shall have the right to freedom of forming associations. The activities of public associations shall be regulated by law.

2. The military, employees of national security, law-enforcement bodies and judges must abstain from membership in political parties, trade unions, and actions in support of any political party.

#### Article 24

1. Everyone shall have the right to freedom of labor, and the free choice of occupation and profession. Involuntary labor shall be permitted only on a sentence of court or in the conditions of a state of emergency or martial law.

2. Everyone shall have the right to safe and hygienic working conditions, to just remuneration for labor without discrimination, as well as to social protection against unemployment.

3. The right to individual and collective labor disputes with the use of methods for resolving them, stipulated by law including the right to strike, shall be recognized.

4. Everyone shall have the right to rest. Working labor agreements stipulating the length of working time, days-off and holidays, and paid annual leave shall be guaranteed by law.

#### Article 25

1. Housing shall be inviolable. Deprivation of housing shall not be permitted unless otherwise stipulated by a court decision. Penetration into housing, its inspection and search shall be permitted only in cases and according to the procedure stipulated by law.

2. Conditions shall be created in the Republic of Kazakhstan to provide citizens with housing. Citizens in need of housing shall be categorized in a manner to be prescribed by law and provided with housing at an affordable price from the state housing funds in accordance with the norms stipulated by law.

#### Article 26

1. Citizens of the Republic of Kazakhstan may privately own any legally acquired property.

2. Property, including the right of inheritance, shall be guaranteed by law.

3. No one may be deprived of his property unless otherwise stipulated by a court decision. Forcible alienation of property for the public use in extraordinary cases stipulated by law may be exercised on condition of its equivalent compensation.

4. Everyone shall have the right to freedom of entrepreneurial activity, and free use of his property for any legal entrepreneurial activity. Monopolistic activity shall be regulated and limited by law. Unfair competition shall be prohibited.

#### Article 27

1. Marriage and family, motherhood, fatherhood and childhood shall be under the protection of the state.

2. Care of children and their upbringing shall be a natural right and responsibility of parents.

3. Able-bodied children of age must take care of their disabled parents.

#### Article 28

1. A citizen of the Republic of Kazakhstan shall be guaranteed a minimum wage and pension, and guaranteed social security in old age, in case of disease, disability or loss of a breadwinner and other legal grounds.

2. Voluntary social insurance, creation of additional forms of social security, and charity shall be encouraged.

#### Article 29

1. Citizens of the Republic of Kazakhstan shall have the right to protection of health.
2. Citizens of the Republic shall be entitled to free, guaranteed, extensive medical assistance established by law.
3. Paid medical treatment shall be provided by state and private medical institutions as well as by persons engaged in private medical practice on the terms and according to the procedures stipulated by law.

#### Article 30

1. The citizens shall be guaranteed free secondary education in state educational establishments. Secondary education shall be obligatory.
2. A citizen shall have the right to receive on a competitive basis a higher education in a state higher educational establishment.
3. The citizens shall have the right to pay and receive an education in private educational establishments on the basis and terms established by law.
4. The state shall set uniform compulsory standards in education. The activity of any educational establishment must comply with these standards.

#### Article 31

1. The state shall set an objective to protect the environment favorable for the life and health of the person.
2. Officials shall be held accountable for the concealment of facts and circumstances endangering the life and health of the people in accordance with law.

#### Article 32

Citizens of the Republic of Kazakhstan shall have the right to peacefully and without arms assemble, hold meetings, rallies and demonstrations, street processions and pickets. The use of this right may be restricted by law in the interests of state security, public order, protection of health, rights and freedoms of other persons.

#### Article 33

1. Citizens of the Republic of Kazakhstan shall have the right to participate in the government of the state's affairs directly and through their representatives, to address personally as well as to direct individual and collective appeals to public and local self-administrative bodies.

2. Citizens of the Republic shall have the right to elect and be elected into public and local self-administrations as well as to participate in an all-nation referendum.

3. The right to elect and be elected, to participate in the all-nation referendum shall not extend to the citizens judged incapable by a court as well as those held in places of confinement on a court's sentence.

4. Citizens of the Republic shall have the equal right to serve in a public office. The requirements for candidates for public offices shall be conditioned only by the character of the office duties and shall be established by law.

#### Article 34

1. Everyone must observe the Constitution, legislation of the Republic of Kazakhstan and respect the rights, freedoms, honor and dignity of other persons.

2. Everyone must respect the state symbols of the Republic.

#### Article 35

Payment of legally established taxes, fees and other obligatory payments shall be a duty and responsibility of everyone.

#### Article 36

1. Defense of the Republic of Kazakhstan shall be a sacred duty and responsibility of its every citizen.

2. Citizens of the Republic shall perform military service according to the procedure and in the forms established by law.

#### Article 37

Citizens of the Republic of Kazakhstan must care for the protection of historical and cultural heritage, and preserve monuments of history and culture.

#### Article 38

Citizens of the Republic of Kazakhstan must preserve nature and protect natural resources.

#### Article 39

1. Rights and freedoms of an individual and citizen may be limited only by laws and only to the extent necessary for protection of the constitutional system, defense of the public order, human rights and freedoms, health and morality of the population.

2. Any actions capable of upsetting interethnic concord shall be deemed unconstitutional.

3. Any form of restrictions to the rights and freedoms of the citizens on political grounds shall not be permitted. Rights and freedoms stipulated by articles 10-11; 13-15 paragraph 1 of article 16; article 17; article 19; article 22; paragraph 2 of article 26 of the Constitution shall not be restricted in any event.

### Section III THE PRESIDENT

#### Article 40

1. The President of the Republic of Kazakhstan shall be the head of state, its highest official determining the main directions of the domestic and foreign policy of the state and representing Kazakhstan within the country and in international relations.

2. The President of the Republic shall be the symbol and guarantor of the unity of the people and the state power, inviolability of the Constitution, rights and freedoms of an individual and citizen.

3. The President of the Republic shall ensure by his arbitration concerted functioning of all branches of state power and responsibility of the institutions of power before the people.

#### Article 41

1. The President of the Republic shall be elected by universal, equal and direct suffrage under a secret ballot for a seven-year term in accordance with the constitutional law by the citizens of the Republic who have come of age.

2. A citizen of the Republic shall be eligible for the office of the President of the Republic of Kazakhstan if he is by birth not younger than forty and has a perfect command of the state language and has lived in Kazakhstan for not less than fifteen years.

3. Regular elections of the President of the Republic shall be held on the first Sunday of December and shall not coincide with the election of a new Parliament of the Republic.

4. The candidate who receives more than 50 percent of the votes of the constituents that took part in the election shall be deemed elected. If none of the candidates receives the above number of votes, a second round of elections shall be held between the two candidates who obtained the largest number of votes. The candidate who receives the larger number of votes of the constituents who take part in the second round of elections shall be deemed elected.

#### Article 42

1. The President of the Republic of Kazakhstan shall take office from the moment of swearing to the people the following oath: "I solemnly swear that I will faithfully serve the people of Kazakhstan, strictly observe the Constitution and the laws of the Republic of Kazakhstan, guarantee the rights and freedoms of the citizens, honestly perform the high duties of the President of the Republic of Kazakhstan entrusted to me."

2. The oath shall be taken on the second Wednesday of January in a ceremonial atmosphere in the presence of the deputies of Parliament, the members of the Constitutional Council, the judges of the Supreme Court as well as all former Presidents of the Republic. In case, stipulated by Article 48 of the Constitution, the oath shall be taken by a person who has taken the powers of the President of the Republic of Kazakhstan within one month since taking the powers of the President of the Republic.

3. The powers of the President of the Republic shall terminate from the moment the newly elected President of the Republic takes office as well as in the case of premature release from office, resignation or death. All former Presidents of the Republic except those who were discharged from office shall have the title of ex-President of the Republic of Kazakhstan.

4. One and the same person may not be elected the President of the Republic more than two times in a row.

#### Article 43

1. The President of the Republic of Kazakhstan shall not have the right to be a deputy of a representative body, hold other paid offices and engage in entrepreneurial-activity.

2. The President of the Republic shall suspend activity in any political party for the period he exercises his powers.

#### Article 44

1. The President of the Republic of Kazakhstan shall:

1) annually address the people of Kazakhstan with a message on the state of the country and main directions of the domestic and foreign policy of the Republic of Kazakhstan;

2) appoint regular and extraordinary elections to the Parliament of the Republic; convene the first session of Parliament and accept the oath of its members to the people of Kazakhstan; call extraordinary joint sessions of the Chambers of Parliament; sign laws submitted by the Senate of Parliament within fifteen working days, promulgate the law or return the law or its separate articles for a second discussion and vote;

3) appoint a Prime Minister of the Republic with the Parliament's consent; release him from office; determine the structure of the Government of the Republic at the proposal of the Prime Minister, appoint to and release from office its members, as well as form, abolish and reorganize central executive bodies of the Republic which are not included into the Government; accept the oath of the members of the Government; preside at the meetings of the Government on especially important issues; charge the Government with bringing a bill into the Majilis of Parliament; annul or suspend completely or partially the effect of the Government's acts and those of the akims of the oblasts, major cities and the capital;

4) appoint the Chairperson of the National Bank of the Republic of Kazakhstan with the Parliament's consent; release him from office;

5) appoint the Procurator General and Chairperson of the (committee of National Security of the Republic with the consent of the Senate of Parliament; release them from office;

6) appoint and recall heads of diplomatic representative offices of the Republic;

7) appoint the Chairperson and two members of the Accounts Committee for control over Execution of the Republican Budget for a five year term;

8) approve state programs of the Republic;

9) approve a unified system of financing and labor payment for all bodies financed by the state budget of the Republic at the proposal of the Prime Minister of the Republic;

10) adopt a resolution on conducting the all-nation referendum;

11) conduct negotiations and sign international treaties of the Republic; sign ratification instruments; receive letters of credentials and recall from diplomatic and other representatives of foreign states accredited to him;

12) act as the Commander-in-Chief of the Armed Forces of the Republic, appoint and replace the highest command of the Armed Forces;

13) award state decorations of the Republic and confer-honorary, highest military and other ranks, ranked positions, diplomatic ranks and qualification degrees;

14) resolve issues of citizenship of the Republic , and political asylum;

15) exercise pardon of citizens;

16) in the event of a serious and immediate threat to the democratic institutions of the Republic, its independence and territorial integrity, political stability of the Republic, security of its citizens and the disruption of normal functioning of the Constitutional bodies of the state, the President shall have official consultation with Prime Minister and Chairpersons of the Parliamentary Chambers of the Republic and take measures, caused by a state of emergency on the entire territory or in particular areas of Kazakhstan, and immediately inform the Parliament of the use of the Armed Forces of the Republic;

17) in the case of aggression against the Republic or immediate external threat to its security, the President shall impose martial law on the entire territory of the Republic or in particular areas, declare a partial or total mobilization and immediately inform the Parliament of the Republic to the effect;

18) form the Republican Guard as well as the Presidential Guard subordinated to the President;

19) appoint to and release from office the State Secretary of the Republic of Kazakhstan, define his status and powers; form the administration of the President of the Republic;

20) form the Security Council, the Higher Judicial Council and other consultative and advisory bodies;

21) exercise other powers in accordance with the Constitution and the laws of the Republic.

#### Article 45

1. The President of the Republic of Kazakhstan, on the basis of and with the exercise of the Constitution and the laws, shall issue decrees and resolutions which are binding on the entire territory of the Republic.

2. In the case envisioned by subparagraph 4 of Article 53 of the Constitution the President of the Republic shall issue laws, and in the case envisioned by subparagraph 2 of Article 61 of the Constitution, - the President of the Republic shall issue decrees having the force of laws in the Republic.

3. The acts of Parliament signed by the President of the Republic as well as the acts of the President issued on the initiative of the Government shall be preliminarily signed respectively by the Chairperson of each Parliaments Chambers or the Prime Minister who bear juridical responsibility for the legality of these acts.

#### Article 46

1. The President of the Republic of Kazakhstan, his honour and dignity shall be inviolable.

2. Provision, service, and guard of the President of the Republic and his family shall be carried out at the state's expense.

3. The provisions of this article shall extend to ex-Presidents of the Republic.

#### Article 47

1. The President of the Republic of Kazakhstan may be prematurely released from office in the case of continued incapacity to perform his duties due to illness. In this case the Parliament shall form a commission consisting of equal numbers of deputies from each Chamber and specialists of the respective areas of medicine. The decision of premature release based on the conclusion of the commission and that of the Constitutional Council confirming observance of the established constitutional procedures shall be adopted at a joint sitting of the Parliament's Chambers by the majority of no less than three-fourths from the total number of deputies of each Chamber.

2. The President of the Republic shall bear responsibility for the actions performed while exercising his duties and only in the case of high treason may be discharged from office by Parliament. The decision to bring an accusation and conduct its investigation may be adopted by the majority of the deputies of the Majilis at the initiative of no less than one-third of the total number of its deputies. Investigation of the accusation shall be organized by the Senate and by the majority of votes of the total number of the deputies of the Senate its results are transferred for consideration at a joint session of the Parliament's Chambers. The final decision of this issue shall be adopted at a joint session of the Parliament's Chambers by the majority of no less than three-fourths of the total number of the deputies of each Chamber, provided the Supreme Court concludes the validity of the accusation and conclusion by the Constitutional Council that the established constitutional procedures were observed. The failure to arrive at a final decision within two months from the moment of the accusation shall result in the recognition that the accusation against the President of the Republic is rejected. Rejection of the accusation of the President of the Republic in perpetration of high treason at any stage shall result in premature termination of the powers of the deputies of the Majilis who initiated the consideration of this issue.

3. The issue of discharge of the President of the Republic from office may not be initiated in the period when the President is considering premature termination of the powers of the Parliament of the Republic.

#### Article 48

1. In case of premature release or discharge of the President of the Republic of Kazakhstan from office as well as in case of his death the powers of the President of the Republic shall be transmitted to the Chairperson of the Senate of the Parliament for the rest of the term; if the Chairperson of the Senate is unable to assume the powers of the President they shall be transmitted to the Chairperson of the Majilis of the Parliament; if the Chairperson of the Majilis is unable to assume the powers of the President they shall be transmitted to the Prime Minister of the Republic. A person who has taken the powers of the President of the Republic shall correspondingly withdraw his powers of the Chairperson of the Senate, the Majilis, the Prime Minister. In this case filling of those state positions shall be carried out in the order, stipulated by the Constitution.

A person who has taken the powers of the President of the Republic of Kazakhstan, on the basis and in the order stipulated by Paragraph 1 of the present Article, has no right to initiate amendments and additions to the Constitution of the Republic of Kazakhstan.

### Section IV PARLIAMENT

#### Article 49

1. Parliament of the Republic of Kazakhstan is the highest representative body of the Republic performing legislative functions.

2. Parliament's powers shall begin from the opening of its first session and terminate with the first session of a new convocation.

3. The powers of Parliament may be prematurely terminated in cases and according to the procedure stipulated by the Constitution.

4. The organization and activities of Parliament, the legal status of its deputies shall be determined by constitutional law.

#### Article 50

1. Parliament shall consist of two Chambers acting on a permanent basis: the Senate and the Majilis.

2. The Senate shall be composed of deputies elected in twos from each oblast, major city and the capital of the Republic of Kazakhstan, at a joint session of the deputies of all representative bodies of the respective oblast, major city and the capital of the Republic. Seven deputies of the Senate shall be appointed by the President of the Republic for the term of the Senate.

3. The Majilis shall consist of seventy-seven deputies. Sixty-seven deputies shall be elected in constituencies having one mandate and formed according to the administrative-territorial division of the Republic with an approximately equal number of constituents. Ten deputies shall be elected on the basis of the Party Lists according to the system of proportional representation and in the territory of a unified national constituency.

4. A deputy of Parliament may not be a member of both Chambers simultaneously.

5. Term of the powers of Senate deputies shall be six years, term of the powers of the Majilis deputies shall be five years.

#### Article 51

1. Elections of the deputies of the Majilis shall be carried out on the basis of the universal, equal and direct right under secret ballot. Regular elections of the deputies of the Majilis shall be held no later than two months before the termination of the powers of current Parliament.

2. The elections of the deputies of the Senate shall be carried out on the basis of indirect electoral right under secret ballot. Half of the elected deputies of the Senate shall be re-elected every three years. In this case, their regular elections shall be held no later than two months before the end of their term in office.

3. Extraordinary elections of the deputies of Parliament shall be held within two months from the moment of premature termination of Parliament's powers.

4. A deputy of the Senate may be a citizen of the Republic of Kazakhstan who has been a citizen of the Republic for not less than five years and who has reached thirty years of age, has a higher education and length of service of not less than five years, and has been a permanent resident for not less than three years on the territory of the respective oblast, major city or the capital of the Republic. A deputy of the Majilis may be a citizen of the Republic of Kazakhstan who has reached twenty-five years of age.

5. A candidate shall be deemed elected if he receives more than fifty percent of the votes of constituents or electors who took part in the voting in a constituency having one mandate, at the joint session of deputies of all the representative bodies correspondingly of the oblasts, the city of republican significance and the capital of the Republic. If none of the candidates receives the aforementioned number of votes, a second round of voting shall be held between the two candidates who obtained the largest number of votes. The candidate who receives the larger number of votes of the constituents or electors who took part in voting shall be deemed elected. Only those political parties which received not less than seven percent of votes of constituents who took part in the elections, shall be admitted to distribution of deputy mandates in accordance with the results of elections to the Majilis on the basis of Party Lists. Elections to the Senate shall be deemed valid in case more than fifty percent of electors took part in the voting. Procedure of elections of the deputies of the Parliament of the Republic shall be determined by constitutional law.

6. A deputy shall take an oath before the people of Kazakhstan.

#### Article 52

1. A deputy of Parliament shall not be bound by any imperative mandate.

2. The deputies of Parliament must take part in its work. The deputies shall only vote in person in Parliament. Absence of a deputy at sittings of the Chambers and their bodies without a good reason for more than three times as well as transferring the right to vote shall cause the imposition of penalties established by law.

3. A deputy of Parliament shall have no right to be a deputy of another representative body, hold other paid offices, except teaching, research and creative activities, engage in entrepreneurial activity, enter a managing body or a supervisory board of a commercial organization. Violation of this rule shall result in the termination of a deputy's powers.

4. A deputy of Parliament during the term of his office may not be arrested, subject to detention, measures of administrative punishment imposed by a court of law, arraigned on a criminal charge without the consent of a respective Chamber except for the cases of being apprehended on the scene of a crime or committing grave crimes.

5. The powers of the deputies of Parliament shall be terminated in cases of resignation, being recognized as incapable, dissolution of Parliament and in other cases stipulated by the Constitution. A deputy of Parliament shall be deprived of his mandate in cases being duly

convicted in a court of law, establishing permanent residency beyond the boundaries of the Republic of Kazakhstan.

6. Preparation of questions concerning the imposition of penalties on the deputies, their observance of the requirements of paragraph 3 of this article, principles of the deputies' ethics, as well as termination of the deputies' powers and deprivation of their powers and deputy immunity, shall be delegated to the Central Election Commission of the Republic of Kazakhstan.

#### Article 53

Parliament at a joint session of the Chambers shall:

1) introduce amendments and make additions to the Constitution; adopt constitutional laws, introduce amendments and make additions to the Constitution at the proposal of the President of the Republic of Kazakhstan;

2) approve the republican budget, the reports of the Government, and the Accounts Committee about its implementation, and introduce changes into the budget;

3) conduct a second round of discussion and voting on the laws or articles of the law that caused objections of the President of the Republic within a month's term from the moment the objections were presented. Non-observance of this term denotes the acceptance of the President's objections. If Parliament by the majority of two-thirds of votes from the total number of deputies from each Chamber confirms the decision adopted earlier, the President shall sign the law within seven days. If the President's objections are not overruled, the law shall be deemed not adopted or adopted in the version proposed by the President;

4) have the right to delegate legislative Powers for a term not exceeding one year to the President by two-thirds of the votes from the total number of deputies of each Chamber at the initiative of the President ;

5) give consent to the appointment of the Prime Minister of the Republic and the Chairperson of the National Bank of the Republic by the President of the Republic;

6) hear the report of the Prime Minister on the Government's program and approve or reject the program. A second rejection of the program brought about by the majority of two-thirds of votes from the total number of deputies of each Chamber denotes a vote of no confidence in the Government. The absence of such a majority implies the approval of the Government's program;

7) express a vote of no confidence in the Government by the majority of two-thirds of votes from the total number of deputies of each Chamber at the initiative of no less than one-fifth of the total number of the Parliament's deputies and in cases established by this Constitution;

8) decide issues of war and peace;

9) adopt a decision concerning the use of the Armed Forces of the Republic to fulfill international obligations in support of peace and security at the proposal of the President of the Republic;

10) put forward an initiative calling for an all-nation referendum;

11) hear annual messages of the Constitutional Council of the Republic on the state of the constitutional legality in the Republic;

12) form joint commissions of the Chambers; elect and release from office their chairpersons; hear reports on the activity of the commissions;

13) exercise other powers assigned to Parliament by the Constitution.

#### Article 54

Parliament at separate sessions of the Chambers through consecutive consideration of issues first in the Majilis and then in the Senate shall:

1) adopt laws;

2) discuss the republican budget and reports about its implementation, changes and additions in the budget, establish and annul state taxes and fees;

3) establish the procedure for resolving the issues of the administrative-territorial division of the Republic of Kazakhstan;

4) establish state awards, honorary, military and other titles, ranked positions, diplomatic ranks of the Republic of Kazakhstan, and define state symbols of the Republic;

5) decide issues of state loans and rendering of economic and other assistance by the Republic;

6) issue acts of amnesty to citizens;

7) ratify and denounce international treaties of the Republic.

#### Article 55

The following shall belong to exclusive jurisdiction of the Senate:

1) election and discharge from office, the Chairperson of the Supreme Court, the Chairpersons of the Collegium of Justice, and judges of the Supreme Court of the Republic at the proposal of the President of the Republic of Kazakhstan, and swearing them into office;

2) approval of the appointment of the Procurator General and the Chairperson of the Committee of National Security by the President of the Republic of Kazakhstan ;

3) deprivation of inviolability of the Procurator General, the Chairperson and judges of the Supreme Court of the Republic;

4) premature termination of the powers of local representative administrative bodies in accordance with the legislation of the Republic;

5) delegation of two deputies to the Highest Judicial Council of the Republic of Kazakhstan;

6) consideration of the issue raised by the Majilis about the discharge from office of the President of the Republic and submitting the results for consideration at a joint session of the Chambers.

#### Article 56

The following belongs to exclusive jurisdiction of the Majilis:

1) accepting drafts of laws for consideration and consideration of the drafts of laws;

2) preparation of suggestions concerning the objections of the President of the Republic of Kazakhstan to laws adopted by Parliament of the Republic;

3) election and discharge from office of the Chairperson, Deputy Chairperson, Secretary and members of the Central Election Commission of the Republic at the proposal of the President of the Republic of Kazakhstan;

4) announcing regular elections of the President of the Republic;

5) delegation of two deputies to the Qualification Collegium of Justice;

6) bringing an accusation of high treason against the President of the Republic.

#### Article 57

Each Chamber of the Parliament independently, without participation of the other Chamber shall:

1) appoint three members for a five-year term to the Accounts Committee for control over execution of the republican budget;

2) delegate half of the members of the commission formed by Parliament in the case envisaged by paragraph I of article 47 of the Constitution;

3) elect half of the members of joint commissions of the Chambers;

4) terminate powers of the deputies of the Chambers, as well as resolve the issues of depriving deputies of their deputy immunity at the proposal of the Procurator General of the Republic of Kazakhstan;

5) hold Parliamentary hearings on the issues of its jurisdiction;

6) have the right to hear reports of the members of the Government of the Republic on the issues of their activities, at the initiative of no less than one-third from the total number of the deputies of the Chambers, and adopt an appeal by a majority of two-thirds of the total number of the deputies of the Chambers to the President of the Republic of Kazakhstan to discharge a member of the Government from office in the case of nonobservance of the laws of the Republic, if the President of the Republic refuses such appeal, then the deputies, by majority of not less than two-thirds of votes of the total number of deputies of the Chamber, shall possess the right to put a question to the President anew on release from the position of a member of the Government on expiration of six months since the first appeal. In this case the President of the Republic shall release from the position of a member of the Government.

7) form coordinating and working bodies of the Chambers;

8) adopt procedural orders of their activities and other decisions on the issues connected with organization and the internal routine of the Chambers.

#### Article 58

1. The Chambers shall be headed by their chairpersons who are elected by the Senate and the Majilis from among the deputies who have a perfect command of the state language, under secret ballot by a majority of votes from the total number of the deputies of the Chambers. The candidacy for the Chairperson of the Senate shall be nominated by the President of the Republic of Kazakhstan. The candidacy for the Chairperson of the Majilis shall be nominated by the deputies of the Chamber.

2. The Chairpersons of the Chambers may be recalled from office and also have the right to submit their resignation if the majority of the total number of the deputies of the Chambers have voted against them.

3. The Chairpersons of Parliament's Chambers shall:

1) convene sessions of the Chambers and preside over them;

2) exercise general supervision in preparation of the issues under consideration by the Chambers;

3) nominate the candidacies of Deputy Chairpersons to the Chambers;

- 4) ensure the observance of the procedural orders in the activities of the Chambers;
- 5) supervise the activities of the coordinating bodies of the Chambers;
- 6) sign acts issued by the Chambers;
- 7) each appoint two members to the Constitutional Council of the Republic of Kazakhstan;
- 8) fulfill other duties assigned to them by the procedural orders of Parliament.

4. The Chairperson of the Majilis shall:

- 1) open sessions of Parliament;
  - 2) convene regular joint sessions of the Chambers, preside at regular and extraordinary joint sessions of the Chambers.
5. The chairpersons of the Chambers shall issue instructions on the items of their jurisdiction.

#### Article 59

1. Parliament's sessions shall proceed in the form of joint and separate sessions of its (chambers.
2. The first session of Parliament shall be convened by the President of the Republic of Kazakhstan no later than thirty days from the day of publishing of the election results.
3. Regular sessions of the Parliament shall be held once a year from the first working day of September to the last working day of June.
4. Session of Parliament shall be opened by the President of the Republic and closed at joint sessions of the Senate and Majilis. In the period between Parliament's sessions, the President of the Republic of Kazakhstan may call an extraordinary joint session of the Chambers on his own initiative, at the suggestion of the chairpersons of the Chambers or no less than one-third from the total number of the deputies of Parliament. Only the issues that were the reason for convocation shall be reviewed at this session.
5. Joint and separate sessions of the Chambers shall be held on condition that no less than two-thirds from the total number of the deputies of each Chamber are present.
6. Joint and separate sessions of the Chambers shall be open. In cases stipulated by the procedural orders, sessions may be closed. The President of the Republic, the Prime Minister and members of the Government, the Chairperson of National Bank, the Procurator General, the

Chair-person of the Committee of National Security shall have the right to be present at any session and be heard.

#### Article 60

1. The Chambers shall form standing committees, the number of which shall not exceed seven in each Chamber.
2. The Senate and Majilis shall have the right to form joint commissions on a parity basis for solution of issues dealing with the joint activity of the Chambers.
3. The committees and commissions shall issue resolutions on items of their jurisdictions.
4. The procedure of formation, the powers and organization of the activities of the committees and commissions shall be determined by law.

#### Article 61

1. The right of a legislative initiative shall belong to the deputies of Parliament of the Republic of Kazakhstan, the Government of the Republic and shall be realized exclusively in the Majilis.
2. The President of the Republic of Kazakhstan shall have the right to determine priority consideration of draft of laws as well as to declare consideration of a draft of law urgent signifying that Parliament must consider this draft within a month from the day of its submission. If the Parliament does not meet this requirement, the President of the Republic shall have the right to issue a decree having the force of law which shall be in effect until Parliament adopts a new law as established by the Constitution.
3. Parliament shall have the right to issue laws that regulate the most important public relations, establish fundamental principles and standards dealing with:
  - 1) legal capacity of individuals and legal entities, civil freedoms and rights, obligations and responsibility of individuals and legal entities;
  - 2) conditions of ownership and other rights of property;
  - 3) foundations of organization and activity of state bodies and bodies of local self-administration, state and military service;
  - 4) taxation, establishment and levying of duties and other obligatory payments;
  - 5) the republican budget;
  - 6) issues of the judicial system and legal proceedings;
  - 7) education, health care and social provision;

8) privatization of enterprises and their property;

9) environmental protection;

10) administrative-territorial structure of the Republic;

11) ensuring defense and security of the state. All other relations shall be regulated by legislative acts.

4. A draft of law considered and approved by the majority of votes from the total number of the deputies of the Majilis shall be transmitted to the Senate where it shall be considered for no more than sixty days. A draft of law approved by the majority of votes of the total number of deputies of the Senate shall become the law and shall be submitted to the President to be signed within ten days. A draft of law rejected as a whole by the majority of votes from the total number of the Senate's deputies shall be returned to the Majilis. If the Majilis approves the draft of law again by the majority of two-thirds of votes from the total number of its deputies, it shall be transferred to the Senate for a second discussion and voting. A twice -rejected draft may not be submitted again during the same session.

5. Amendments and additions to a draft of law proposed by the majority of votes from the total number of the Senate's deputies shall be sent to the Majilis. If the Majilis by the majority of votes from the total number of its deputies agrees with the proposed amendments and additions, the law shall be deemed to be adopted. If the Majilis by the same majority of votes objects to the amendments and additions proposed by the Senate, the disagreement between the Chambers shall be resolved through conciliatory procedures.

6. Drafts of law envisioning reduction of state revenues or increase in state expenditures may be submitted only when supplied with the positive resolution of the Government of the Republic.

7. In the case when of a draft of law submitted by the Government is not adopted, the Prime-Minister shall have the right to raise an issue of nonconfidence in the Government at a joint session of the Chambers. Voting on this issue shall be held not earlier than within forty-eight hours from the moment of calling for a vote of confidence. If the call for a vote of no confidence does not receive the necessary number of votes established by this Constitution, a draft of law shall be deemed adopted without voting. However, the Government may not use this right more than twice a year.

#### Article 62

1. The Parliament shall adopt legislative acts in the form of laws of the Republic of Kazakhstan, resolutions of the Parliament, resolutions of the Senate and the Majilis having obligatory force on the entire territory of the Republic.

2. Laws of the Republic shall come into effect after they are signed by the President of the Republic.
3. Amendments and additions to the Constitution shall be introduced by the majority of no less than three-fourths of votes from the total number of the deputies of each chamber.
4. Constitutional laws shall be adopted on the issues stipulated by the Constitution by the majority of no less than two-thirds of votes from the total number of the deputies of each Chamber.
5. Legislative acts of the Parliament and its Chambers shall be adopted by the majority of votes from the total number of the deputies of the Chambers unless otherwise stipulated by the Constitution.
6. No less than two readings introducing amendments and additions to the Constitution, adopting constitutional laws or introducing of changes and additions into them shall be obligatory.
7. Laws of the Republic, resolutions of the Parliament and its Chambers must not contradict the Constitution.

Resolutions of the Parliament and its Chambers must not contradict laws.

8. The procedure for development, submission, discussion, bringing into effect and promulgation of legislative and other regulatory legal acts of the Republic shall be regulated by a special law and the procedural orders of Parliament and its Chambers.

#### Article 63

1. The President of the Republic of Kazakhstan may dissolve Parliament in cases: expressing by Parliament of a vote of no confidence in the Government, twice refusal of Parliament to give consent to the appointment of the Prime Minister, political crisis resulting from of insurmountable differences between the Chambers of Parliament or Parliament and other branches of state power.
2. The Parliament may not be dissolved in the period of a state of emergency or martial law, during the last six months of the President's term, as well as within a year after a previous dissolution.

### **Section V GOVERNMENT**

#### Article 64

1. The Government shall implement the executive power of the Republic of Kazakhstan, head the system of executive bodies and exercise supervision of their activity.

2. The Government in its entire activity shall be responsible before the President of the Republic as well as accountable to the Parliament of the Republic in the case stipulated by paragraph 6 of article 53 of the Constitution.

3. Members of the Government shall be accountable to the Chambers of Parliament in the case stipulated by paragraph 6 of Article 57 of the Constitution.

4. The jurisdiction, the procedure of organization and activity of the Government shall be determined by constitutional law.

#### Article 65

1. The Government shall be formed by the President of the Republic of Kazakhstan according to the procedure stipulated by this Constitution.

2. Suggestions about the structure and composition of the Government shall be submitted to the President of the Republic of Kazakhstan by the Prime Minister of the Republic within ten days after his appointment.

3. The members of the Government shall take an oath to the people and President of Kazakhstan.

#### Article 66

The Government shall:

1) develop the main directions of the socio-economic policy of the state, its defense capability, security, guarantee of public order and organize their realization;

2) present to the Parliament the republican budget and a report about its performance, ensure implementation of the budget;

3) introduce draft of laws into the Majilis and ensure enforcement of laws;

4) organize management of state property;

5) develop measures for the conduct of the foreign policy of the Republic of Kazakhstan;

6) manage the activity of ministries, state committees, other central and local executive bodies;

7) annul or suspend completely or partially, the effect of acts of ministries, state committees, other central and local executive bodies of the Republic;

8) appoint to and release from office heads of central executive bodies not encompassed by the Government;

9) perform other functions assigned to it by this Constitution, laws and acts of the President.

#### Article 67

The Prime Minister of the Republic of Kazakhstan shall:

1) organize and supervise the work of the Government, personally answer for its work;

2) within a month after his appointment, present to the Parliament a report about the Program of the Government and in the event of its rejection, present a new report about the Program within two months;

3) sign resolutions of the Government;

4) report the main directions of the Government's activity and all of its important decisions to the President;

5) perform other functions connected with organization and supervision of the Government's activity.

#### Article 68

1. Members of the Government shall be independent in making decisions within their competence and bear personal responsibility before the Prime Minister for the activity of bodies subordinated to them . A member of the Government who does not agree with the policy, pursued by the Government, or who does not pursue it shall resign or subjected to release from his office.

2. Members of the Government shall not have right to be deputies of a representative body, hold other paid offices except teaching, scientific and other creative activities, engage in entrepreneurial activity, enter governing body or a supervisory board of a commercial organization.

#### Article 69

1. The Government of the Republic of Kazakhstan shall issue resolutions on the items of its jurisdiction having obligatory force on the entire territory of the Republic.

2. The Prime Minister of the Republic shall issue directions having mandatory force on the entire territory of the Republic.

3. Resolutions of the Government and directions of the Prime Minister must not contradict the Constitution, legislative acts, decrees and resolutions of the President of the Republic.

#### Article 70

1. The Government shall resign its powers to the newly elected President of the Republic of Kazakhstan.
2. The Government and any of its members shall have the right to submit a resignation to the President of the Republic of Kazakhstan if they consider further performance of the functions assigned to them to be impossible.
3. The Government shall submit its resignation to the President of the Republic of Kazakhstan in the event that Parliament passes a vote of no confidence in the Government.
4. The President of the Republic within a period of ten days shall consider the issue of accepting or declining the resignation.
5. Acceptance of the resignation shall denote the termination of the powers of the Government or a respective member. Acceptance of the resignation of the Prime Minister shall denote the termination of the powers of the entire Government.
6. In the event that the resignation of the Government or its member is declined, the President shall charge the Government or its member with continued performance of their responsibilities. In the event that the resignation of the Government owing to the passage of a vote of no confidence is declined, the President shall have the right to dissolve Parliament.
7. The President of the Republic shall have the right on his own initiative to adopt a decision to terminate the powers of the Government and to release any of its members from their offices. The release of the Prime Minister from office shall denote the termination of the powers of the entire Government.

### **Section VI THE CONSTITUTIONAL COUNCIL**

#### Article 71

1. The Constitutional Council of the Republic of Kazakhstan shall consist of seven members whose powers shall last for six years. The ex-Presidents of the Republic shall have the right to be life-long members of the Constitutional Council
2. The Chairperson of the Constitutional Council shall be appointed by the President of the Republic, and in case the votes are equally divided, his vote shall be decisive.
3. Two members of the Constitutional Council shall be appointed by the President of the Republic, two - by the Chairperson of Senate, and two - by the Chairperson of the Majilis. Half of the members of the Constitutional Council shall be renewed every three years.

4. The Chairperson and members of the Constitutional Council shall not be deputies, hold paid offices except teaching, scientific or other creative activities, engage in entrepreneurial activity, enter a governing body or a supervisory board of a commercial organization.

5. The Chairperson and members of the Constitutional Council during their term in office may not be arrested, subject to detention, measures of administrative punishment imposed by a court of law, arraigned on a criminal charge without the consent of Parliament, except in cases of being apprehended on the scene of a crime or committing grave crimes.

6. Organization and activity of the Constitutional Council shall be regulated by Constitutional Law.

#### Article 72

1. The Constitutional Council by appeal of the President of the Republic of Kazakhstan, the chairperson of the Senate, the Chairperson of Majilis, not less than one-fifth of the total number of deputies of Parliament, the Prime Minister shall:

1) decide on the correctness of conducting the elections of the President of the Republic, deputies of Parliament, and conducting an all-nation referendum in case of dispute;

2) consider the laws adopted by Parliament with respect to their compliance with the Constitution of the Republic. before they are signed by the President;

3) consider the international treaties of the Republic with respect to their compliance with the constitution, before they are ratified;

4) officially interpret the standards of the Constitution;

5) conclude in cases stipulated by paragraphs 1 and 2 of Article 47 of the Constitution.

2. The Constitutional Council shall consider the appeals of courts of law in cases stipulated by Article 78 of the Constitution.

#### Article 73

1. The inauguration of the President, registration of the elected deputies of Parliament or results of all-nation referendum shall be suspended in cases of appeal to the Constitutional Council on issues mentioned in subparagraph 1) of paragraph 1 of Article 72 of the Constitution.

2. The term of signing or ratifying of the corresponding acts shall be suspended in case of appeal to the (constitutional Council on issues mentioned in subparagraphs 2) and 3) of paragraph I of Article 72 of the Constitution.

3. The Constitutional Council shall pass a resolution within one month from the day of appeal. This period of time, at the demand of the President or the Republic, may be shortened by 10 days if the issue is urgent.

4. The President of the Republic may object, in whole or in part to the resolutions of the Constitutional Council. These objections shall be overruled by two-thirds of the votes of the total number of the members of the Constitutional Council. If the objections of the President are not overruled, the resolution of the Constitutional Council shall be considered not adopted.

#### Article 74

1. Laws and international treaties recognized not to be in compliance with the Constitution of the Republic of Kazakhstan, may not be signed or, accordingly, ratified and brought into effect.

2. Laws and other regulatory legal acts, recognized as infringing on the rights and freedoms of an individual and citizen secured by the Constitution, shall be canceled and shall not be in effect.

3. Resolutions of the Constitutional Council shall come into effect from the day they are adopted, shall be binding on the entire territory of the Republic, Final and not subject to appeal.

### **Section VII COURT AND JUSTICE**

#### Article 75

1. Justice in the Republic of Kazakhstan shall be exercised only by the court.

2. Judicial power shall be exercised through the constitutional, civil, administrative, criminal and other forms of judicial procedure as established by law. In cases, stipulated by law, criminal procedure shall be carried out with participation of jurymen.

3. The courts of the Republic shall be the Supreme Court of the Republic and local courts of the Republic established by law.

4. The judicial system of the Republic shall be established by the Constitution of the Republic and the constitutional law. The establishment of special and extraordinary courts under any name shall not be allowed.

#### Article 76

1. Judicial power shall be exercised on behalf of the Republic of Kazakhstan and shall be intended to protect the rights, freedoms, and legal interests of the citizens and organizations for ensuring the observance of the Constitution, laws, other regulatory legal acts, and shall ensure international treaties of the Republic.

2. Judicial power shall be extended to all cases and disputes arising on the basis of this Constitution, laws, other regulatory legal acts, international treaties of the Republic.

3. Decisions, sentences and other judgments of courts shall have an obligatory force on the entire territory of the Republic.

#### Article 77

1. A judge when executing justice shall be independent and subordinate only to the Constitution and the law.

2. Any interference in the activity of the court in the exercise of justice shall be inadmissible and accountable by the law. Judges shall not be held accountable with regard to specific cases.

3. In application of law a judge must be guided by the following principles:

1) a person shall be considered to be innocent of committing a crime until his guilt is established by a court's sentence that has come into force;

2) no one may be subject twice to criminal or administrative prosecution for one and the same offense;

3) no one may have his jurisdiction, as stipulated by law changed without his consent;

4) everyone shall have the right to be heard in court;

5) the laws establishing or intensifying liability, imposing new responsibilities on the citizens or deteriorating their conditions shall have no retroactive force. If after the commitment of an offense accountability for it is canceled by law or reduced, the new law shall be applied;

6) the accused shall not be obligated to prove his innocence;

7) no person shall be compelled to give testimony against oneself, one's spouse and close relatives whose circle is determined by law. The clergy shall not be obligated to testify against those who confided in them with some information at a confession;

8) any doubts of a person's guilt shall be interpreted in the favor of the accused;

9) evidence obtained by illegal means shall have no juridical force. No person may be sentenced on the basis of his own admission of guilt;

10) application of the criminal law by analogy shall not be allowed.

4. The principles of justice established by the Constitution shall be common and uniform for all courts and judges in the Republic.

#### Article 78

1. The courts shall have no right to apply laws and other regulatory legal acts infringing on the rights and liberties of an individual and a citizen established by the Constitution. If a court finds that a law or other regulatory legal act subject to application infringes on the rights and liberties of an individual and a citizen it shall suspend legal proceedings and address the Constitutional Council with a proposal to declare that law unconstitutional.

#### Article 79

1. Courts shall consist of permanent judges whose independence shall be protected by the Constitution and law. A judge's powers may be terminated or suspended exclusively on the grounds established by law.
2. A judge may not be arrested, subject to detention, measures of administrative punishment, imposed by a court of law, arraigned on a criminal charge without the consent of the President of the Republic of Kazakhstan based on a conclusion of the Highest Judicial Council of the Republic or in a case stipulated by paragraph 3) of Article 55 of the Constitution; without the consent of Senate except for the cases of being apprehended on the scene of a crime or committing grave crimes.
3. Judges may be citizens of the Republic who have reached twenty-five years of age, have a higher juridical education, length of service of not less than two years in the legal profession and who have passed a qualification examination. Additional requirements to the judges of the courts of the Republic may be established by law.
4. The office of a judge shall be incompatible with a deputy's mandate, holding other paid offices except teaching, research or other creative activity engaging in other entrepreneurial activity, or being a member of a managing body or supervisory board of a commercial enterprise.

#### Article 80

Financing of courts, provision of judges with housing shall be performed from the republican budget and must ensure the possibility of complete and free exercise of justice.

#### Article 81

The Supreme Court of the Republic of Kazakhstan shall be the highest judicial body for civil, criminal and other cases which are under the courts of general jurisdiction; exercises the supervision over their activities in the forms of juridical procedure stipulated by law, and provide interpretation on the issues of judicial practice.

#### Article 82

1. The Chairperson of the Supreme Court, the Chair-persons of the Collegiums and judges of the Supreme Court of the Republic of Kazakhstan shall be elected by the Senate at the proposal of the President of the Republic based on a recommendation of the Highest Judicial Council of the Republic.

2. The Chairpersons of oblast and equivalent courts, the Chairpersons of the Collegiums and judges of the oblast and equivalent courts shall be appointed by the President of the Republic at the recommendation of the Highest Judicial Court of the Republic.

3. The Chairperson and judges of other courts of the Republic shall be appointed by the President of the Republic at the proposal of the Minister of Justice based on a recommendation of the Qualification Collegium of Justice.

4. The Highest Judicial Council shall be headed by the Chairperson who is appointed by the President of the Republic and consist of the Chairperson of the Constitutional Council, the Chairperson of the Supreme Court, the Procurator General, the Minister of Justice, deputies of the Senate, judges and other persons appointed by the President of the Republic. The Qualification Collegium of Justice shall be an autonomous, independent institution formed from deputies of the Majilis, judges, public prosecutors, teachers and scholars of law and workers of the bodies of justice.

5. The status of the Highest Judicial Council and the Qualification Collegium of Justice, and their procedure of formation and organization of their work shall be determined by law.

#### Article 83

1. The procurator's office on behalf of the state shall exercise the highest supervision over exact and uniform application of law, the decrees of the President of the Republic of Kazakhstan and other regulatory legal acts on the territory of the Republic, legality of preliminary investigation, inquest and inspection, administrative and executive legal procedure; and take measures for exposure and elimination of any violations of the law, the independence of courts as well as the appeal of laws and other regulatory legal acts contradicting the Constitution and laws of the Republic. The Procurator's office of the Republic shall represent interest of the state in court as well as conduct criminal prosecution in cases using procedures and within the limits, stipulated by law.

2. The procurator's office of the Republic shall be a unified centralized system with subordination of junior procurators to their seniors and the Procurator General of the Republic. It shall exercise its authorities independently of other state bodies and officials and be accountable only to the President of the Republic.

3. The Procurator General of the Republic during the term of his office may not be arrested, subject to detention, measures of administrative punishment imposed by a court of law, arraigned on a criminal charge without the consent of the Senate except for the cases of being apprehended on the scene of a crime or committing grave crimes. The term of the Procurator General shall be five years.

4. The jurisdiction, organization and procedure of the activity of the procurator's office of the Republic shall be determined by law.

#### Article 84

1. Inquiry and preliminary investigation of criminal cases shall be carried out by special bodies and be separated from the court and the procurator's office.
2. The powers, organization and procedure of the activity of the inquest and investigation bodies, other questions of preliminary investigation in the Republic of Kazakhstan shall be regulated by law.

### **Section VIII LOCAL PUBLIC ADMINISTRATION AND SELF-ADMINISTRATION**

#### Article 85

Local public administration shall be exercised by local representative and executive bodies which are responsible for the state of affairs of the respective territory.

#### Article 86

1. Local representative bodies - maslikhats - shall express the will of the population of respective administrative-territorial units and with regard to the common public interests shall determine the measures needed for its realization, and control their implementation.
2. Maslikhats shall be elected by the population on the basis of universal, equal suffrage under secret ballot for a four -year term.
3. A deputy of a maslikhat may be a citizen of the Republic of Kazakhstan who has reached twenty years of age. A citizen of the Republic may be a deputy of only one maslikhat.
4. The jurisdiction of maslikhats shall include:
  - 1) approval of plans, economic and social programs for development of the territory, local budget and reports of their performance;
  - 2) decision of issues of local administrative-territorial organization in their jurisdiction;
  - 3) consideration of reports by heads of local executive bodies on the issues delegated by law to the jurisdiction of a maslikhat;
  - 4) formation of standing commissions and other working bodies of a maslikhat, nearing reports about their activity, decision of other issues connected with organization of the work of a maslikhat;
  - 5) exercise other authorities for insuring of the rights and legitimate interests of citizens in accordance with the legislation of the Republic.

5. The powers of a maslikhat shall be prematurely terminated by the Senate on the grounds and according to the procedure established by law as well as in the case of adoption of a decision about self-dissolution.

6. The jurisdiction of maslikhats, procedure of their organization and activity, and legal status of their deputies shall be established by law.

#### Article 87

1. Local executive bodies shall be a part of a unified system of the executive bodies of the Republic of Kazakhstan, and ensure conduct of the general state policy of the executive power in conjunction with the interests and development needs of the respective territory.

2. The jurisdiction of local executive bodies shall include:

1) development of drafts of plans, economic and social programs for development of the territory, local budget and provision of their realization;

2) management of public property;

3) appointment to and release from office the heads of local executive bodies, resolution of other issues connected with organization of the work of local executive bodies;

4) exercise other powers delegated to local executive bodies by the legislation of the Republic in the interests of local public administration.

3. A local executive body shall be headed by an akim of the respective administrative-territorial unit who is a representative of the President and the Government of the Republic.

4. Akims of the oblasts, major cities and the capital shall be appointed to office by the President of the Republic on the recommendation of the Prime Minister. Akims of other administrative-territorial units shall be appointed or elected to office in the order, determined by the President of the Republic of Kazakhstan. The President of the Republic shall have the right to release akims from office at his own discretion.

5. A maslikhat shall have the right by two-thirds of votes from the total number of its deputies to express non-confidence in the akim and raise the issue of his release from office respectively before the President of the Republic or a senior akim. The powers of akims of the oblasts, the major cities and the capital shall terminate when a newly elected President assumes office.

6. The jurisdiction of local executive bodies, organization and procedure of their activity shall be established by law.

#### Article 88

1. Maslikhats shall adopt decisions on the issues of their jurisdiction, akims shall adopt decisions and resolutions which are binding on the territory of the respective administrative-territorial unit.
2. Drafts of decisions of maslikhats envisioning a reduction of local budgetary revenues or an increase of local budgetary expenditures may be submitted for consideration only with a positive resolution of the akim.
3. Decisions of maslikhats not corresponding to the Constitution and the laws of the Republic of Kazakhstan may be annulled by a legal process.
4. Decisions and resolutions of akims may be respectively annulled by the President, the Government of the Republic of Kazakhstan or a senior akim, as well as by a legal process.

#### Article 89

1. In the Republic of Kazakhstan, local self-administration which ensures that the issues of local significance shall be resolved independently by the population, shall be recognized.
2. Local self-administration shall be exercised by the population directly through elections as well as through elective and other bodies of local self-administration in rural and urban local communities covering the territories on which groups of the population live compactly.
3. The procedure or organization and activity of the bodies of local self-administration shall be determined by citizens themselves within the limits of their powers established by law.
4. The independence of the bodies of local self-administration shall be guaranteed within the limits of their powers established by law.

### **Section IX CONCLUDING AND TRANSITIONAL PROVISIONS**

#### Article 90

1. The Constitution of the Republic of Kazakhstan adopted at an all-nation referendum shall come into effect from the day of official publication of the results of the referendum with the simultaneous termination of the functioning of the previously adopted Constitution of the Republic of Kazakhstan.
2. The day of adoption of the Constitution at the all-nation referendum shall be proclaimed a national holiday -the Constitution Day of the Republic of Kazakhstan.

#### Article 91

1. Amendments and additions to the Constitution of the Republic of Kazakhstan may be introduced only by an all-nation referendum held by the decision of the President of the Republic made on his own initiative, at the recommendation of Parliament or the Government. The draft of amendments and additions to the Constitution shall not be submitted to an all-nation

referendum if the President decides to pass it to the consideration of Parliament. In this case, Parliament's decision shall be adopted according to the procedure established by this Constitution. In case the President of the Republic refuses the proposal of the Parliament on submission of amendments and additions to the Constitution for the consideration of the Republican referendum, the Parliament has the right by majority of not less than four-fifths of votes of the total number of deputies of each Chamber of the Parliament to adopt the law on making of these amendments and additions to the Constitution. In such case the President of the Republic shall sign this law or submit it for the consideration of the Republican referendum which shall be deemed valid if more than half of the Republican citizens, possessing the right to participate in the Republican referendum, take part in it. Amendments and additions to the Constitution, which are submitted for the consideration of the Republican referendum, shall be deemed adopted, if more than half of citizens, taking part in it, vote for it.

2. The unitary status and territorial integrity of the Republic, the forms of government may not be changed.

#### Article 92

1. The constitutional laws must be adopted within a year from the day of enactment of the Constitution. If the laws called constitutional in the Constitution or the acts having the force thereof have been adopted by the moment of enactment of the Constitution, they are brought into accordance with the Constitution and deemed to be the constitutional laws of the Republic of Kazakhstan.

2. Other laws named in the Constitution must be adopted according to the procedure and within the terms determined by the Parliament but no later than two years after the enactment of the Constitution.

3. The decrees of the President of the Republic published within the term of his exercise of additional powers in accordance with the law of the Republic of Kazakhstan from December 10, 1993 "On Temporary Delegation of Additional Powers to the President of the Republic of Kazakhstan and Heads of Local Administration" and having the force of law shall attain the force of law and may be altered, amended or annulled according to the procedure stipulated for alteration, amendment or annulment of the laws of the Republic. The decrees of the President of the Republic published within a term he exercises additional powers on the issues stipulated by paragraphs 12-15, 18 and 20 of article 64 of the Constitution of the Republic of Kazakhstan adopted on January 28, 1993 shall not be subject to approval by Parliament of the Republic.

4. The legislation of the Republic of Kazakhstan functioning at the moment of enactment of this Constitution shall be applied in the part that does not contradict it and within two years from the day of the adoption of the Constitution must be brought into accordance with it.

#### Article 93

With the purpose of implementation of article 7 of the Constitution, the Government, local representative and executive bodies must create all necessary organizational, material and

technical conditions for fluent and free-of-charge mastery of the state language by all citizens of the Republic of Kazakhstan in accordance with a special law.

#### Article 94

The President of the Republic of Kazakhstan elected in accordance with the legislation of the Republic of Kazakhstan functioning at the moment of enactment of this Constitution shall acquire the powers of the President of the Republic of Kazakhstan stipulated by it and exercise them during the term established by the decision adopted at the all-nation referendum of April 29, 1995.

By consent of the President of the Republic of Kazakhstan the present term of the powers of the President of the Republic may be reduced by resolution of the Parliament of the Republic, adopted at the joint session of its Chambers by the majority of votes of the total number of deputies of each Chamber. In such case the Majilis of the Parliament within one month shall order elections of the President of the Republic of Kazakhstan. The President of the Republic, elected according to the results of these elections, shall take the oath within one month since the day of publication of the results of elections and exercise his duties before taking office of the President of the Republic, elected in regular Presidential elections, which shall be held after the expiration of a seven-year term on the first Sunday of December.

2. The Vice-President of the Republic of Kazakhstan elected in accordance with the legislation of the Republic of Kazakhstan functioning at the moment of enactment of this Constitution shall preserve his powers until the expiration of the term for which he was elected.

#### Article 95

1. One half of the deputies of the Senate of the first convocation shall be elected for a four-year term, the other half of the deputies shall be elected for a two-year term in the procedure, established by Constitutional Law.

2. Provisions of the Constitution of the Republic of Kazakhstan on elections of deputies of the Majilis of the Parliament on the basis of Party Lists shall be applied from the beginning of elections of deputies of the Majilis of the Parliament of the second convocation.

#### Article 96

The Cabinet of Ministers of the Republic of Kazakhstan from the day of enactment of this Constitution shall acquire the rights, obligations and responsibility of the Government of the Republic of Kazakhstan.

#### Article 97

The first composition of the Constitutional Council of the Republic of Kazakhstan shall be formed in the following manner: the President of the Republic, the Chairperson of the Senate of Parliament, the Chairperson of the Majilis of Parliament shall each appoint one member to the Constitutional Council for a three-year term and shall each appoint one member to the

Constitutional Council for a six-year term. The Chairperson of the Constitutional Council shall be appointed by the President of the Republic for a six-year term.

#### Article 98

1. The justice and investigation bodies stipulated by this Constitution shall be formed according to the procedure and within the terms stipulated by the respective laws. The functioning juridical and inquiry bodies shall retain their powers until new bodies are formed.

2. Judges of the Supreme Court and the Highest Arbitration Court and local courts of the Republic of Kazakhstan shall retain their powers until the formation of courts, as stipulated by the constitution. Vacant offices of judges shall be filled according to the procedure, established by the Constitution.

## APPENDIX B: CONSTITUTION OF THE REPUBLIC OF UZBEKISTAN

\*Obtained from the LEEP – Law and Environment Eurasia Partnership website: URL: [http://www.ecostan.org/main\\_eng.html](http://www.ecostan.org/main_eng.html) on May 31, 2004.

### CONSTITUTION OF THE REPUBLIC OF UZBEKISTAN

8 December 8 1992

#### **PREAMBLE**

The People of Uzbekistan, solemnly declaring our devotion to human rights and the principles of state sovereignty, understanding a high responsibility before present and future generations, relying on the historical experience of the development of the Uzbek state, affirming our fidelity to the ideals of democracy and social justice, recognizing the primacy of generally recognized norms of international law, endeavoring to ensure a worthy life to citizens of the republic, setting as a goal the formation of a humanitarian democratic state operating under the rule of law, and in order to ensure civic peace and national accord through our authorized representatives adopt this Constitution of the Republic of Uzbekistan.

#### **SECTION I: BASIC PRINCIPLES** **CHAPTER I: STATE SOVEREIGNTY**

Article 1: Uzbekistan is a sovereign democratic republic. The state names "Republic of Uzbekistan" and "Uzbekistan" are equal in meaning.

Article 2: The state expresses the will of the people and serves its interests. State agencies and officials are responsible before the society and citizens.

Article 3: The Republic of Uzbekistan determines the national-governmental and administrative-territorial system, the system of state agencies of power and governance, and implements its own domestic and foreign policy.

The state borders and territory of Uzbekistan are inviolable and indivisible.

Article 4: The state language of the Republic of Uzbekistan is the Uzbek language.

The Republic of Uzbekistan ensures a respectful attitude towards the languages, customs, and traditions of the nationalities and peoples living on its territory and ensures conditions for their development.

Article 5: The Republic of Uzbekistan possesses its own state symbols: a flag, a coat of arms, and an anthem, all approved by law.

Article 6: The capital of the Republic of Uzbekistan is Tashkent city.

## **CHAPTER II: POPULAR POWER**

Article 7: The people are the only source of state power.

State power in the Republic of Uzbekistan is exercised in the interests of the people and only by agencies authorized to do so by the Constitution of the Republic of Uzbekistan and legislation adopted on the basis of the Constitution.

Arrogation of the authority of state power, suspension or cessation of the operations of the agencies of state power through procedures not anticipated by the Constitution, and the formation of new or parallel structures of power are anti-constitutional and incur legal liability.

Article 8: The people of Uzbekistan are the citizens of the Republic of Uzbekistan, regardless of their nationality.

Article 9: The most important issues of social and state life are presented for public discussion and presented for general vote (referendum). The procedure for conducting a referendum is determined by law.

Article 10: Only Parliament (Oliy Majlis) and the President of the Republic, who are chosen by the people, may act in the name of the people of Uzbekistan.

No part of society, political party, social association, movement, or individual may act in the name of the people of Uzbekistan.

Article 11: The system of state power in the Republic of Uzbekistan is based on the principle of separation of powers into legislative, executive, and judicial powers.

Article 12: In the Republic of Uzbekistan, social life develops on the basis of a diversity of political institutions, ideologies, and opinions.

No ideology may be established as a state ideology.

Article 13: Democracy in the Republic of Uzbekistan is based on generally shared human principles that place supreme value in the person, her or his life, freedom, honor, dignity, and other inalienable rights.

Democratic rights and freedoms are defended by the Constitution and laws.

Article 14: In the interests of the welfare of the person and society, the state structures its operations on the principles of social justice and legality.

### **CHAPTER III: THE SUPREMACY OF THE CONSTITUTION AND LAW**

Article 15: In the Republic of Uzbekistan the unconditional supremacy of the Constitution and laws of the Republic of Uzbekistan is recognized.

The state, its agencies, officials, social associations, and citizens act in accordance with the Constitution and laws.

Article 16: No provision of this Constitution may be interpreted to prejudice the rights and interests of the Republic of Uzbekistan.

No law or other normative legal act may contradict the norms and principles of the Constitution.

### **CHAPTER IV: FOREIGN POLICY**

Article 17: The Republic of Uzbekistan is fully invested with the rights of a subject of international relations. Its foreign policy proceeds from the principles of the sovereign equality of states, restraint from the use or threat of use of force, the inviolability of borders, peaceful regulation of conflicts, non-intercession in the internal affairs of other states, and other generally recognized principles and norms of international law.

The republic may conclude unions and enter into commonwealths and other inter-state formations, and also withdraw from them, on the basis of the highest interests of the state, the people, and the welfare and safety of the people.

### **SECTION II: BASIC RIGHTS, FREEDOMS, AND OBLIGATIONS OF THE PERSON AND CITIZEN**

#### **CHAPTER V: GENERAL PROVISIONS**

Article 18: All citizens of the Republic of Uzbekistan have the same rights and freedoms and are equal before the law regardless of differences in gender, race, nationality, language, religious, social origin, beliefs, and personal or social position.

Privileges may be established only by law and must be in accord with the principles of social justice.

Article 19: A citizen of the Republic of Uzbekistan and the state are bound by mutual rights and mutual responsibilities. The rights and freedoms of citizens, secured in the Constitution and laws, are unwavering, and no one has the right, without a court, to remove or limit them.

Article 20: A citizen's exercise of rights and freedoms may not violate the lawful interests, rights, and freedoms of other people, the state, or society.

## **CHAPTER VI: CITIZENSHIP**

Article 21: A single citizenship is established in the Republic of Uzbekistan for the entire territory of the republic.

Citizenship of the Republic of Uzbekistan is equal for all, regardless of the grounds of its acquisition.

A citizen of the Republic of Karakalpakstan is simultaneously a citizen of the Republic of Uzbekistan.

The grounds for and procedures for acquisition of or loss of citizenship are established by law.

Article 22: The Republic of Uzbekistan guarantees the legal protection and patronage of its citizens both on the territory of the Republic of Uzbekistan and abroad.

Article 23: Foreign citizens and stateless persons located on the territory of the Republic of Uzbekistan are ensured rights and freedoms in accordance with the norms of international law.

They carry obligations established by the Constitution, the laws, and the treaties of the Republic of Uzbekistan.

## **CHAPTER VII: PERSONAL RIGHTS AND FREEDOMS**

Article 24: The right to life is an inalienable right of every person. Infringement of this right is a very serious crime.

Article 25: Each person has the right to freedom and personal inviolability.

No one may be subject to arrest or detention other than on legal grounds.

Article 26: Anyone accused of a crime is considered not guilty until her or his guilt is established by legal procedure in the form of an open court trial in which she or he is provided with all possibilities for defense.

No one may be subjected to torture, violence, or other cruel or humanly degrading treatment.

No one may be subjected to medical or scientific experiments without her or his consent.

Article 27: Each person has the right to defense from encroachments on her or his honor and dignity, defense from interference in her or his personal life, and defense of the inviolability of her or his home.

No one has the right to enter a home, conduct searches or surveillance, or violate the privacy of correspondence and telephone conversations other than in the circumstances and through the procedures anticipated by law.

Article 28: A citizen of the Republic of Uzbekistan has the right to unrestricted movement on the territory of the republic and unrestricted entry into the Republic of Uzbekistan and exit from it, with the exception of limitations established by law.

Article 29: Each person has the right of freedom of thought, speech, and belief. Each person has the right to seek, receive, and disseminate any information, with the exception of information directed against the existing constitutional order and other limitations established by law.

Freedom of opinion and the expression of opinion may be limited by law in order to safeguard state or other secrets.

Article 30: All state agencies, social associations, and officials of the Republic of Uzbekistan must provide citizens with the opportunity to examine documents, decisions, and other materials affecting their rights and freedoms.

Article 31: Freedom of conscience is guaranteed for all. Each person has the right to practice any, or no, religion. Forced imposition of religious views is not permitted.

## **CHAPTER VIII: POLITICAL RIGHTS**

Article 32: Citizens of the Republic of Uzbekistan have the right to participate in the management of the affairs of society and the state both directly and through their representatives. This participation is effected through self-government, referenda, and the democratic formation of state agencies.

Article 33: Citizens have the right to effect their social activeness in the form of protests, meetings, and demonstrations in accordance with the legislation of the Republic of Uzbekistan. Agencies of power have the right to suspend or prohibit the holding of such events only for security reasons.

Article 34: Citizens of the Republic of Uzbekistan have the right to associate in trade unions, political parties, and other social associations, as well as to participate in popular movements.

No one may abridge the rights, freedoms, or dignity of persons who represent an opposition minority political party, social association, popular movement, or representative agency of power.

Article 35: Each person has the right, both individually and as part of a group, to submit applications, proposals, and complaints to competent state agencies or institutions, or to popular representatives.

Applications, proposals, and complaints must be reviewed according to the procedures and within the time limits established by law.

## **CHAPTER IX: ECONOMIC AND SOCIAL RIGHTS**

Article 36: Each person has the right to own property.

The privacy of bank accounts and the right of inheritance are guaranteed by law.

Article 37: Each person has the right to work, to choose work freely, to just conditions of work, and to protection from unemployment through procedures established by law.

Forced labor is not permitted, other than as fulfillment of a punishment decided by sentence of a court or in other circumstances anticipated by law.

Article 38: Hired employees have the right to paid vacation.

The length of the working day and the length of a worker's paid leave are determined by law.

Article 39: Every person has the right to social support in old age, in event of loss of ability to work, in event of loss of a provider, and in other cases anticipated by law.

Pensions, allowances, and other forms of social assistance may not be lower than the officially established sustenance minimum.

Article 40: Every person has the right to professional medical care.

Article 41: Every person has the right to education.

The state guarantees free general education.

School affairs are under the oversight of the state.

Article 42: Each person is guaranteed freedom of scientific and technical creation and the right to use cultural achievements.

The state fosters the cultural, scientific, and technical development of society.

## **CHAPTER X: GUARANTEES OF THE RIGHTS AND FREEDOMS OF THE PERSON**

Article 43: The state ensures the rights and freedoms of citizens which are secured by the Constitution and laws.

Article 44: Each person is guaranteed judicial protection of her or his rights and freedoms, as well as the right to appeal in a court of law the unlawful acts of state agencies, officials, and social associations.

Article 45: The rights of minors, those unable to work, and the solitary elderly are protected by the state.

Article 46: Women and men have equal rights.

## **CHAPTER XI: OBLIGATIONS OF CITIZENS**

Article 47: All citizens carry obligations determined for them by the Constitution.

Article 48: Citizens must comply with the Constitution and laws, as well as respect the rights, freedoms, honor, and dignity of other people.

Article 49: Citizens must protect the historical, spiritual, and cultural heritage of the people of Uzbekistan.

Cultural monuments are protected by the state.

Article 50: Citizens must treat the natural environment with care.

Article 51: Citizens must pay lawfully established taxes and local tariffs.

Article 52: The defense of the Republic of Uzbekistan is the duty of every citizen of the Republic of Uzbekistan. Citizens are obligated to perform military or alternative service in the manner established by law.

## **SECTION III: SOCIETY AND THE INDIVIDUAL** **CHAPTER XII: THE ECONOMIC FOUNDATIONS OF SOCIETY**

Article 53: Property, in its various forms, is the foundation of the economy of Uzbekistan, which itself is dedicated to the development of market relations.

The state guarantees the freedom of economic activity, entrepreneurship, and labor in consideration of the primacy of the rights of the consumer and the equal rights and legal protection of all forms of property.

Private property, along with other forms of property, is inviolable and is protected by the state. An owner may be deprived of property only in the cases and through the procedures anticipated by law.

Article 54: An owner, at her or his own discretion, possesses, uses, and disposes of property belonging to her or him. The use of property may not cause harm to the environment or violate the rights or legally protected interests of citizens, legal persons, or the state.

Article 55: The earth, its minerals, waters, flora, fauna, and other natural resources are national riches, are subject to rational use, and are protected by the state.

### **CHAPTER XIII: SOCIAL ASSOCIATIONS**

Article 56: Social associations in the Republic of Uzbekistan are trade unions, political parties, academic societies, women's organizations, veterans' and youth organizations, creative unions, popular movements, and other lawfully registered associations of citizens.

Article 57: It is forbidden to form or operate political parties, as well as other social associations, that have as their goal violent change of the constitutional system; protest against the sovereignty, integrity, or security of the republic or the constitutional rights and freedoms of its citizens; advocacy of war, social, national, racial, or religious animosity; encroachment on the health or morality of the people; or that are militaristic formations or ethnically or religiously based political parties.

It is forbidden to form secret societies or associations.

Article 58: The state ensures compliance with the rights and legal interests of social associations and creates equal legal possibilities for them to participate in social life.

The intercession of state agencies and officials into the operations of social associations, in equal measure as the intercession of social associations into the operations of state agencies and officials, is not permitted.

Article 59: Trade unions express and defend the socio-economic rights and interests of workers. Membership in trade organizations is voluntary.

Article 60: Political parties express the political will of various social strata and groups, and, through their democratically elected representatives, participate in the formation of state power.

Political parties must, through established procedure, present Parliament or an authorized parliamentary agency with public reports concerning their sources of funding.

Article 61: Religious organizations and associations are separate from the state and equal before the law. The state does not interfere in the activities of religious associations.

Article 62: The dissolution, prohibition, or limitation of the activities of a social association may take place only on the basis of a decision of a court of law.

#### **CHAPTER XIV: THE FAMILY**

Article 63: The family is the basic unit of society and has the right to be protected by society and the state.

Marriage is founded on the free consent and equal rights of the parties.

Article 64: Parents must support and raise children until their majority.

The state and society ensure the support, raising, and education of children who are orphaned or deprived of parental care, and also encourage charitable acts to benefit them.

Article 65: Children are equal before the law regardless of their origin or the citizenship status of their parents.

Motherhood and childhood are protected by the state.

Article 66: Adult children capable of working are obligated to care for their parents.

#### **CHAPTER XV: MASS MEDIA**

Article 67: Mass media are not hindered and operate in accordance with the law. They are, in the established manner, responsible for the reliability of their information.

Censorship is not allowed.

### **SECTION IV: THE ADMINISTRATIVE TERRITORIAL AND STATE SYSTEM**

#### **CHAPTER XVI: THE ADMINISTRATIVE TERRITORIAL SYSTEM OF THE REPUBLIC OF UZBEKISTAN**

Article 68: The Republic of Uzbekistan consists of regions, districts, cities, towns, villages, and settlements, as well as the Republic of Karakalpakstan.

Article 69: Alteration of the borders of the Republic of Karakalpakstan, regions, or Tashkent city, as well as the formation or abolition of regions, cities, or districts takes place with the consent of the Parliament of the Republic of Uzbekistan.

## **CHAPTER XVII: THE REPUBLIC OF KARAKALPAKSTAN**

Article 70: The sovereign Republic of Karakalpakstan is part of the Republic of Uzbekistan.

The sovereignty of the Republic of Karakalpakstan is protected by the Republic of Uzbekistan.

Article 71: The Republic of Karakalpakstan has its own Constitution.

The Constitution of the Republic of Karakalpakstan may not contradict the Constitution of the Republic of Uzbekistan.

Article 72: The laws of the Republic of Uzbekistan are obligatory on the territory of the Republic of Karakalpakstan.

Article 73: The territory and borders of the Republic of Karakalpakstan may not be altered without its consent. The Republic of Karakalpakstan independently decides issues concerning its administrative territorial system.

Article 74: The Republic of Karakalpakstan possesses the right to withdraw from the Republic of Uzbekistan on the basis of a general referendum of the people of Karakalpakstan.

Article 75: The inter-relations between the Republic of Uzbekistan and the Republic of Karakalpakstan, within the framework of the Constitution of the Republic of Uzbekistan, are regulated by treaties and agreements concluded between the Republic of Uzbekistan and the Republic of Karakalpakstan.

Conflicts between the Republic of Uzbekistan and the Republic of Karakalpakstan are resolved through conciliation procedures.

## **SECTION V: THE ORGANIZATION OF STATE POWER**

### **CHAPTER XVIII: THE PARLIAMENT OF THE REPUBLIC OF UZBEKISTAN**

Article 76: The highest state representative agency is the Parliament of the Republic of Uzbekistan, which exercises the legislative power.

Article 77: The Parliament of the Republic of Uzbekistan consists of 150 deputies, elected from territorial electoral districts in multi-party elections for terms of five years.

Citizens of the Republic of Uzbekistan who have, by the date of election, reached the age of 25 years, possess the right to be elected to the Parliament of the Republic of Uzbekistan.

The requirements of candidates for the office of deputy are determined by law.

Article 78: The Parliament of the Republic of Uzbekistan has exclusive jurisdiction over:

- 1) adopting, amending, and adding to the Constitution of the Republic of Uzbekistan;
- 2) adopting, amending, and adding to the laws of the Republic of Uzbekistan;
- 3) determining the basic directions of domestic and foreign policy of the Republic of Uzbekistan and adopting strategic state programs;
- 4) determining the systems and authorities of legislative, executive, and judicial branch agencies of the Republic of Uzbekistan;
- 5) adopting new state formations into the Republic of Uzbekistan and affirming their decisions of withdrawal from the Republic of Uzbekistan;
- 6) legislative regulation of customs, monetary, and credit affairs;
- 7) legislative regulation of issues of the administrative territorial system and changes in the borders of the Republic of Uzbekistan;
- 8) adopting, on the petition of the Cabinet of Ministers, the budget of the Republic of Uzbekistan and monitoring its utilization, and establishing taxes and other mandatory payments;
- 9) scheduling elections for the Parliament of the Republic of Uzbekistan and local representative agencies; formation of a Central Election Commission;
- 10) scheduling the date for election of the President of the Republic of Uzbekistan at the expiration of his term of office;
- 11) electing the Chair of Parliament of the Republic of Uzbekistan and her or his assistants;
- 12) electing the Constitutional Court of the Republic of Uzbekistan;
- 13) electing the Supreme Court of the Republic of Uzbekistan;
- 14) electing the High Commercial Court of the Republic of Uzbekistan;
- 15) on the petition of the President of the Republic of Uzbekistan, appointing and dismissing the Chair of the State Committee of the Republic of Uzbekistan for Nature Protection;

- 16) approving the decrees of the President of the Republic of Uzbekistan on appointing and dismissing the Prime Minister, the First Assistant Prime Minister, assistants to the Prime Minister, and members of the Cabinet of Ministers;
- 17) approving the decrees of the President of the republic on appointing and dismissing the Procurator General of the Republic of Uzbekistan and her or his assistants;
- 18) on the petition of the President of the Republic of Uzbekistan, appointing and dismissing the Chair of the Board of the Central Bank of the Republic of Uzbekistan;
- 19) approving the decrees of the President of the Republic of Uzbekistan on the formation and abolition of ministries, state committees, and other state management agencies;
- 20) approving the decrees of the President of the Republic of Uzbekistan on declaring general or partial mobilization, or on the introduction, extension, or termination of acts of state of emergency;
- 21) ratifying and denouncing international treaties and agreements;
- 22) instituting state awards and titles;
- 23) forming, abolishing, re-naming, and altering the borders of districts, cities, and regions;
- 24) exercising other powers anticipated by this Constitution.

Article 79: A session of Parliament is competent if no less than two-thirds of the total number of deputies participates in that session.

Article 80: The President of the Republic of Uzbekistan, the Prime Minister and members of the Cabinet of Ministers, the Chair of the Constitutional Court, the Chair of the Supreme Court, the Chair of the High Commercial Court, the Procurator General of the Republic, and the Chair of the Board of the Central Bank may participate in a session of the Parliament of the Republic of Uzbekistan or one of its agencies.

Article 81: At the expiration of its term of authority, the Parliament of the Republic of Uzbekistan continues its activities up until the start of work of the newly convened Parliament.

The first session of the Parliament of the Republic of Uzbekistan after elections convenes a Central Election Commission no later than two months after the elections.

Article 82: The right to introduce draft legislation in the Parliament of the Republic of Uzbekistan belongs to the President of the Republic of Uzbekistan, the Republic of Karakalpakstan in the form of its highest agency of state power, parliamentary deputies of the Republic of Uzbekistan, the Cabinet of Ministers of the Republic of Uzbekistan, the

Constitutional Court, the Supreme Court, the High Commercial Court, and the Procurator General of the Republic of Uzbekistan.

Article 83: The Parliament of the Republic of Uzbekistan adopts laws, resolutions, and other acts. Adoption of a law requires a majority of the votes of the total number of Parliament deputies.

Publication of laws and other normative acts is a necessary condition of their adoption.

Article 84: The Chair of Parliament and her or his assistants are elected from among the Parliament deputies of the Republic of Uzbekistan by secret ballot.

The Chair of Parliament and her or his assistants present an annual report to Parliament.

One of the assistants to the Chair of Parliament must be a deputy of the Parliament of the Republic of Uzbekistan who represents Karakalpakstan.

The Chair of the Parliament of the Republic of Uzbekistan and her or his assistants are elected for the term of office of that Parliament.

The same person may not be elected Chair of the Parliament of the Republic of Uzbekistan for more than two consecutive terms.

The Chair of the Parliament of the Republic of Uzbekistan may be prematurely recalled by a decision of the Parliament of the Republic of Uzbekistan voted for by over two thirds of the deputies of the Parliament of the Republic of Uzbekistan by secret ballot.

Article 85: The Chair of the Parliament of the Republic of Uzbekistan:

- 1) exercises general management over the preparation of issues submitted for discussion to Parliament;
- 2) convenes sessions of Parliament, and forms, in cooperation with the chairs of committees and commissions, proposals for Parliament's agenda;
- 3) presides over sessions of Parliament;
- 4) coordinates the operations of the committees and commissions of Parliament;
- 5) monitors compliance with the laws and resolutions of the Parliament;
- 6) manages the work of implementing inter-parliamentary communications and the activities of groups connected with the work of inter-parliamentary organizations;

- 7) presents Parliament with candidates for election as assistants to the Chair of Parliament and as chairs of the committees and commissions of Parliament;
- 8) at the suggestion of the chairs of the committees and commissions, makes changes in the composition of the committees and commissions, subject to the subsequent approval of Parliament;
- 9) manages the operations of Parliament's publishing agencies;
- 10) approves the charters and compositions of the editorial boards of Parliament's publishing agencies and their estimated support expenses;
- 11) appoints and dismisses editors of Parliament's publishing agencies;
- 12) approves the estimated support expenses of the deputies and administrative machinery of Parliament;
- 13) signs resolutions of the Parliament of the Republic of Uzbekistan.

The Chair of the Parliament of the Republic of Uzbekistan may issue orders.

Article 86: Parliament elects, from among its deputies, committees and commissions to conduct legislative drafting work, preliminarily review and prepare issues submitted for Parliamentary review, and monitor compliance with the laws and other decisions of the Parliament of the Republic of Uzbekistan.

Parliament forms, when needed, a deputy, audit, or other commission on a temporary or permanent basis.

Article 87: Deputies lawfully elected to Parliament are compensated for expenses connected with the work of a deputy. Deputies working in the Parliament of the Republic on a full-time basis, for the period of their office, may not be engaged in any kind of paid position or business.

Article 88: A parliamentary deputy enjoys the right of immunity. She or he may not be brought to criminal responsibility, arrested, or subjected to measures of administrative penalty, imposed through judicial proceedings, without the consent of Parliament.

## **CHAPTER XIX: THE PRESIDENT OF THE REPUBLIC OF UZBEKISTAN**

Article 89: The President of the Republic of Uzbekistan is the head of state and of the executive branch in the Republic of Uzbekistan.

The President of the Republic of Uzbekistan is simultaneously the Chair of the Cabinet of Ministers.

Article 90: A citizen of the Republic of Uzbekistan who is not younger than thirty five years of age, who has fluent command of the state language, and who has constantly resided on the territory of Uzbekistan for no less than ten consecutive years directly prior to the election may be elected President of the Republic of Uzbekistan. The same person may not be President of the Republic of Uzbekistan for more than two consecutive terms.

The President of the Republic of Uzbekistan is elected for a term of five years by the citizens of the Republic of Uzbekistan on the basis of general, equal, and direct electoral rights by secret ballot. The procedure for election of the President is determined by a law of the Republic of Uzbekistan.

Article 91: While in office, the President may not occupy any other paid office, be a deputy in a representative agency, or engage in business activity. The person of the President is immune and is protected by law.

Article 92: The President is considered to have assumed office from the moment of his taking, at a session of the Parliament of the Republic of Uzbekistan, the following oath:

*"I solemnly swear to faithfully serve the people of Uzbekistan, strictly follow the Constitution and laws of the republic, guarantee the rights and freedoms of citizens, and conscientiously fulfill the obligations assigned to the President of the Republic of Uzbekistan."*

Article 93: The President of the Republic of Uzbekistan:

- 1) acts as a guarantor of compliance with the rights and freedoms of citizens, and with the Constitution and laws of the Republic of Uzbekistan;
- 2) adopts necessary measures to protect the sovereignty, security, and territorial integrity of the Republic of Uzbekistan, and implements decisions concerning the national state system;
- 3) represents the Republic of Uzbekistan within the country and in international relations;
- 4) conducts negotiations and signs treaties and agreements of the Republic of Uzbekistan, and ensures compliance with the treaties and agreements concluded by, and the obligations assumed by, the republic;
- 5) accepts the credentials and departures of diplomatic and other representatives, whom she or he accredits;
- 6) appoints and recalls diplomatic and other representatives of the Republic of Uzbekistan in foreign states;

- 7) presents the Parliament of the republic with annual information about domestic and foreign situations;
- 8) forms and manages the administrative machinery of the executive branch, ensures the coordination of the highest state management agencies of the republic, forms and abolishes ministries, state committees, and other state management agencies of the Republic of Uzbekistan, with subsequent submission of decrees on these issues for approval by Parliament;
- 9) with subsequent approval by Parliament, appoints and dismisses the Prime Minister, the First Assistant Prime Minister, assistants to the Prime Minister, members of the Cabinet of Ministers of the Republic of Uzbekistan, the Procurator General of the Republic of Uzbekistan and her or his assistants;
- 10) presents the Parliament of the Republic of Uzbekistan with candidates for the offices of Chair and members of the Constitutional Court, Chair and members of the Supreme Court, Chair and members of the High Commercial Court, Chair of the Board of the Central Bank of the Republic of Uzbekistan, and Chair of the State Committee of the Republic of Uzbekistan for Nature Protection;
- 11) appoints and dismisses from office judges of regional, district, city, and commercial courts;
- 12) with subsequent approval from the corresponding Council of People's Deputies, appoints and dismisses from office governors (khokims) of regions and Tashkent city; The President has the right to, by her or his decision, dismiss governors of districts and cities in the event of their violation of the Constitution or the laws, or their commission of an act besmirching the honor and dignity of the office of governor;
- 13) suspends and repeals acts of state management agencies of the republic, as well as governors;
- 14) signs laws of the Republic of Uzbekistan; has the right to return laws to Parliament with her or his objections for additional discussion and vote. If two thirds of Parliament votes to affirm its earlier decision, the President signs the law;
- 15) in exceptional circumstances (actual external threat, mass disorders, large catastrophes, natural disasters, and epidemics), in the interests of ensuring the security of citizens, declares a state of emergency for the whole territory of or parts of the Republic of Uzbekistan, and, within three days, submits this decision to the Parliament of the Republic of Uzbekistan for approval. The conditions and procedure for introducing a state of emergency are regulated by law;
- 16) is the Supreme Commander of the Armed Forces of the republic, and appoints and dismisses the high command of the Armed Forces, and awards the highest military ranks;

17) declares war in the case of attack on the Republic of Uzbekistan or if necessary to fulfill mutual defense treaty obligations and, within three days, submits this decision to the Parliament of the Republic of Uzbekistan for approval;

18) awards orders, medals, credentials, and professional and honorary ranks and titles of the Republic of Uzbekistan;

19) decides issues of citizenship of the Republic of Uzbekistan and the extension of political asylum;

20) adopts acts of amnesty and pardons citizens who have been sentenced by the courts of the Republic of Uzbekistan;

21) forms national security and state monitoring services and appoints and dismisses their managers, and decides other issues ascribed to her or his jurisdiction.

The President does not have the right to transfer exercise of her or his powers to state agencies or officials.

Article 94: The President of the Republic of Uzbekistan, on the basis of and in fulfillment of the Constitution and laws of the Republic of Uzbekistan, issues decrees, resolutions, and orders which have obligatory force over the entire territory of the republic.

Article 95: When, among its members, in the Parliament of the Republic of Uzbekistan there arises discord which threatens its normal functioning, or it repeatedly adopts decisions contrary to the Constitution, Parliament may be disbanded by a decision of the President adopted in coordination with the Constitutional Court. In the event that Parliament is disbanded, new parliamentary elections take place within three months.

Parliament may not be disbanded while a state of emergency is in effect.

Article 96: If, for reasons of health that are confirmed by the findings of a State Medical Commission formed by Parliament, the President of the Republic of Uzbekistan is not able to meet her or his obligations, within ten days, at an emergency session of Parliament, from among the deputies, there is an election for an individual to, for up to three months, be Acting President of the Republic of Uzbekistan. In this case, within three months, a general election for the President of the Republic of Uzbekistan must be held.

Article 97: A President, stepping down from office upon expiration of her or his term, occupies the lifetime office of member of the Constitutional Court.

## **CHAPTER XX: THE CABINET OF MINISTERS**

Article 98: The Cabinet of Ministers and its composition are formed by the President of the Republic of Uzbekistan and approved by the Parliament of the republic.

The heads of the government of the Republic of Karakalpakstan, by their office, become members of the Cabinet of Ministers.

The Cabinet of Ministers, through its management, ensures the effective functioning of the economy, the society, and the spiritual sphere, as well as implementation of laws, other decisions of Parliament, and the decrees, resolutions, and orders of the President of the Republic of Uzbekistan.

The Cabinet of Ministers, in accordance with legislation in force, issues resolutions and orders, compliance with which is obligatory over the entire territory of the Republic of Uzbekistan by all agencies, enterprises, institutions, organizations, officials, and citizens.

The Cabinet of Ministers relinquishes its powers before a newly-elected Parliament.

The procedures for organizing the operations of and the jurisdiction of the Cabinet of Ministers are determined by law.

## **CHAPTER XXI: THE FOUNDATIONS OF LOCAL STATE POWER**

Article 99: Councils of People's Deputies are the representative agencies of power in regions, districts, and cities (except cities subordinate to districts, or districts which are part of cities), are headed by governors, and, proceeding from the interests of the state and citizens, decide issues ascribed to their jurisdiction.

Article 100: Within the jurisdiction of local agencies of power are:

ensuring the legality, legal order, and security of citizens;

issues of the economic, social, and cultural development of the territory;

composition and utilization of the local budget, establishing local taxes and tariffs, and composition of extra-budgetary funds;

managing local public property;

protecting the environment;

ensuring registration of acts of civic status;

adopting normative acts, and exercising other powers not contrary to the Constitution and laws of the Republic of Uzbekistan.

Article 101: Local agencies of power enact laws of the Republic of Uzbekistan, decrees of the President, and decisions of higher state agencies, as well as managing the operations of lower Councils of People's Deputies and participating in discussions of issues of republican and local significance.

Compliance with decisions of higher agencies, adopted within the bounds of their jurisdiction, is obligatory for lower agencies.

The term of office for a Council of People's Deputies or governor is five years.

Article 102: Governors of regions, districts, and cities head the representative and executive branches on their respective territories.

Governors of regions and Tashkent city are appointed and dismissed by the President, and approved by the corresponding Council of People's Deputies.

Governors of districts and cities are appointed and dismissed by the governor of the corresponding region and approved by the corresponding Council of People's Deputies.

Governors of urban districts are appointed and dismissed by the governor of the corresponding city and approved by the City Council of People's Deputies.

Governors of cities of district subordination are appointed and dismissed by the governor of the district and approved by the District Council of People's Deputies.

Article 103: The governor of a region, district, or city exercises her or his powers according to the principle of a single source of power and is responsible for the decisions and acts of the agencies that she or he manages.

The organization of the work of and the extent of the powers of governors and local Councils of People's Deputies, and the procedures for elections of local Councils of People's Deputies, are regulated by law.

Article 104: A governor, within the confines of the powers granted to her or him, adopts decisions, compliance with which is obligatory for all enterprises, institutions, organizations, associations, officials, and citizens on the corresponding territory.

Article 105: Self-government agencies in towns, villages, and settlements, as well as in the neighborhoods (mahalla) of cities, towns, villages, and settlements are gatherings of citizens which elect for a 2.5 year term a chair (elder) and her or his advisors.

The procedures for elections for and the organization of the work of, and the extent of powers of, self-government agencies are regulated by law.

## **CHAPTER XXII: THE JUDICIAL BRANCH OF THE REPUBLIC OF UZBEKISTAN**

Article 106: The judicial branch in the Republic of Uzbekistan operates independently of the legislative and executive branches, political parties, and any social associations.

Article 107: The judicial system of the Republic of Uzbekistan consists of a Constitutional Court of the Republic of Uzbekistan, a Supreme Court of the Republic of Uzbekistan, a High Commercial Court of the Republic of Uzbekistan, a Supreme Court of the Republic of Karakalpakstan, and a Commercial Court of the Republic of Karakalpakstan, all elected for terms of five years, as well as regional, Tashkent City, district, city, and commercial courts, all appointed for terms of five years.

The organization of the work of and procedures of courts are determined by law.

The creation of emergency courts is not allowed.

Article 108: The Constitutional Court of the Republic of Uzbekistan reviews cases concerning the constitutionality of legislative and executive acts.

The Constitutional Court is elected from among specialists in the fields of political science and law, and consists of a chair, assistant chair, and the judges of the Constitutional Court, including a representative of the Republic of Karakalpakstan.

The fulfillment of the duties of the chair and members of the Constitutional Court is incompatible with the office of a deputy.

The chair and members of the Constitutional Court may not be members of political parties or movements or occupy any other kind of paid position.

Judges of the Constitutional Court enjoy the right of immunity.

In their work, the judges of the Constitutional Court are independent, subordinate only to the Constitution of the Republic of Uzbekistan.

Article 109: The Constitutional Court of the Republic of Uzbekistan:

- 1) determines the compatibility of the Constitution of the Republic of Uzbekistan with laws of the Republic of Uzbekistan and other acts adopted by the Parliament of the Republic of Uzbekistan, decrees of the President of the Republic of Uzbekistan, resolutions of the

government and local agencies of state power, and inter-state treaties and other obligations of the Republic of Uzbekistan;

2) provides findings on the accordance of the Constitution of the Republic of Karakalpakstan with the Constitution of the Republic of Uzbekistan, and the laws of the Republic of Karakalpakstan with the laws of the Republic of Uzbekistan;

3) provides interpretation of the norms of the Constitution and laws of the Republic of Uzbekistan;

4) reviews other cases, ascribed to its jurisdiction by the Constitution and laws of the Republic of Uzbekistan.

Decisions of the Constitutional Court enter into force at the moment of publication. They are final and not subject to appeal.

The organization of the work of and procedures for the Constitutional Court are determined by law.

Article 110: The Supreme Court of the Republic of Uzbekistan is the highest judicial branch agency in the spheres of civil, criminal, and administrative legal proceedings.

The acts which it adopts are final, and compliance is obligatory over the entire territory of the Republic of Uzbekistan.

The Supreme Court of the Republic of Uzbekistan possesses the right of judicial supervision over the work of the Supreme Court of the Republic of Karakalpakstan and regional, city, and district courts.

Article 111: Economic conflicts arising between enterprises, institutions, and organizations in the economic sphere, in the process of economic management, based on various forms of property, or between business people are resolved by the High Commercial Court and other commercial courts, within the confines of their jurisdiction.

Article 112: Judges are independent, subordinate only to the law. Any sort of interference in the work of judges in their carrying out of justice is forbidden and incurs legal responsibility.

The immunity of judges is guaranteed by law.

The chair and members of the Supreme Court and High Commercial Court may not be deputies of the Parliament of the Republic of Uzbekistan.

Judges, including district judges, may not be members of political parties or movements or occupy any other kind of paid position.

Before the end of their terms of office, judges may only be dismissed for reasons indicated by law.

Article 113: Trials of cases in all courts are open. Closed hearings are allowed only in circumstances established by law.

Article 114: Acts of the judicial branch must be complied with by all state agencies, social associations, enterprises, institutions, organizations, officials, and citizens.

Article 115: Judicial proceedings in the Republic of Uzbekistan are conducted in Uzbek, Karakalpak, or the language of the majority of people of the area. Participants in a case who do not know the language of the judicial proceedings are ensured the right to acquaint themselves fully with the materials of the case and participate in the judicial proceedings through an interpreter, and also the right to address the court in their native language.

Article 116: An accused is ensured the right to defense.

The right to professional legal assistance is guaranteed at any stage of an investigation or judicial proceeding. The bar acts to provide legal assistance to citizens, enterprises, institutions, and organizations. The organization of the work and the procedures of the bar are determined by law.

### **CHAPTER XXIII: THE ELECTORAL SYSTEM**

Article 117: Citizens of the Republic of Uzbekistan have the right to elect and be elected to representative agencies. Each elector has one vote. The right to vote, equality of votes, and freedom of expression through voting are guaranteed by law.

Elections for the President and the representative agencies of power of the Republic of Uzbekistan are conducted on the basis of general, equal, and direct voting rights by secret ballot. Citizens of the Republic of Uzbekistan who have reached 18 years of age have the right to vote.

Citizens who have been declared incompetent by a court or who are imprisoned may not be elected and do not participate in elections. In any other circumstances, direct or indirect abridgment of the voting rights of citizens is not allowed.

A citizen of the Republic of Uzbekistan may not simultaneously be a deputy in more than two representative agencies.

The procedure for holding elections is determined by law.

## **CHAPTER XXIV: THE PROCURACY**

Article 118: Oversight for exact and uniform compliance with the law on the territory of the Republic of Uzbekistan is exercised by the Procurator General of the Republic of Uzbekistan and procurators subordinate to her or him.

Article 119: The Procurator General of the Republic of Uzbekistan heads a unified, centralized system of procuracy agencies.

The Procurator of the Republic of Karakalpakstan is appointed by the highest representative agency of the Republic of Karakalpakstan with the agreement of the Procurator General of the Republic of Uzbekistan.

Procurators of regions, districts, and cities are appointed by the Procurator General of the Republic of Uzbekistan.

The term of office of the Procurator General of the Republic of Uzbekistan, the Procurator of the Republic of Karakalpakstan, and the procurators of regions, districts, and cities is five years.

Article 120: The agencies of the Procuracy of the Republic of Uzbekistan, being subordinate only to the law, exercise their powers independent of any kind of state agency, social association, or official.

During their terms of office, procurators suspend their membership in political parties and other social associations which pursue political goals.

The organization of the work of, the powers of, and the procedures of the procuracy agencies are determined by law.

Article 121: On the territory of the Republic of Uzbekistan, it is forbidden to form or operate private or corporate organizations, social associations, or structures subordinate to them, which independently implement investigatory, detective, or other specialized functions for the combat of crime.

In defense of legality, legal order, or the rights and freedoms of citizens, social associations and citizens may provide assistance to law enforcement agencies.

## **CHAPTER XXV: FINANCE AND CREDIT**

Article 122: The Republic of Uzbekistan has its own financial and monetary credit system.

The state budget of Uzbekistan includes the republican budget, the budget of the Republic of Karakalpakstan, and local budgets.

Article 123: A uniform tax system operates on the territory of the Republic of Uzbekistan. The right to establish taxes belongs to the Parliament of the Republic of Uzbekistan.

Article 124: The Central Bank of the republic heads the banking system of the Republic of Uzbekistan.

## **CHAPTER XXVI: DEFENSE AND SECURITY**

Article 125: The Armed Forces of the Republic of Uzbekistan are formed for defense of the state sovereignty and territorial integrity of the Republic of Uzbekistan, as well as of the peaceful life and security of the population.

The structure and organization of the Armed Forces are determined by law.

Article 126: The Republic of Uzbekistan maintains Armed Forces in order to ensure its security at a necessarily sufficient level.

## **SECTION VI: THE PROCEDURE FOR AMENDING THE CONSTITUTION**

Article 127: Amendments to the Constitution of the Republic of Uzbekistan are introduced by laws adopted and voted for by no less than two thirds of the total number of deputies of the Parliament of the republic.

Article 128: The Parliament of the Republic of Uzbekistan may adopt a law concerning changes and amendments to the Constitution within six months after submission of a corresponding proposal for wide-spread discussion. If the Parliament of the Republic of Uzbekistan rejects a proposal concerning amendment of the Constitution, that proposal may be re-introduced only after one year has passed.

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