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1

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NAS RK is pleased to announce that Bulletin of NAS RK scientific journal has been accepted for indexing in the Emerging Sources Citation Index, a new edition of Web of Science. Content in this index is under consideration by Clarivate Analytics to be accepted in the Science Citation Index Expanded, the Social Sciences Citation Index, and the Arts & Humanities Citation Index. The quality and depth of content Web of Science offers to researchers, authors, publishers, and institutions sets it apart from other research databases. The inclusion of Bulletin of NAS RK in the Emerging Sources Citation Index demonstrates our dedication to providing the most relevant and influential multidiscipline content to our community.

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НАН РК сообщает, что научный журнал «Вестник НАН РК» был принят для индексирования в Emerging Sources Citation Index, обновленной версии Web of Science. Содержание в этом индексировании находится в стадии рассмотрения компанией Clarivate Analytics для дальнейшего принятия журнала в the Science Citation Index Expanded, the Social Sciences Citation Index и the Arts & Humanities Citation Index. Web of Science предлагает качество и глубину контента для исследователей, авторов, издателей и учреждений. Включение Вестника НАН РК в Emerging Sources Citation Index демонстрирует нашу приверженность к наиболее актуальному и влиятельному мультидисциплинарному контенту для нашего сообщества.

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JOGORKU KENESH AND POLITICAL PARTIES OF KYRGYZSTAN: INTERACTION IN PARLIAMENTARY FORM OF GOVERNMENT

Abstract. The article analyzes using the normative and systematic methods, as well as analysis and synthesis, the content of the statements of the Constitution of the Kyrgyz Republic, the Constitutional Law of the Kyrgyz Republic “On Election of the President of the Kyrgyz Republic and Deputies of the Jogorku Kenesh of the Kyrgyz Republic”, the Laws of the Kyrgyz Republic “On Regulations of the Jogorku Kenesh of the Kyrgyz Republic» and «On the Status of a Deputy of the Jogorku Kenesh of the Kyrgyz Republic» and the works of legal scholars.

The study analyzes the issues of interaction between political parties and the Jogorku Kenesh – the parliament of the Kyrgyz Republic in parliamentary form of government. The authors consider the transformation of Kyrgyzstan into a parliamentary republic as a native process, justify the conditioning of the increasing role of political parties in formation of the Jogorku Kenesh and organization of its activities with the signs and requirements of this form of government. Particular attention is paid to the party-political and constitutional-legal foundations of mutual influence of the parliament and political parties of the Kyrgyz Republic.

Researchers came to the conclusion the transformation of modern Kyrgyzstan into a parliamentary republic leads to a significant increase in the role of political parties both in the formation of the Jogorku Kenesh and in the organization of its activities as a whole; the interaction of the Jogorku Kenesh and political parties in the parliamentary form of government, in particular, is manifested in the organization and conduct of elections of deputies of the Jogorku Kenesh, distribution of deputy mandates, formation of parliamentary fractions and organization of their activities, determination of the organizational structure of the Jogorku Kenesh and formation of its bodies and organization of parliamentary activities in whole.

From the point of view of the authors the fact that mutual relations between the Jogorku Kenesh and political parties are based on legal principles and norms, this whole process takes place on political plane and is sent implementing party programs.

Keywords: Jogorku Kenesh, constitutional laws of the Kyrgyz Republic, parliamentary law, parliamentary republic, presidential-parliamentary republic, parliamentarism, elections, political parties, political system.

Introduction. The transformation of the Kyrgyz government into a parliamentary one has fundamentally changed the relationship between political parties and the Jogorku Kenesh – the parliament of the Kyrgyz Republic. Political parties got the real opportunity to influence not only formation of the deputy corps, but also on the whole mechanism of parliamentary activity.

A study of the interaction between the parliament and political parties of Kyrgyzstan will not only reveal the problems of relations between these institutions, but will also help to develop effective ways to solve them.

The study of the parliamentary form of government as a new phenomenon in political and legal reality of Kyrgyzstan is equally relevant for political and legal science. Indonesian scientist R. Adiputri emphasized despite a difference in structural arrangement, parliament must share certain features. The parliamentary members are selected by the regular election; the members are representatives of people from certain constituents, exercising the role of parliament: legislating, overseeing and budgeting (Adiputri, 2019, p. 152). As the Polish researcher V. Zhebrowski notes parliamentarism can be implemented in the parliamentary-cabinet, cabinetparliamentary, parliamentary-presidential and parliamentary-committee forms. Thus, it is an internally diversified system influenced by a number of factors, namely, the type of party system, the way of granting the non-confidence vote and dissolving the parliament, as well as the scope of the so called delegated legislation (Zhebrowski, 2010, p. 114). The

relevance of practice of establishing a parliamentary republic in Kyrgyzstan is compounded by the fact in the post-Soviet countries of Central Asia, the presidential form of government is consistently approved. Thus, the experience of Kyrgyz political modernization, which is based on a significant change in the political and legal status of parliament, as well as political parties and political system, may have scientific and practical interest in perspective of regional development.

As noted by Russian researcher A.V. Nikitina, political parties play important role in functioning of states as necessary institution of representative democracy, ensuring participation of citizens in political life of society (Nikitina, 2019, p. 34). The transformation of Kyrgyzstan into a parliamentary republic has radically changed the role of political parties in the political system of the country. Becoming the only subject of formation of the parliament, the political parties received the real right to determine its structure, form the bodies of the Jogorku Kenesh, elect its officials and change the parliamentary activity as a whole into a fractional regime. Of course, such the political and legal status allows parties to directly influence not only organizational and formal, but also the essential and substantial aspects of the parliament. Moreover, through the power granted to parties in the framework of parliamentary activity, they were able to determine public policy.

Meanwhile, the described political and legal position of political parties in Kyrgyzstan should be considered as the regular process, due to the nature and the specificity of the parliamentary form of government.

Methods. The article analyzes using the normative and systematic methods, as well as analysis and synthesis, the content of the statements of the Constitution of the Kyrgyz Republic, the Constitutional Law of the Kyrgyz Republic “On Election of the President of the Kyrgyz Republic and Deputies of the Jogorku Kenesh of the Kyrgyz Republic”, the Laws of the Kyrgyz Republic “On Regulations of the Jogorku Kenesh of the Kyrgyz Republic» and «On the Status of a Deputy of the Jogorku Kenesh of the Kyrgyz Republic» and the works of legal scholars.

Discussion. In foreign and domestic legal and political science literature it is pointed the really established form of government in the state determines role of political institutions in political system of society. Thus, M. Shugart and D. Keri, picking out the parliamentary, presidential and mixed regimes, substantiate the role of the main political institutions in them (Shugart & Keri, 1992, p. 18-20).

The concept of parliamentary state was created at one time by V. Hessen, who recognized this type of organization of constitutional state as its highest (Okatova, 2009, p. 175-204).

Currently, parliamentary form of government has become the subject of the special scientific research by many foreign and domestic authors. From the point of view of A.F. Aliyev, parliamentary form of government is prevalent mainly in Western Europe, which is characterized by stably developed economy, stable democratic traditions and strong political parties. In such conditions, issues come to the fore not so much as stability, but how to protect democratic human rights, taking into account opinions of all groups and others (Aliev, 2000, p. 154).

In our opinion, the concept of A.F. Aliyev may be questioned in context of the transformation of Kyrgyzstan into a parliamentary republic. Despite the “rapid” development of democratic institutions and political parties, about stable democratic traditions and real multi-party, ideologically pluralistic system, and even more so about stably developed economy, there is no need to speak here yet (Arabaeva, 2010, pp. 52-71). This is also evidenced by practice of transition to the parliamentary form of government in the Republic of Moldova.

At the same time, scientists of Kyrgyzstan ambiguously determine the form of government that has developed in the state. Some scholars see this form as parliamentary (A. Arabaev, R. Arabaev, A. Berenalieva, 2015, p. 98-115), while others see it as a presidential-parliamentary republic (Beishenaliev & Rakimbaev, 2013. p. 10-20; Kolsarieva, 2010, p. 9-10). Nevertheless, without going into discussion, we note our point of view is based on recognition in modern Kyrgyzstan of parliamentary form of government (A. Arabaev, R. Arabaev, 2014, p.146-150; A. Arabaev, R. Arabaev, A. Berenaliev, 2015, p. 98-115).

Moreover, it is the transformation of Kyrgyzstan into parliamentary republic, from our point of view, that has led to the significant change in the role of political parties in the political system of the country. The point is election of deputies according to party lists according to proportional system determines essence and content of activities of not only deputies themselves, but also parliament as a whole.

Of course, political parties participate in this process as active subjects of elections. But, very participation of parties in elections leads to struggle of political views and positions. Parties come to polls

with their own political program, which defines directions of political, socio-economic development of state and society, ways to achieve them. The party program, on the one hand, determines not only state of affairs in country and position of party associated with it, forms its election image, but also reflects needs of society and interests of electorate; on the other hand, it becomes agreement between people and political party. As the Uzbek researcher S.N. Berdikulov, the place of political parties in providing them with democracy depends on their participation in parliamentary activities (Berdikulov, 2015, p. 118). With arrival of party in Jogorku Kenesh, such a program becomes political document defines political line of party in parliament as a whole, in organizing activities of its fraction and deputies who are elected according to list of party.

The very fact of election of deputies according to proportional system according to party lists determines increasing role of parties in formation of deputy corps, organization of its activity and, of course, participation of parliamentary parties at the resolution-making level.

Interaction's significance of the Jogorku Kenesh and the political parties of Kyrgyzstan in conditions of parliamentary form of government is not only theoretical but also practical. As analysis of the current national legislation indicates common ground and mutual dominance of the parliament parties of Kyrgyzstan are multifaceted. Moreover, the forms, character and content of their relationship are determined by the following legal provisions and limits.

1. Interaction of the Jogorku Kenesh and political parties is exercised in formation of deputy corps. In accordance with Part 1 of Art. 70 of the Constitution of the Kyrgyz Republic 120 deputies of the Jogorku Kenesh are elected for a five-year term according to party lists according to the proportional system. At the same time, this act distinctly establishes deputy mandates in the Jogorku Kenesh based on the results of elections are received to political parties.

The Constitutional Law of the Kyrgyz Republic "On the Election of the President of the Kyrgyz Republic and Deputies of the Jogorku Kenesh of the Kyrgyz Republic" in part 2 of article 60 establishes only political parties have the right to nominate lists of candidates for parliament. This law contains specific requirements for political parties that participate in parliamentary elections. Among such requisitions are indicated their mandatory state registration (or re-registration) in the manner prescribed by law, and the fact of registration itself must occur at least 6 months before the relevant elections.

Thus, according to the current legislation of the Kyrgyz Republic, political party becomes the only subject of the right to nominate candidates for deputies of the Jogorku Kenesh and, accordingly, an active participant in process of forming the republican parliament.

2. Assignment of deputy mandates. The political party that won the parliamentary elections gets the right to participate in dealing of deputy mandates.

According to the Constitution of the Kyrgyz Republic, assignment of deputy seats takes place between political parties. Moreover, one political party may be the holder of no more than 65 mandates of deputies of the Jogorku Kenesh (part 2 of article 70).

According to Art. 64 of the Constitutional Law of the Kyrgyz Republic on the Election of Deputies of the Jogorku Kenesh, political parties have passed the seven-percent electoral threshold for the republic as a whole, while receiving 0.7 or more percent of the vote in each region and cities of Bishkek, Osh, participate in assignment of deputy mandates for procedure defined by the same Law.

3. Interaction of the Jogorku Kenesh and political parties is demonstrated in formation of parliamentary fraction and organization of its activities.

Deputies who passed to the Jogorku Kenesh on party list are united in parliamentary fractions. The legal basis for association of parliamentarians in fraction is part 3 of article 70 of the Constitution of the Kyrgyz Republic. This constitutional provision has been evolved in current legislation. So, Art. 10 of the Law of the Kyrgyz Republic «On the Rules of the Jogorku Kenesh of the Kyrgyz Republic» defines parliamentary fraction as an association of deputies of the Jogorku Kenesh elected from list of one political party. At the same time, the parliamentary regulation does not allow inclusion in fraction of deputies who have passed on list of another political party.

The Law of the Kyrgyz Republic "On the Status of Deputy of the Jogorku Kenesh of the Kyrgyz Republic" in clause 8, part 1 of Article 9 establishes the rights of the deputies of the Jogorku Kenesh to join a fraction. Moreover, this Law distinctly defines the position of deputy in parliamentary fraction of the Jogorku Kenesh. So, according to the provisions of Art. 14 of the Law, deputy of the Jogorku Kenesh

is, firstly, obliged to join the fraction, which is formed from percentage of deputies elected to parliament on list of political party. Secondly, he can be a member of only one fraction. Thirdly, as a member of parliamentary fraction, deputy has a several specific powers related to formation of this institution and organization of its activities. In particular, we are talking about parliamentary rights such as electing and being elected to governing bodies and positions of fraction; take part in development and approval of provisions on parliamentary fraction; make suggestions and participate in consideration of any issue referred to competence of fraction; make proposals on the agenda of meeting of fraction; submit draft laws, resolutions, deputy inquiries, statements and other documents; take part in discussion and make proposals on formation of position of fraction, on issues to be considered in the Jogorku Kenesh; to speak on behalf of and on behalf of fraction in plenary meetings of the parliament, meetings of committee and interim commission with aim of announcing fraction's position on the issues under consideration. Fourth, deputy of the Jogorku Kenesh, as a member of parliamentary fraction, also assumes certain obligations. So, in accordance with Part 2 of Art. 9 of the Law, he undertakes, in particular, to attend and vote on issues considered at meetings of parliamentary fraction; observe intrafraction discipline; carry out instructions of fraction.

In accordance with the Constitution of the Kyrgyz Republic, the Rules of Procedure of the Jogorku Kenesh strictly stipulate refusal of deputy elected from one political party to join the fraction of the same party is not allowed (part 4 of article 10). Thus, union of deputies into parliamentary fraction, according to the current legislation of Kyrgyzstan, becomes not only their right, but also their obligation.

4. Political parties, through their fractions in parliament, determine the organizational structure of the Jogorku Kenesh, form its bodies and elect officials.

Of course, the organizational structure of the Jogorku Kenesh is determined by the relevant constitutional legal acts. As the analysis of articles 70, 73, 74, 75 and 76 of the Constitution and the Rules of the Jogorku Kenesh reveals, the Kyrgyz parliament, along with the classical structural units (leadership, committees, commissions, apparatus) has purely fractional bodies. First of all, we are talking about parliamentary fraction and their associations. So, part 3 of article 70 of the Basic Law of Kyrgyzstan introduces such concepts as “fraction”, “coalition of fractions”, “parliamentary majority”, “parliamentary opposition”. Moreover, parliamentary majority, according to the Constitution, is defined as “a fraction or coalition of fractions that officially announced the creation of the coalition of the fractions in the Jogorku Kenesh, which has more than half of the parliamentary mandates.” The parliamentary opposition is «a fraction or fractions are not part of the parliamentary majority and have declared their opposition to it».

These constitutional provisions are evolved in parliamentary regulations. So, the Regulation of the Jogorku Kenesh contains the special chapter (Chapter 3), which is devoted to fractional organization of the republican parliament and contains 8 articles (Articles 10-17). It enshrines, firstly, the principles of forming parliamentary fraction and organizing its activities (Article 10); secondly, the powers of fraction leader (Art. 11); thirdly, the powers of fraction (Art. 12); fourthly, issues of ensuring activities of fraction (Article 13); fifthly, the definition, principles and procedure for organizing activities of coalition of fractions (Article 14); sixth, the definitions of “parliamentary majority” and “parliamentary minority” (Art. 15); seventh, the definition, principles of organization of «parliamentary opposition»; eighth, parliamentary opposition guarantees.

At the same time, it should be emphasized the constitutional legislation of Kyrgyzstan has concentrated on legal guarantees of parliamentary opposition. So, according to Art. 70, 74-76 of the Constitution and Art. 12 and 17 of the Rules of the Jogorku Kenesh, the parliamentary opposition has the right, firstly, to nominate its representative to the position of deputy of Toraga; secondly, to nominate their representatives to the posts of chairmen of the Parliamentary Committees on Budget and Law and Order, as well as deputy of chairmen of other committees; thirdly, on equal access to state-owned media; fourthly, to form one third of the composition of (a) the Central Commission for Elections and Referenda, (b) the Accounts Chamber, (c) the Council for Draught of Judges. Moreover, restriction of rights of parliamentary opposition afforded by the Constitution and the laws, and guaranteed by these acts, is not allowed.

Of course, such role of fractions in formation of parliamentary constitutional bodies and officials is based on their respective legal powers. So, according to Art. 12 of the Rules of the Jogorku Kenesh,

fraction has the right to unite with other fractions in coalition; to make proposals on election, dismissal, statement, approval, consent, appointment of officials referred to the powers of the Jogorku Kenesh; to propose candidacies of member's fraction to committees and temporary commissions of the Jogorku Kenesh and make proposals for their recall; withdraw his representative from post of chairman or deputy chairman of committee, interim commission.

5. Interaction of the Jogorku Kenesh and political parties is also demonstrated in organization of parliamentary activities. Fraction in accordance with Art. 12 of the Rules of Procedure of the Jogorku Kenesh has the right, firstly, to submit proposal to Toraga of the Jogorku Kenesh on convening extraordinary meeting of the parliament; secondly, to express a political position on issues considered by the Jogorku Kenesh. At the same time, fraction has the right to submit for inclusion in protocol of the meeting of the Jogorku Kenesh special opinion of fraction on any issue under discussion; thirdly, to delegate his representative to make statements at meetings of the Jogorku Kenesh with statements, reports, co-reports, messages and proposals on behalf of fraction; fourthly, to make proposals on plan of legislative activity and annual plan of work of the Jogorku Kenesh; fifth, to submit proposals to the Jogorku Kenesh and parliamentary committees on holding parliamentary hearings; sixthly, to make proposals on creation of working groups and temporary commissions to study individual issues. At the same time, composition of temporary commission of at least 5 deputies is formed on proposals of fractions, taking into account their proportional representation in the Jogorku Kenesh (Article 33); seventh, to make proposals on inclusion (recall) of members of fraction in composition of parliamentary delegations, friendship groups in compliance with principle of proportional representation of all fractions; eighth, to participate in joint meetings with other fractions, invite fractions of interested parties to meeting, and consult with experts and specialists.

Results. We can conclude, firstly, the transformation of modern Kyrgyzstan into parliamentary republic is reason for significant increase in the role of political parties in the formation of the Jogorku Kenesh and in the organization of its activities as a whole.

Secondly, interaction of the Jogorku Kenesh and political parties in parliamentary form of government, in particular, is demonstrated in:

- a) organization and conduct of elections of deputies of the Jogorku Kenesh;
- b) dealing of deputy mandates;
- c) formation of parliamentary fractions and organization of their activities;
- d) determining the structure of the Jogorku Kenesh and formation of its organs;
- e) organization of parliamentary activities in general.

Thirdly, despite the fact mutual relations between the Jogorku Kenesh and political parties are based on legal principles and norms, the whole process takes place on political plane and is targeted at implementing party political programs.

Р. Арабаев, А. Береналиева

Кыргызстан Республикасының Ұлттық ғылым академиясы

**ҚЫРҒЫЗСТАНДАҒЫ ЖОГОРКУ КЕНЕШ ЖӘНЕ САЯСИ ПАРТИЯЛАР: ПАРЛАМЕНТТІК
БАСҚАРУ ФОРМАСЫ ЖАҒДАЙЫНДАҒЫ ӨЗАРА ҚАРЫМ-ҚАТЫНАС**

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**ЖОГОРКУ КЕНЕШ И ПОЛИТИЧЕСКИЕ ПАРТИИ КЫРГЫЗСТАНА:
ВЗАИМОДЕЙСТВИЕ В УСЛОВИЯХ ПАРЛАМЕНТСКОЙ ФОРМЫ ПРАВЛЕНИЯ**

Аннотация. В статье с использованием нормативно-системных методов, а также анализа и синтеза анализируется содержание положений Конституции Кыргызской Республики, Конституционного закона Кыргызской Республики “О выборах Президента Кыргызской Республики и депутатов Жогорку Кенеша Кыргызской Республики”, Законов Кыргызской Республики “О Регламенте Жогорку Кенеша Кыргызской Республики» и «О статусе депутата Жогорку Кенеша Кыргызской Республики» и трудов ученых-правоведов.

В исследовании анализируются вопросы взаимодействия политических партий и Жогорку Кенеша – Парламента Кыргызской Республики при парламентской форме правления. Авторы рассматривают трансформацию Кыргызстана в парламентскую республику как естественный процесс, обосновывают обусловленность возрастающей роли политических партий в формировании Жогорку Кенеша и организации его деятельности признаками и требованиями данной формы правления. Особое внимание уделяется партийно-

политическим и конституционно-правовым основам взаимного влияния парламента и политических партий Кыргызской Республики.

Исследователи пришли к выводу, что превращение современного Кыргызстана в парламентскую республику приводит к значительному повышению роли политических партий как в формировании Жогорку Кенеша, так и в организации его деятельности в целом; взаимодействие Жогорку Кенеша и политических партий при парламентской форме правления, в частности, проявляется в организации и проведении выборов депутатов Жогорку Кенеша, распределении депутатских мандатов, формировании парламентских фракций и организации их деятельности, определении организационной структуры Жогорку Кенеша и формировании его органов и организации парламентской деятельности в целом.

С точки зрения авторов, несмотря на то, что взаимные отношения между Жогорку Кенешом и партиями основываются на правовых принципах и нормах, весь этот процесс проходит в политической плоскости и нацелен на реализацию партийно-политических программ.

Ключевые слова: Жогорку Кенеш, конституционные законы Кыргызской Республики, парламентское право, парламентская республика, президентско-парламентская республика, парламентаризм, выборы, политические партии, политическая система.

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