

‘ADMINISTERING THE SUMMIT’: THE CASE OF KAZAKHSTAN

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1. Introduction

Kazakhstan was formed as an autonomous Republic within the Russian Federation in August 1920 and became a Republic of the Soviet Union in 1936. In 1989 Nursultan Nazarbayev became head of the Communist Party of Kazakhstan. The Supreme Soviet elected Nazarbayev first Kazakh president in 1990 and declared state sovereignty. In December 1991 Nazarbayev won uncontested presidential elections (98% of the vote) and Kazakhstan declared its independence from the Soviet Union and joined the Commonwealth of Independent States (CIS). In 1995 the President's term of office was extended until 2000 at a nation-wide referendum and in January 1999, in an early election, he was returned for a seven year term by almost 80% of voters. The most recent Presidential elections were held in December 2005 when Nazarbayev won a third term with more than 90% of the vote. The people of Kazakhstan have to live with the aftermath of Soviet-era nuclear testing and toxic waste dumping. President Nazarbayev got rid of the nuclear weapons on Kazakh territory and sees his greatest achievement as building an independent country without violence or a split along ethnic or religious lines. He has also led a period of significant financial and economic reforms (Foreign and Commonwealth Office, 2007).

Following independence, Kazakhstan engaged in a programme of economic reforms where prices were liberalized, trade distortions reduced, and small/medium-scale enterprises (SMEs) privatised. The treasury and budget processes were dramatically improved. More recently, a framework for public resource management was introduced which lays the foundation for a modern civil service. The creation of a National Fund (in 2000) to save part of the revenues from oil and other extractive industries has been used to increase social spending and share the benefits of economic growth. Since 2000 the economy has shown significant signs of improvement with GDP annual growth in 2006 at 10.6% (World Bank, 2006). The government is attempting to promote economic diversification and growth in the non-oil sector. Diversification into labour-intensive sectors is necessary for growth in employment and incomes, as well as to reduce the economy's vulnerability to swings in the price of oil.

It is against this political and economic background that we consider politico-administrative patterns in Kazakhstan by examining the actors, structures and processes supporting the administration of the Office of President of Kazakhstan.

2. Background: Presidential Republic

Kazakhstan is a presidential republic initially modeled on the Constitution of the French Republic (1958) in which the principal roles of the President are defined as follows: the President of the (French) Republic shall see that the Constitution is observed. He (*sic*) shall ensure, by his arbitration, the proper functioning of the public authorities and the continuity of the State. He shall be the guarantor of national independence, territorial integrity and observance of treaties (French Constitution, 4th October, 1958: article 5).

Heywood (1997) defines presidential government in the following way. A presidential system of government is characterised by a constitutional and political separation of powers between the legislative and executive branches of government. Executive power is thus vested in an independently elected president who is not directly accountable to or removable by the assembly.

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The principal features of a presidential system of government are the following:

- The executive and the legislature are separately elected, and each is invested with a range of independent constitutional powers.
- The roles of head of state and head of government (the chief executive) are combined in the office of the presidency.
- Executive authority is concentrated in the hands of the president; the cabinet and ministers being merely advisers responsible to the president.
- There is a formal separation of the personnel of the legislative and the executive branches
- Electoral terms are fixed. The president can neither 'dissolve' the legislature nor be dismissed by it (except through impeachment).

Unlike other CIS countries, Kazakhstan favoured a presidential system of government as a necessary response to the economic and political crises which accompanied the collapse of the USSR. A presidential system provided the authority and leadership to tackle economic reforms as a priority and with urgency needed to address the Soviet legacy. It was seen as a pragmatic approach to a crisis which demanded immediate and decisive actions. A limited process of change in the system of government had begun before independence with modifications to the Constitution of Kazakhstan Soviet Socialist Republic proposed by the *Supreme Soviet* (the Soviet Union's standing parliament). A law entitled 'About the Establishment of the Post of President' (April 1990) was intended to pave the way for the national election of a President but the *Supreme Soviet* proved slow and ineffective in making the necessary transformation. The *Declaration on State Independence of the Republic of Kazakhstan* in 1991 was a legal, political and ideological turning point in the history of Kazakhstan and established the status of the President as head of state and the supreme executive and administrative authority (Ertysbaev, 2001). The presidential elections followed in the same year. Such was the potential for an imminent national crisis that little attention was paid to the formal separation of powers between the legislature, executive and judiciary, and associated checks and balances. Executive power dominated through an independently elected President. In the period immediately following the elections, the old state structure of the Kazakh Soviet Socialist Republic remained, with the Soviet-communist system of councils in place. It quickly became clear that there was a need for change, in particular a new constitution was required.

A group of international and local legal experts worked on a draft constitution aimed at incorporating broad democratic principles, whilst recognising the political and economic realities of Kazakhstan at that time. This included the need to replace the old Soviet-era parliament, an unwieldy part-time institution which met in full session only twice a year and lacked experience as effective legislators. The whole Communist system of 'representative' bodies from the federal to the local levels required radical reform and had become an obstacle to progress. Proposals for reform encountered resistance from some deputies but in December 1993 a majority voted to disband themselves, dissolve all the local councils or soviets and hand over management of the regions to local executive authorities. In the same year the first *Constitution of Sovereign Kazakhstan* was adopted which promoted the formal separation of powers, with the President setting national policy priorities. The executive and judicial bodies were defined for the first time as independent branches of government and the *Supreme Commission* established as the representative legislative body of the Republic of Kazakhstan. The first elections took place to a single chamber parliament in March 1994 with about 700 people from various political parties or social movements competing for 135 seats and an additional 42 seats elected directly from the regions (two from each region). However, Kazakhstan's first parliament also appeared unable to react quickly to unfolding events best characterised by contradictions between an emerging period of liberal free-market reforms and the legacies of a command style economy.

Faced with opposition surrounding the pace and extent of economic reforms, work began, with assistance of international experts from UK, France and the USA, on the creation of a new constitution aimed at creating the foundations for a strong, independent state. The form of governance was deliberately presidential, although an important role was also given to a new bicameral parliament. The new Constitution of the Republic of Kazakhstan was approved through a national referendum in August 1995 and paved the way for parliamentary elections. Parliament was defined as the supreme representative body

with responsibility for legislative functions. The lower house of parliament or Majilis comprised (at that point) 67 directly elected members and the upper house or Senate, 47 senators³. New constitutional laws were adopted to firmly embed the presidential republic and the respective roles of its key stakeholders: *About the President of the Republic of Kazakhstan*; *About the Parliament of the Republic of Kazakhstan*; and *About the Government of the Republic of Kazakhstan* (1995). The President as Head of State appoints the Prime Minister (currently Karim Massimov since January 2007) with the approval of Parliament. The President also has the right to appoint 7 members of the Senate. Executive power is therefore represented by the President who forms the government and names regional akims (governors).

In order to limit presidential powers and exercise 'checks and balances', the President does not have the automatic right to initiate legislation. Parliament could award him special law-making powers for up to one year by a two-thirds majority at a joint session. Another safeguard was that the President could be impeached by a three-quarters majority of a joint session of Parliament. In addition, local councils or Maslikhats have the right to stage a no confidence vote (two-thirds required) in any executive head whether at the district, town or regional level. In such cases, the President must automatically remove the official from his or her post. Further controls are available through the strict separation of powers between the legislature, executive and judiciary whereby if any of them infringe the constitution they can be held to account for their actions. The new constitution also established a six-member Constitutional Council, replacing the old Constitutional Court, with two members appointed by the President, and two each from the Majilis and Senate. This allowed the Council to be above politics, independent and free from outside pressure. In short, the new Constitution of the Republic of Kazakhstan (1995) has cemented the transition to the presidential system, and strengthened the Executive's authority at a time when strong leadership was needed to achieve economic reforms and movement to a market economy.

3. Stages of development

The period of 1991 – 1995, from independence until the adoption of new Constitution, can therefore be characterized as the first stage in the formation of Kazakhstan's statehood. Tentative steps were taken towards political pluralism and minor democratic changes emerged. The overriding emphasis was to tackle economic recession and build a solid foundation for recovery by exploiting the country's considerable mineral wealth. During this period, power and authority was concentrated in the hands of the President and executive authorities. The reason for such an approach was that political development and reform could not take place without a stable economy and good inter-ethnic relations – the so called 'first economy, and then politics' era. President Nazarbayev argued that evidence has shown only when gross domestic product per capita is greater than US\$6,000 can democracy become viable. Kazakhstan is fast approaching this level – in 2006 its GDP per capita was US\$ 5,083 and forecast to be US\$ 6,500 in 2007 (Nazarbayev, 2007a).

The second stage in Kazakhstan's development was the period of 1995 – 2000 which witnessed not only significant economic transformation but also political improvements. The new Constitution provided for a democratic, secular state and a presidential system of government. During this period the socio-economic strategy document *Kazakhstan 2030: Prosperity, Security and Improvement of Welfare for Kazakhstan Citizens* was launched (1997) and became the template or master plan for progress towards a market economy. With an improving economy and political stability, international investors provided capital for the development of local industry resulting in an emerging middle class. An environment was evolving conducive to political pluralism, regular elections, a growing civil society and some diversity in the mass media.

The most recent phase in the country's development from 2001 onwards has consolidated Kazakhstan's strong economic performance as a regional leader – GDP is expected to double between 2000 and 2008.

³ At present the Senate has 39 members made up of two elected representatives from each of Kazakhstan's 14 regions, and cities of Astana and Almaty. Representatives serve terms of two, four or six years. The remaining seven members are appointed directly by the President from the choice of prominent public figures, academics etc. The Majilis is a 77 directly elected member body (10 seats on party lists) and the deputies serve for a term of five years.

With the economy performing well, attention shifted to democratic reform aimed at improving public services, increased accountability, and transparency of executive bodies. A State Commission for the 'Development of Democratic Reforms' was established in March 2006 under the chair of the President and committed itself to a political reform agenda, the objectives of which were:

- To make the liberal and democratic reforms in Kazakhstan systematic and irreversible by mobilizing the efforts of the Government and civil society institutions.
- To ensure that the majority of the population embraces and adopts democratic traditions with a view to establishing a society of a 'consolidated democracy', and to strengthen the social base of the reforms.
- To achieve political reforms that represent a compromise among all the forces of society who have joined together to meet the challenges facing them (Abdykarimov, 2006).

To date the State Commission has implemented a number of initiatives to enhance the political process in Kazakhstan: one third of the governors are elected in districts and regional centres instead of being appointed; a strategic framework for the development of civil society (covering the period of 2006 – 2011) has been formulated and approved; and the Commission has made a significant contribution to drafting the law on local self-government. Importantly, the State Commission prepared constitutional proposals on further political development. These included ideas to strengthen the authority of Parliament and other representative bodies, the promotion of local self-government, strengthening judicial and law-enforcement systems, developing civil society and political parties, and amending the Constitution in order to provide a legal base for effective democratisation.

4. The Presidential Office

The separation of powers under the 1995 Constitution, with the strengthening the presidential system, demanded a more enhanced Presidential Office to deal with the different branches of government in the implementation of a unified state policy. As a consequence, the *Administration of the President of Kazakhstan* was formed in October 1995, a state authority directly subordinated and accountable to the President. The principal functions of the Office are to:

- Develop and implement social and economic strategic policies for the development of Kazakhstan. Constantly review ways in which social and economic reforms can be updated to improve the quality of life for the citizens of Kazakhstan.
- Support the activities of the President as Head of State by implementing his decisions and ensuring effective outcomes. The Administration also briefs him about current local and world affairs.
- Provide support to advisory and consultative authorities under the Head of State such as: the Security Council; Council of Foreign Investors; Council on Legal Policies; National Fund Council; the Supreme Judicial Council of Kazakhstan; National Council; Social Council on Mass-Media; and the Entrepreneurs' Council.
- Prepare the annual message of the President to the people of Kazakhstan on the current situation in the country, its internal and foreign policies, and future social and economic prospects.

These are significant tasks and require a sizable workforce. The current Administration of the President derives its authority from an updated presidential decree (Decree of the President of the Republic of Kazakhstan, 31st March 2004, No. 1327). There are 376 staff in post, 74 of whom are political appointees and the remainder administrative state posts. The Administration has a complex structure including various departments, centres and councils (Majlybaev, 2001). There are 3 key personnel in the Administration of the President – the State Secretary, Head of Administration, and Security Council Secretary.

The **State Secretary** (currently Kanat Belmurzaevich Saudabayev) is appointed (and discharged) from the post by the President. He provides policy advice to the President on social and regional development and their implementation. He represents the President in any communications with state institutions, political

parties and other public bodies or associations. He also coordinates the activities of consultative bodies under the Head of State such as: the National Council, Assembly of the People of Kazakhstan, Human Rights Commission, and the Committee on Corruption, and Public Service Ethics. He oversees the implementation of Presidential acts and orders.

The **Head of the Administration** (currently Adilbek Ryskeldinovich Dzhaksybekov) coordinates the work of the assistants and advisers to the Head of State and recommends the appointment of officials within the Administration to the President. He also oversees contacts between the Administration and Parliament, the Government and Prime Minister's Office, ministries, the Constitutional Council, Supreme Court and other central executive bodies. He submits laws adopted by Parliament, draft decrees, orders and other documents to the President for consideration and his signature. Of particular note, the **Office of the President** (or Chancellery of the President) resides within a division overseen by the Head of the Administration. This Office offers administrative and research support to the President, including arranging his daily operational schedule and civic events involving his participation. The Office is also monitoring the activities of state bodies or public officials who are responsible for implementation of political decisions.

The **Security Council Secretary** (currently Berik Mazhitovich Imashev) is responsible for the performance of the Security Council whose key roles are: to guard the national interests, highlight threats to national safety, and agree ways of protecting the national security of Kazakhstan. The Council ensures the protection of national sovereignty, independence and the territorial integrity of the state. It is also charged with maintaining social and political stability and guaranteeing the constitutional rights and freedoms of the citizens of Kazakhstan. The President is the Chairman of the Security Council. An important subdivision of the Security Council is the Situational Centre which advises the Head of State through information and analysis on local and world events and their potential impact on the internal and foreign policies of Kazakhstan.

The Administration of the President operates within a triad also involving the Cabinet of Ministers and the Security Council. Ministers exercise considerable autonomy over social and economic matters and hence are influential in the policy making process. The Security Council, chaired by the President, has more recently emerged as an organisation monitoring the state machinery and purging corrupt officials. Whilst the Administration of the President, Council of Ministers and Security Council represent the key formal actors in 'administering the summit', there are signs that their role in policy making and 'speaking the truth to power' is being becoming less exclusive (Guy Peters, Rhodes and Wright, 2000). The importance of the role played by the State Commission on the Development of Democratic Reforms is a case in point. Given the centrality of this Commission to the future political reform agenda of Kazakhstan, it might have been expected to have drawn on established elites. In fact, whilst chaired by the President, its membership comprised speakers from both chambers of Parliament, leaders of registered political parties and public associations, members of parliament, government representatives and public figures. The Commission undertook its work in a widely consultative way arriving at a public consensus on the political modernisation agenda. The Secretary of State, Mr. Abdykarimov (2006), described the process as 'leading the national dialogue on the problem of reforming our country's political system'. Amendments to Kazakhstan's constitution were required to implement the fundamental nature of the reforms emanating from the Commission.

To take forward the work of the Commission, an *ad hoc* working group chaired by the President was set up to consider the significant democratic reforms proposed. These included decentralisation and the development of local self-governance, more widespread application of the principle of election such as in top local government posts, granting greater powers to Parliament and local representative bodies, more active participation of the political parties, development of civil society institutions, and combating corruption. Here again the diversity of this working group signaled a shift in elite decision making. It comprised government officials, members of parliament, scientists, and legal experts in constitutional law. The significance of this group was outlined by the President when he said that the task of the *ad hoc* group was 'to study and summarise suggestions made by the State Commission, weigh their legal merits and

clearly formulate amendments to the country's Constitution. The quality of your work will largely determine the success of political transformations in Kazakhstan' (Nazarbayev, 2007b).

The formal structures and processes of 'administering the summit' do not of course reflect the existence of a political elite in Kazakhstan which, like other post-Soviet countries tends to be personalised. Political elitism is compounded by the fact that Kazakh opposition parties are in disarray and fractured, offering no real alternative to the voting public. The President's policy has allowed him to continuously increase his popularity by providing substantial increases in pension benefits and civil service salaries. In the President's annual address (28th February 2007) he announced a doubling of childcare benefits and raised the basic pension, increasing its level to 40% of the minimum cost of living. From January 2007 salaries of civil and public servants have increased by 30%. The changes suggested under the Constitution could be seen as part of the preparations for further political reforms. The President has said 'it's time we laid a legal basis to ensure the success of the liberal reforms that we have begun, to switch to a new balance of state and public interests, a new system of checks and balances' (Nazarbayev, 2007c).

5. From Presidential to Presidential-Parliamentary Republic?

In May 2007 the two chambers of Parliament unanimously endorsed the proposals emerging from the State Commission on Democratic Reforms, its *ad hoc* working group, and the associated amendments to Kazakhstan's Constitution. The changes were signed into law by President Nazarbayev. Therein the State Commission supported the preservation of the presidential form of government but backed a redistribution of powers and responsibilities in favour of an enhanced role for Parliament. These changes imply a shift from a 'presidential' to a 'presidential-parliamentary' republic by increasing the legislature's role. Importantly, the amended Constitution places a two-term limit on presidents with each term being reduced from seven years to five. President Nazarbayev is exempt from this change 'in recognition of the historic role the first president has played in the establishment of our state, as one of the founders of our new independent Kazakhstan' (Zhumabayev, 2007). In effect, this permits Nazarbayev to be re-elected – his current tenure is due to end in 2012. The President will, under the changes, need to seek Parliament's endorsement for his choice of Prime Minister. The role of the courts is enhanced. The package also increased the number of members in Parliament and provided for more seats in the lower house (Majilis) to be filled according to the proportion of votes won by political parties⁴. The Deputies will also have a greater say in picking regional governors (akims) who will see their terms reduced from five to four years. Constitutional changes increase the role of the Assembly of the People, a unique instrument to preserve the religious and ethnic peace and mutual tolerance of Kazakhstan's multi-ethnic and multi-confessional society. See structure of government following the constitutional reforms (appendix 1).

Opposition parties question whether the reforms represent a real shift in power. Strengthening Parliament poses little risk to the President and could be a way of retaining political influence after he steps down, according to his critics. Supporters of the constitutional reforms could refute this criticism and argue that both chambers of parliament have been strengthened in an evolutionary process to a presidential-parliamentary form of governance. Given that there was no nation state until 15 years ago and no tradition of formal democracy until 1992, Kazakhstan is undergoing significant modernization. Advocates argue, the retention of a strong centralised power base in the President is necessary for Kazakhstan at this stage in the democratization process. They point to comparisons with neighbouring Kyrgyzstan and other Central Asian Republics and the Ukraine and Georgia to illustrate the point.

In an effort to legitimize the constitutional changes and following proposals by some members of Parliament, the President called for an early dissolution of Parliament ahead of the official end of its legislative term in 2009 and elections took place in on 18th August 2007. Party candidates were voted in via a system of proportional representation with 98 Majilis seats to be shared out by those parties which could win more than 7% of votes. The remaining nine seats were reserved for representatives of the Assembly of the People of Kazakhstan. The outcome of the elections was perhaps predictable. The People's Democratic

⁴ The number of deputies of the Parliament will be increased to 154 people. This includes an increase by 30 of Majilis representatives and 8 new senators.

party Nur-Otan won a landslide 88% of the vote in the parliamentary elections, leaving the opposition with no seats. Neither the Social Democratic Party or its moderate rival Ak-Zhol surpassed a 7% threshold for gaining seats, with 4.6% and 3.3% of the votes respectively (the Kazak opposition had previously held a single seat in Parliament). Nur Otan holds all 98 seats which were up for election. The OSCE report on the elections ‘welcomed progress’ over previous elections, while saying ‘a number of international standards were not met’. Consiglio Di Nino, a Canadian senator who led the OSCE’s monitoring team commented: ‘notwithstanding the concerns contained in the OSCE report, I believe that these elections continue to move Kazakhstan forward in its evolution towards a democratic country’ (Di Nino, 2007).

Have the constitutional reforms and parliamentary elections significantly altered the power base of the President? Critics will now argue that the elimination of all opposition forces from the lower chamber has subverted the improvements to increase Parliament’s power in the amended constitution. One key element of the reforms was the right granted to the lower house to have greater oversight in the selection of the Prime Minister. The President will continue to pick the Prime Minister, subject to parliamentary approval, but the new rules require the Head of State to first consult the parliamentary faction leaders. The lower house now has greater budgetary oversight. The Prime Minister is obliged to report on budgetary implementation to the chamber, and a vote against the budget would be tantamount to a vote of no confidence in the government. This is highly unlikely in a parliament comprising the president’s supporters. This analysis has been rejected on the grounds that Kazakhstan will develop in its own way in accordance with ‘the Kazakhstan way of political transition. One of the features of our way is the preservation of the presidential form of government, phased introduction of reforms, balance in decisions, and national dialogue among and between the main political forces’ (Nazarbayev, 2007c).

One way of trying to capture whether such constitutional changes do in fact represent a significant shift in governance arrangements in Kazakhstan is by considering data collected by the World Bank. ‘Worldwide governance indicators’ report aggregate and individual governance indicators for 212 countries along six dimensions of governance: voice and accountability; political stability and the absence of violence; government effectiveness; regulatory quality; rule of law; and control of corruption (Kaufmann, Kraay and Mastruzzi, 2007). The aggregate indicators combine the views of a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. The individual data underlying the aggregate indicators are drawn from a diverse variety of survey institutes, think tanks, non-government organisations, and international organisations. We consider the indicator ‘voice and accountability’ here. Voice and accountability measures the extent to which countries’ citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media. Drawing on the most recent data (2006) we present voice and accountability measures for Kazakhstan’s government by comparison to its nearest CIS neighbours: Russia, Kyrgyzstan, Tajikistan, Uzbekistan and Turkmenistan.

Figure 1: Voice and Accountability

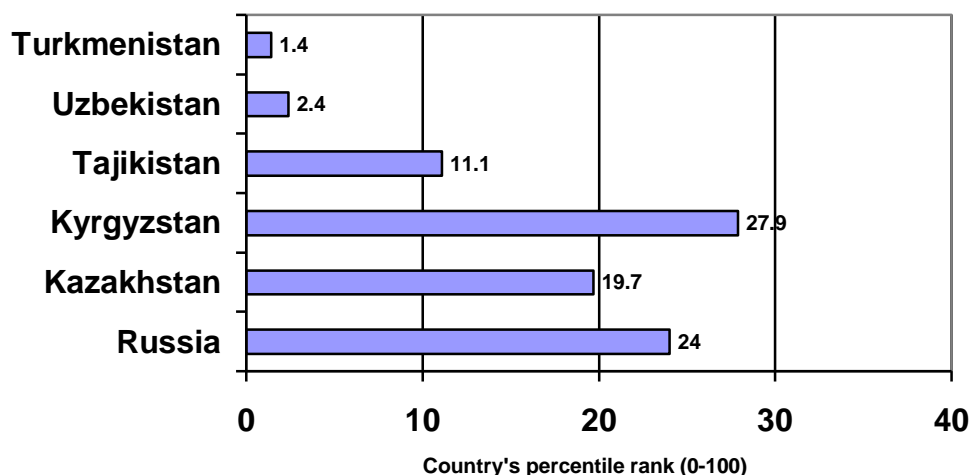


Figure 1 shows the percentile rank of each of the six selected CIS countries measured in terms of one dimension of governance as defined by the World Bank, that of ‘voice and accountability’. Percentile rank indicates the percentage of countries worldwide that rate below these countries. Higher values indicate better voice and accountability arrangements. The more important observation here is the relative position of Kazakhstan to its nearest CIS neighbours which ranks third (19.7) after Kyrgyzstan and Russia at 27.9 and 24 respectively. Hence the government’s record on voice and accountability exemplifies the strength of a centralised presidential or presidential parliamentary republic. Tracking changes to these data following the 2007 constitutional reforms in Kazakhstan should allow an assessment of their impact.

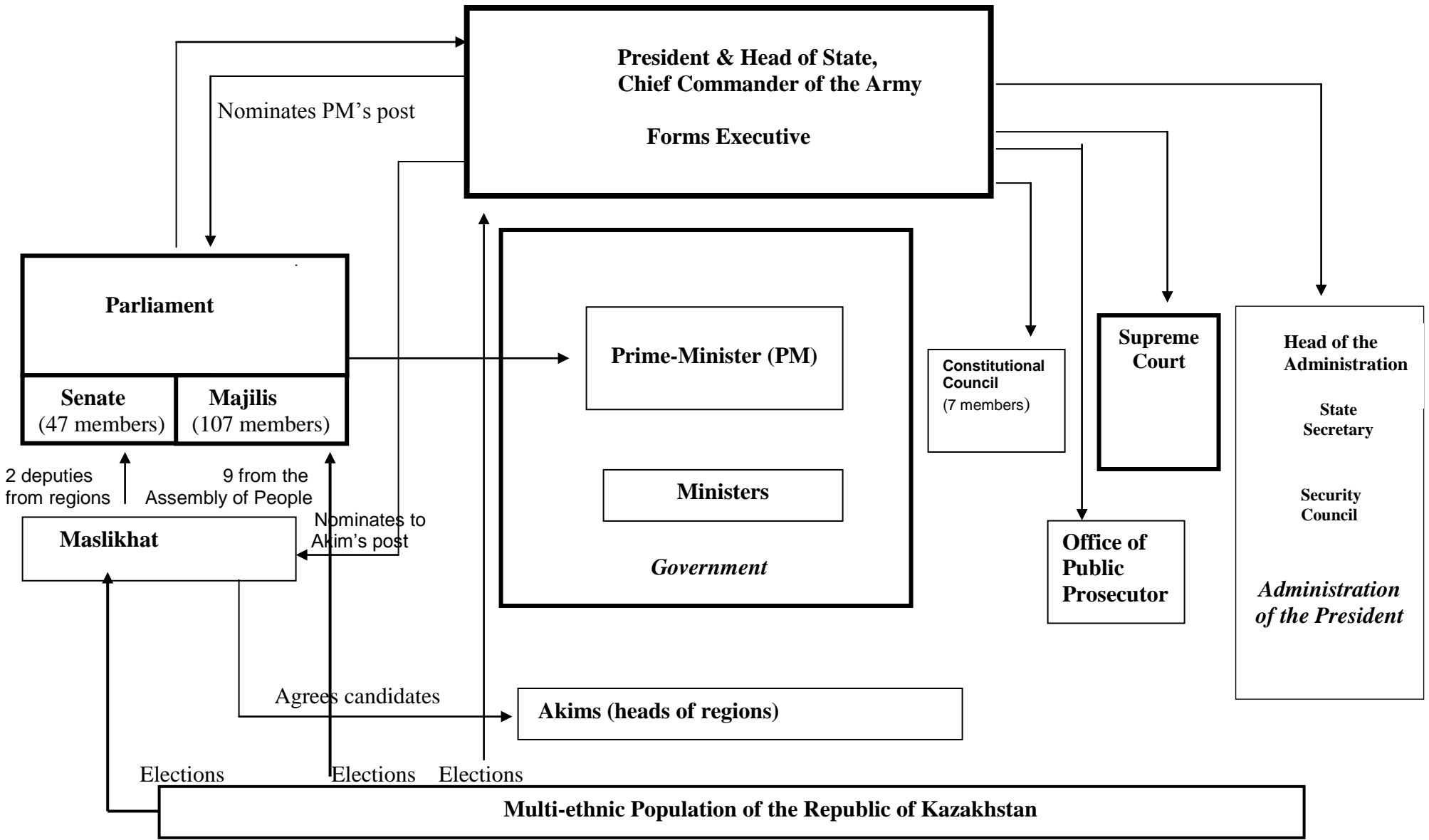
6. Conclusions

Kazakhstan has drawn comparisons between its form of governance as a Presidential Republic and that of France’s Fifth French Republic. In Kazakhstan power is concentrated in an executive presidency. The Prime Minister and the Council of Ministers were appointed by the President. He must now seek parliamentary approval for his choices. The 1995 constitution gave the President wide powers, such as the ability to dissolve the two-chamber parliament if the president’s nominee for prime minister was rejected twice, or a vote of no-confidence was held. Moreover, only the President could initiate constitutional amendments, call referenda at his discretion, and appoint administrative heads of regions. Amendments to the Constitution in 2007 sought to alter the balance of power in favour of a stronger legislature. In France it has been argued that presidential power varies according to political circumstance and the personality of the head of state. It is acknowledged that the French president is a major political actor but ‘dependent on the parliamentary majority for political authority and on the prime minister for general administrative support’ (Elgie, 2000: 242). In Kazakhstan with a very weak political opposition base, power remains highly concentrated at the centre. The Administration of the President, Cabinet of Ministers and the Security Council are the key power agents. Kazakhstan has come a long way since independence in 1991. Its significant economic success and rise in living standards owes much to the strong leadership of the President. Whether the political reform agenda is sufficient to satisfy the aims of the Strategy-2030 and the demands of the international community remains to be seen.

APPENDIX 1
STRUCTURE OF GOVERNMENT IN KAZAKHSTAN

**System of government in the Republic of Kazakhstan, according to the renewed Constitution
(Law of Republic of Kazakhstan, 25th May 2007, N254-III)**

Kazakhstan is unitary state with the presidential form of board



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