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## **PARLIAMENTARISM IN THE POST-SOVIET STATES: ESSENTIAL FEATURES, COMMON AND DIFFERENT**

The article attempts to analyze the specific of modern parliamentary formation on the post-Soviet area. During analysis of parliamentary and presidential regime was revealed that political development depends on political conditions and centrifugal forces after collapse of USSR.

In addition, it was found that parliament republics are more stable and efficient compared with presidential regimes, but it also depends on political responsibility and parliamentary representation and traditions of separation of powers between executive and legislative branches. The focus of our research is the phenomenon of parliamentarism as the process and institution. Specific features of post-Soviet parliaments, political traditions of separating powers and prospects of parliamentarism are also the subject of analysis.

**Key words:** parliamentarism, presidentialism, political crises, post-Soviet states, representation functions, imitation, political development, marginalization of parliament.

Parliament, as the representative body, supervises and implements political order. Competence, powers and functions of a parliament as an institution and authority are the part of the political crises in post-Soviet states. This situation is characterized by acute confrontation between two branches of government - executive and legislative.

The parliamentary development in Ukraine was accompanied with a crisis of legitimacy. Low public support of social institutions, inefficient work of the authorities, which have prosecution, narrowly focused interests close this circle, causing stagnation of political development. The focus of our research is exactly parliamentarism as an institution and process and its specific features of development on post-Soviet area.

The collapse of the Communist Party in 1991 led to transfer of power from the Communist Party to heads of republics, mostly to the leaders of the Republican Parties. The logic of the government became intertwined with the establishment of the post of a President. The further introduction of direct presidential elections strengthened their position before parliaments. The President and the Parliament are equally based on a mandate of trust. However, the President's mandate elected by direct vote is more important, heads of state are elected by the whole nation, and MPs only represent the people of many individual districts.

According to Talgat Ismahambetov<sup>1</sup>, post-Soviet society has invented a new concept - the "party of power". The term "ruling party" means that members of this party won the election and form the government. "The party of power" expresses something else the power itself forms the party to remain changeless up to elections.

J. Wiatr argues that new and successful democratic parliamentary adopted regime (Czech Republic, Estonia, Hungary, Lithuania, Poland, Slovenia), while those states that have chosen presidential regime were the victims of authoritarianism or, at least, political destabilization system (Belarus, Croatia, Romania, Russia, Ukraine).

J. Wiatr cites three arguments, which proves that presidentialism in post-communist Europe is rather the source of problems than solution of them: first, former communist leaders became presidents; secondly, presidentialism allows a president to maintain an independent position to political parties; thirdly, a strong institution of the presidency might be wrong response to the challenges of multiethnic society structure<sup>2</sup>.

Instead, parliamentary regime makes political representatives to compromise not only in the case of a coalition government, but also when one political party wins an absolute majority. Secondly, if a Prime Minister loses support of a Parliament, she/he can be easily changed by no-confidence vote. Thirdly,

<sup>1</sup> Исмагамбетов, Т. Тернистый путь парламентаризма. *Электронный журнал «Континент»*. <<http://www.continent.kz/2000/04/15.html>>.

<sup>2</sup> Wiatr, Jerzy J. (1999). Parliamentarism vs. Presidentialism: Old Debate, New Experiences of Postcommunist States, in: Vladimira Dvorakova, ed. *Success or Failure? Ten years after*. Praha: Ceska spolecnost pro politicke vedy & Slovenske zdruzenie pre politicke vedy.

parliamentary regime protects interests of national minorities through representation by their MPs<sup>1</sup>. However constitution engineering and debates about advantages and disadvantages of political regime can also be a sign of democracy crisis or destabilizing democratic political system.

N. Filippova<sup>2</sup> notes that the establishment of parliamentary post-Soviet states displays different "starting opportunities" of national parliaments: the Baltic States, Ukraine, Russia, Georgia and other had "pre-Soviet" parliamentary law, so parliament institutions became a driver of the national recovery process. Some countries didn't have such traditions, so the idea of national independence was personified and associated with the only national leader – a President. Formation of parliamentary law and Parliament was based on reception of Russian and European law (Kyrgyzstan, Kazakhstan) or maintaining the principles of Soviet parliamentary (Belarus, Uzbekistan). Exceptional, but significant is experience of Turkmen nationalization of traditional institutions - institutions of communal government Maslahaty. The existence along with Halk Maslahaty (the supreme body of state power) and also Mejlis (Parliament), as N. Filippova thinks, was only an imitation of a democratic institution.

Parliamentarism hardly takes root in the post-Soviet world also due to differences of liberalization and democratization processes in Europe and the former Soviet Union. The "first wave" Soviet Union democrats were fighting for dismantling the power of a single party. This problem was close to establishing a parliamentary system during the last three centuries for European countries.

N. Filippova also concludes that the prevalence of mixed states among the former Soviet republics (a typical dominance of the executive branch and fragmentary statehood) was itself a cause of national parliament's inefficiency. Characteristic factor of becoming parliamentarism is atypical sources of constitutional law, including, for example, constitutional agreement between the Verkhovna Rada of Ukraine and the President of Ukraine in 1995, and specific legal status of regulations of parliaments in the most of post-Soviet states. Regulations are the form of law (in Estonia), or specifying decision. In the last case parliament act complements the parliament law (structural subdivisions of Parliament), which content the most part of regulatory rules of law. This practice exists in Moldova, Georgia, Kazakhstan, Kyrgyzstan, Uzbekistan, Tajikistan, and Turkmenistan. Rarely work order is actually determined by parliamentary regulations.

This estimated number of parliaments (as the square root of the represented population) in Ukraine and Georgia exceed legal (or real) strength and such parliaments are over-representative. Lithuania, Estonia and Armenia have roughly proportional legal and estimated number. Russia, Lithuania, Azerbaijan and Moldova are underrepresented, there parliament represents approximately half of the population<sup>3</sup>.

The specific feature of post-Soviet parliaments is also realization of imperative mandate of MPs. Post-Soviet states, on N. Filippova's opinion, may be divided into three groups depending on which representation model they established for MPs or nationwide Chamber MPs. The first group consists of constitutions which explicitly enshrined the principles of national free mandate contained prohibition of an imperative mandate (Armenia, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Latvia, Lithuania, Estonia). Moldovan Constitution defines every imperative mandate invalid.

Another group of states have constitutions where the nature of mandate was not defined and in the laws, that detailed these principles, are no institutions of recalling deputies. They are: Azerbaijan, Russia, Ukraine and Turkmenistan.

The third group of countries, including Belarus and Uzbekistan, in which constitutions law provides the possibility recall a deputy only according to the law.

There is also one specific situation of delegation or replacement of legislative functions. The difference between these two phenomena is that the replacement means competition in the performance of legislative duties and delegation is transfer of powers.

Among the post-Soviet states the possibility of delegation (and replacing) legislative powers of government or head of state provided for the Constitution of Armenia, Latvia, Moldova, Ukraine, Belarus, Kazakhstan, Kyrgyzstan, Turkmenistan and Estonia. There is no constitutional recognition of this institution in presidential republics (Azerbaijan, Georgia, and Tajikistan), in Russia, Uzbekistan and

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1 Kubat, M. Presidentialism and parliamentarism: a case of post-communist Europe and post-soviet states. *Acta Universitatis Carolinae – Studia teritorialis II*. <<http://haa.su/wgk/>>.

2 Филиппова, Н.А. Парламенты постсоветских государств: факторы доминирования и маргинализации. *Политэкс*. <<http://www.politex.info/content/view/195/30/>>.

3 Филиппова, Н.А. Парламенты постсоветских государств: факторы доминирования и маргинализации. *Политэкс*. <<http://www.politex.info/content/view/195/30/>>.

Lithuania.

N. Filippova distinguishes five models of delegation and substitution law by enforcement authorities in states of the region:

1) delegation has "ordinary" character, government has this right; constitutions established parliamentary control guarantees of delegated legislation; absence of substitution legislative functions (Moldova and Armenia);

2) absence of legislative powers delegation, but there is a substitution of legislative functions of executive power when a parliament is not functioning, with further approving such acts by a parliament (Latvia and Estonia);

3) a president is entitled to replace legislative functions of a parliament during the transitional period (up to 1999), while making the project of a similar law for a parliament (Ukraine);

4) a delegation may exist as an ordinary legislative practice, this right has a president; constitution limits maximum allowable term of act and subject of delegated legislation, but the constitution allows, along with delegation, and substitution of legislative functions of a president in special circumstances; parliamentary control in the form of cancellation of acts or approval is absent or impeded (Belarus, Kyrgyzstan, Kazakhstan);

5) delegation of legislative powers of a parliament to a president formally is an "ordinary" practice; parliamentary control over such acts is in the form of approval, but de facto legislative powers replacement mechanism is not envisaged by the Constitution, but used (Turkmenistan)<sup>1</sup>.

On the one hand, constitutional law of Armenia, Moldova, Latvia, Estonia and Ukraine typically preserve the European tradition of parliamentary dominance. On the other hand, Kazakhstan, Kyrgyzstan, Turkmenistan and Belarus formed custom replacement legislative functions institute. It is appropriate to be called imitation of this practice and substitution delegation of parliament legislative powers, since it has no rival character. Replacing acts of parliaments is not approved and cannot be overcome by them in form of laws on the same subject of legal regulation. Presidents arrogate to themselves legislative powers of Parliament.

Some causes are leading to marginalization and minimization of parliament's role in post-Soviet states, especially in CIS countries-members. These reasons are called "simulation" relationship of the semi-presidentialism that hiding super regimes transformation of political parties "in secondary political actors because of adopted electoral system"<sup>2</sup>.

Mixed government, as shown by example of A. Markarova, is a result of political dominance presidents and constituent elections (Armenia). However, since the approval of nationalistic ideology republic's moving towards presidential monarchy becomes almost inevitable. There are no internal legal factors to such movement. And the "reverse side" of this process, according to N. Philippova, is marginalization of a parliament.

In this regard prospects of parliamentarism in post-Soviet states can be evaluated on the basis of such indicators as:

1) nature of republic (parliamentary or presidential model of separation of powers promote parliamentary, mixed - no);

2) positive regulation of presidential powers and interpretation of the power's list as closed to all parties of the constitutional process, primarily by a head of a state and a body of constitutional control and a parliament;

3) constitutionally unlimited legislative competence of a parliament. As additional indicators of dominance (or marginalization) parliaments may be used following characteristics:

4) approve statutes only in the shape of a parliament's resolution;

5) prohibition of referendum about status (structure) of public authorities (including parliament);

6) constitutional recognition principle of the free mandate;

7) legal number of a parliament (the House of the national parliament) is more than 50% of estimated (according to rules of the square root);

8) establishment of an institute of urgent and special delegated legislation or substituted competition law.

<sup>1</sup> Филиппова, Н.А. Парламенты постсоветских государств: факторы доминирования и маргинализации. *Политэкс*. <<http://www.politex.info/content/view/195/30/>>.

<sup>2</sup> Маркаров, А. Реформа политических институтов в процессе демократического транзита в Армении. *CA&CC Press AB*. <[http://www.ca-c.org/journal/2001/journal\\_rus/cac-04/11.marru.shtml](http://www.ca-c.org/journal/2001/journal_rus/cac-04/11.marru.shtml)>.

Using these eight indicators, we got rating scale, which points to trends of domination and marginalization in parliaments on post-Soviet area.

The first group of countries (Latvia, Lithuania, Moldova, and Estonia) is those in which parliamentary law fixes dominance of parliaments. It also works for the second group (Lithuania, Georgia, Armenia, Ukraine), which law guarantees legal autonomy of parliaments also quite significant.

Russia occupies border position in the ranking, followed by the group of seven countries, where parliaments take more marginal (Azerbaijan, Tajikistan, Kyrgyzstan) or minimized position (Kazakhstan, Belarus, Uzbekistan, Turkmenistan). It should be mentioned that the amendments to the Constitution of Ukraine, which entered into force on 1 January 2006, will cause changes in parliamentary law of this state, so we can predict trends in progressive domination of parliament. Similar but less pronounced trend in relations between the Parliament and the President is up in Kyrgyzstan. In contrast, the Russian parliamentary law amplifies conditions of isolation (marginalization) of a Parliament.

Weakness of the legislature is in undermining horizontal accountability. Both post-Soviet Russian Presidents Boris Yeltsin and Vladimir Putin used their unlimited system of checks and balances in government to curb human rights and monitor elections. Putin went much further than his predecessor, capturing all electronic media on a national scale and allowing only own version of events, which also translated<sup>1</sup>.

The ruling elite, which based its legitimacy only on legality, has become the norm in almost all post-Soviet states. A lack of dialogue between the ruling elite and the opposition brought to the opposition exclusion from decision-making and marginalized parliament.

In states where have been so-called "color revolutions": Georgia (2003 "Rose Revolution"), Ukraine (2004 "Orange Revolution") and Kyrgyzstan (2005 "Tulip Revolution"), we can observe processes directed on democratization of a political system as a whole. Conditions for the "color revolutions" and the upcoming reform were the presence of civil society, free media and a crisis of the regime's legitimacy.

Democratization of political system began with a constitutional reform aimed at changing the form of government from a presidential-parliamentary to a parliamentary-presidential system (Ukraine, Georgia) and parliamentary (Kyrgyzstan). These reforms were accompanied by: first, permanent political crisis (constitutional crisis, extraordinary referendum and presidential elections, parliament, government crisis), all of which leads to permanent deficit of legitimacy of reforms.

So parliamentary form of government was relevant and the most appropriate in terms in Georgia, Ukraine and Kyrgyzstan. It can be explained by following factors: new rules of legitimization by using elected authority of concentration of parliament's main functions; presentation of regional elites interests on the basis of party representation, allowing in the legal field to find a compromise and exclude protest mood; ensuring transparency in legislative process; promote development of party system and promotion of competitiveness; political communication between center and periphery; representation of ethnic groups and women (in Kyrgyzstan every fourth in the list of parties running in the elections must be female) in the end ensured and gender balance<sup>2</sup>.

Representatives from show business were called to increase the level of "familiar faces" in parliaments, cosmetically resolved the crisis of confidence (Ukraine, Kyrgyzstan, Russia). But it stimulated party and parliamentary crisis, because parliamentarism implies deputy activity and professionalism.

The pressure on legislators from "street" leads to the adoption of unilateral decisions in favor of private interest groups. This approach to lawmaking is a source of social and political conflicts.

A classic example of democratic failure can serve Belarusian political regime, where, all attempts at democratization wasn't even initiated. From the beginning, Belarusian formal presidentialism (quasi-semi-presidentialism) was only the simple cover of authoritarian regime. But, at the same time, as noted by M. Kubat, it's enough controversial question of proving errors of presidential or semi-presidential regime with examples of democracies that are not consolidated or are not democracies at all. In addition, parliamentary regime can be combined with some elements of non-parliamentary<sup>3</sup>.

<sup>1</sup> Fish, M. Steven Stronger legislatures, stronger democracies. *Journal of democracy*. <<http://polisci.berkeley.edu/sites/default/files/people/u3833/StrongerLegislaturesStrongerDemocracy.pdf>>.

<sup>2</sup> Акматалиева, А.М. (2014). «Цветные революции» и парламентаризм в контексте процессов демократизации на постсоветском пространстве. *Сравнительная политика*, 11. <[http://www.mgimo.ru/files2/z05\\_2013/akmataliyeva.pdf](http://www.mgimo.ru/files2/z05_2013/akmataliyeva.pdf)>.

<sup>3</sup> Kubat, M. Presidentialism and parliamentarism: a case of post-communist Europe and post-soviet states. *Acta Universitatis Carolinae – Studia terriorialia II*. <<http://haa.su/wgk/>>.

For example, Parliamentary power index (PPI) is based on 32 indicators of expert review, describing ability of monitoring parliamentary and presidential bureaucracy, free from of parliamentary control of presidential, parliamentary authority in specific areas and resources of Parliament. This index is an indicator of democratic honesty - it shows how democratic regimes are following the adoption of constitutions. The index, which corresponds to the Verkhovna Rada of Ukraine in 2009 is 0.59<sup>1</sup>.

Horizontal accountability is ability to control state institutions by other public institutions and it does not provided by a weak legislature. In states that only began democratic development, legislature is the only institution that can control the national head of the executive branch as opposed to courts that can't balance the executive branch.

Moreover, in the modes with weak legislature, political parties more "drift and stagnate rather than develop and become mature"<sup>2</sup>. Undeveloped political parties rather undermine political competition and growth of vertical accountability - ability of people to control their representatives.

The potency of national legislation may be or is the institutional democratization clue: stronger legislature serve as leverage in relation to presidential power, and thus it guarantees horizontal accountability, and promote party development, ensuring vertical accountability<sup>3</sup>.

Like all parliamentary republic in general, post-soviet states present uncertainty and instability, permanent conflicts between branches of government, government crises and constant reorganization of management structures. But parliamentarism is impossible in politically unstructured society where the party system that provides for a stable parliamentary majority is not formed, and that would, in turn, also form a stable and successful government.

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