

CONSTITUTIONALISM IN THE REPUBLIC OF UZBEKISTAN

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ABSTRACT

National and foreign experience (internal and external experience) of formation and development of constitutionalism, the history of the adoption of constitutions in Uzbekistan, the role and importance of the country's Basic law in the development of the national-state and law, and the comparative observation of the norms and provisions of the Basic Law of the Republic with foreign analogies are discussed and the experience of constitutionalism in the US, Great Britain, France is examined in this article.

KEYWORDS:- Constitutionalism, Constitution, Comparative Law, Comparativist, Declaration, Sovereignty, Statehood, Law, Legal System, Democracy, State Symbols, Parity, Governmental Body.

INTRODUCTION

As world's practice shows, the fundamental condition for the formation and development of an independent democratic State of law is that of the Constitution. Uzbekistan's independence has come up with the need for the Constitution of the Republic.

But before the Republic of Uzbekistan became independent, at a certain stage of

development, when it was part of the USSR, there were a number of constitutions of our Republic (e.g. the First Constitution of the Uzbek SSR was adopted on 30/31 March 1927 at the 2nd general uzbek congress of the Soviets, published on 11 July 1927, and was in effect 10 years.

The new Constitution of the Uzbek Soviet Union, adopted on 14 February 1937, has been in force for over 40 years. On 19 April 1978, the

USSR Constitution was adopted, which was modelled on the 1977 Constitution of the USSR) [27].

The establishment of a true guide for the democratic development of Uzbekistan began only at the end of the 1980s. The need for a new Constitution was stated at the II session of the **Supreme Council of the Uzbekistan SSR**, held on 20 June 1990, which adopted the Declaration on Sovereignty. The session adopted a decision establishing a constitutional drafting commission of 64, headed by the First President of Uzbekistan, Islam Karimov. The commission was composed of the members of the Supreme Council, representatives of Karakalpakstan and regions, scientists and specialists.

With our country's independence in 1991, it was a natural matter of drafting and adopting a full Constitution in accordance with the aims and objectives of building a new statehood and democratic reconstruction of society [28].

It should be noted that the establishment of genuine constitutionalism in Uzbekistan should not be linked solely to the adoption of

the Basic Law in 1992. Indeed, as we have said, this process began before the Republic's actual independence – already at the first session of the Supreme Council of Uzbekistan's XII convening in March 1990, the deputies raised the issue of drafting a new constitution. At the second session, on 20 June 1990, the **“Declaration on Independence”** was adopted and the Constitutional Commission was established. The adoption of this document has led to profound changes in the political life of Uzbekistan and in the organization of State authority. Since then, the range of issues that require a complete and holistic constitutional and legal solution has begun to grow considerably.

The need for a new basic law was conscious of the vast majority of Uzbekistan's population. The concept and content of constitutional reform have been constantly discussed in the media, in parliamentary meetings and in scientific discussions. The nature and provisions of the draft new Constitution, the discussion by the general public was held with the participation of the self-government bodies of citizens, labor groups and

professionals, through lawyers, economists, political scientists.

The first meeting of the Constitutional Commission took place on 21 April 1991. At the meeting, a working group for the development of the project and subsidiary (small) groups were created, and the work plan of the commission was approved. When developing the draft basic law, the commission relied on the fundamental international legal acts, the constitutional laws of developed democratic countries, as well as the historical experience of our people.

Meanwhile, on August 31, 1991, the inalienable right of the Uzbek people - the right to self-determination, was realized, as a result of which the republic gained the state independence by peaceful and parliamentary means.

On 2 July 1992, Oliy Kengash had already considered the draft basic law before the Constitutional Commission and decided to bring it to public discussion. Thus, in addition to public opinion, the draft constitution also has been examined by specialists from

developed countries and international organizations. Foreign experts noted the democracy and humanity of the draft project that enshrined fundamental human values and democratic principles in accordance with international norms and standards [29].

The draft was published in the media by a decision of the Constitutional Commission of 26 September 1992 for further public discussion. About the duration of two and a half months, the document was processed on the basis of comments and suggestions made by citizens of the Republic and was republished on 21 November of the same year. Thus, the actual public debate of the draft went through two stages, which was the first such precedent in the history of the world, and the entire people of Uzbekistan became its creators.

In total, over 6,000 proposals and recommendations were made by citizens during public discussions on the draft of the constitution. The letters noted the concise and clarity of the text of the document, its language, and at the same time provided valuable

improvements. As a result, more than 60 articles of the draft were further elaborated and clarified, 4 were deleted from the original version and several new articles were inserted. Following an active discussion of the draft (some 80 changes, additions and clarifications were made by deputies) on 8 December 1992, the Constitution of the Republic of Uzbekistan was adopted at the eleventh session of the Supreme Council on 8 December 1992 [29].

The fundamental law of our independent State has established the basic principles and norms of international law arising from the Charter of the United Nations, the Universal Declaration of Human Rights of 1948, the International Covenants on Human Rights. The priority of universally accepted rules of international law over domestic law is attached.

The democratic nature of the Constitution is clearly understood in its contents. The structure of the fundamental document - the sequence and content of sections - reflects the constitutional priorities of State and public construction.

Although the preamble does not contain legal

provisions, it is essential to understand both the general Constitution and its individual articles, since it is the introductory part that sets out the basic ideas which define the essence and purpose of the Basic Law, from which it is content follows.

Stage Development of Constitutionalism in the Republic of Uzbekistan

Each State has its own Constitution and, on this basis, its own constitutional structure. The great statesman Amir Temur's "The Code of Temur" is characterized by the constitutional instrument of the Asian civilization. They have had a strong impact on the peoples of Asia, in particular our region.

If we turn to the complex, extremely important historical chronicle of the creation of the Constitution of the Republic of Uzbekistan, undoubtedly, one can be convinced that the Constitution is the logical result of the movement of our people on the path to independence. Almost three thousand years of experience of national statehood was taken into account while creating the Basic Law.

As the President of our country Shavkat

Mirziyoyev noted, the history of modern Uzbekistan is the history of an extremely difficult and the hard struggle of our people, led by Islam Karimov, for gaining true independence. Our great leader was the main author of the Constitution of the Republic of Uzbekistan, which fully matches with democratic requirements and international criteria [30]. **The first legal step** towards constitutional independence was the granting of official State's language status to Uzbek language.

On October 21 of the same year, the Law "On the State Language" was adopted and published in the press. The important legal provisions enshrined in it were later defined in Article 4 of the Constitution as follows: "The state language of the Republic of Uzbekistan shall be Uzbek. The Republic of Uzbekistan shall ensure a respectful attitude toward the languages, customs and traditions of all nationalities and ethnic groups living on its territory, and the creation of the conditions for their development" [30]

The second legal step towards constitutional

independence is associated with the establishment of the institution of the Presidency. This very important historical event in the life of our country took place on March 24, 1990. Even before the declaration of independence, at the first session of the Supreme Soviet of the twelfth convocation, a decision was made to establish the post of President. At this session, Islam Karimov was elected the first President of Uzbekistan.

The idea of creating the first Constitution of independent Uzbekistan was first put forward at this session. The establishment of the institute of the Presidency is a real example of political and spiritual courage on the way to gaining state sovereignty and independence of Uzbekistan. This is also evident from the fact that the first presidency in the former Union was established in our country.

The third important step towards constitutional independence was the establishment of the Constitutional Monitoring Commission. The bill on amendments and additions to the Constitution adopted at the same session also provided for the

establishment of the commission. The attention of the members was emphasized that this highest public body would ensure a balance between the President of the State. Thus, the foundation of another institution, which is in force today, the Constitutional Court of the Republic of Uzbekistan, was established.

The fourth legal step towards constitutional independence was the adoption of State symbols, the establishment of the State flag, the emblem, and anthem of the Republic of Uzbekistan.

This stage can be characterized by the adoption of state symbols, the creation of the State flag, emblem and anthem of the Republic of Uzbekistan.

The adoption of the Constitution, the establishment of the office of the President, the announcement of the name of the state, the adoption of official state symbols, the presence of its own currency, capital, language, territory, citizenship, national holidays testified to the appearance on the world map of a new state called "The Republic of Uzbekistan".

The fifth legal step towards constitutional independence was the announcement of the Declaration of Independence. Article 8 of the Declaration, announced by the Supreme Council of Uzbekistan on June 20, 1990, stipulates that Uzbekistan independently determines its path of development, its name. In the article 12 of the Declaration, it is noted that this document is the basis for the development of a new Constitution.

The sixth legal step towards constitutional independence is the formation of the Constitutional Commission. In accordance with the decision of the Supreme Council on June 21, 1990, a Constitutional Commission was created under the chairmanship of Islam Karimov, uniting 64 members - statesmen, deputies, specialists. This commission prepared a draft of the new Constitution during two years. In this historical process, the First President of our country showed himself as an outstanding statesman and public figure, a talented political leader.

The next legal step on the way to constitutional independence was the

declaration of state independence. The words of the First President of our country on August 31, 1991 at the extraordinary sixth session of the Supreme Council of the Republic of Uzbekistan of the twelfth convocation are imprinted forever in golden letters in the history of our Motherland: **"I propose to declare September 1 as Independence Day, a day of national holiday."**

CONCLUSION

In August 1991, the Supreme Council of the country adopted the Declaration on the State Independence of the Republic of Uzbekistan. It noted that from now on in our territory the Constitution of the Republic and its laws have undoubted superiority. On the same day, the Constitutional Law "On the Foundations of State Independence of the Republic of Uzbekistan" was adopted.

On December 29, 1991, a nationwide presidential election and a referendum on state independence were held. Our people voted for independence and elected their President on an alternative basis.

On January 4, 1992, the ninth session of the

Supreme Council was held, on the outcome of the of the elections and the referendum. At this session, the inauguration ceremony of Islam Karimov took place as President of the Republic of Uzbekistan.

On September 8, 1992, the Constitutional Commission made a decision to publish the draft Basic Law for public discussion. The first draft of the new Constitution was ready on September 26, 1992 and published in the press on the same day.

After the publication of the draft, its discussion took on a nationwide character. Open discussions were held with the active participation of citizens, in the spirit of creative enthusiasm. Amendments were made to the draft Constitution, and on the basis of the proposals received, the document was finalized. To continue the nationwide discussion, the draft Constitution was republished in the newspapers on November 21, 1992.

Thus, there was a legal precedent, two-stage public debate. This, on the one hand, has played a powerful impetus to revitalize the

discussion, and on the other hand, it ensured the popular recognition of our Basic Law. The draft Constitution has passed a nationwide examination.

The Constitutional Commission was last discussed on 6 December 1992. The first President of our country at the session referred to it as “people's encyclopedia” and noted that it had lasted for about two years, and a public debate had been held over two and a half months and the document had been enriched by pearls of people's thought and improved.

The draft for discussion had about 80 changes and additions. It was discussed by parliament by article, and a number of changes were made and the Constitution was adopted on 8 December 1992. From that day on 8 December, the public holiday was declared.

The Constitution of Uzbekistan, adopted in 1992, enabled the societal priorities to be met during a critical transition period.

Firstly, its adoption has enabled the entire legal system to be upgraded and implemented: a qualitative change of legislation based on the

use of world experience while preserving traditions and continuity in its own development.

Secondly, the ideas set out in the Constitution have had a profound impact on the formation of new legal thinking and culture, the recognition of democratic values and attitudes in the public mind.

Thirdly, in the political and legal context, the document has become a legal, legitimate balance of the interests of all social sectors of society that underpin the will of the people.

Over the past 29 years since the adoption of the Basic Law in Uzbekistan, so to speak, State and public construction has been successfully completed. This is followed by an equally important period of the formation of democratic statehood - the improvement of the public administration system in accordance with the ever-increasing requirements of the time, changes in the way of life of society, political and socio-economic development. These factors necessitate improvement of the Constitution, as is currently being done.

REFERENCES

1. Adams, J. 1787-88. A Defence of the Constitutions of Government of the United States of America. 3 vols. London: Dilly.
2. Adams, J. 2000. Thoughts on Government. In J. Adams, The Revolutionary Writings of John
3. Adams. Ed. C.B. Thompson, 287-293. Indianapolis: Liberty Fund. (1st ed. 1776.)
4. Aristoteles. 1957. Politica. Ed. W.D. Ross. Oxford: Oxford University Press.
5. Harrington, J. 1977. The Commonwealth of Oceana. In J. Harrington, The Political Works of
6. James Harrington, Ed. J.G.A. Pocock, 1-266. Cambridge: Cambridge University Press. (1st ed. 1656.)
7. Livius, T. 1974. Ab urbe condita. Libri I-V. Ed. R.M. Ogilvie. Oxford: Oxford University Press.
8. Livius, T. 1919. Ab urbe condita. Libri VI-X. Ed. C.F. Walters and R.S. Conway. Oxford: Oxford University Press.
9. Machiavelli, N. 1531. Discorsi sopra la prima deca di Tito Livio. Rome: Antonio Blado.
10. Machiavelli, N. 1513. Il Principe. (First print edition 1532. Rome: Antonio Blado)
11. Milton, J. 1991. Political Writings. Ed. M. Dzelzainis. Cambridge: Cambridge University Press.
12. Montesquieu, C. de Secondat, baron de la Brede et de. 1748. De l'Esprit des lois. Geneva:
13. Barillot. Plato. 1902. Opera. Ed. I. Burnet. Oxford: Oxford University Press.
14. Plutarchus, L. Mestrius. 1949-1971. Vitae. Ed. C. Lindskog and K. Ziegler. Leipzig: Teubner.
15. Polybius. 1922. Historiae. Ed. W.R. Paton. Cambridge, Mass.: Harvard University Press.
16. Rousseau, J.-J. 1762. Du contrat social. Amsterdam: Marc Michel Rey.
17. Sallustius Crispus, C. 1931. Bellum Catilinae et Bellum Iugurthinum. Ed. J.C. Rolfe. Cambridge,
18. Mass.: Harvard University Press. Sellers, M. 1998. The Sacred Fire of Liberty: Republicanism, Liberalism, and the Law.

19. Basingstoke: Macmillan. Sellers, M. 2009. The Influence of Marcus Tullius Cicero on Modern Legal and Political Ideas.
20. Ciceroniana XIII: 245-80. Sellers, M. 2014. What is the Rule of Law and Why Is It So Important? In The Legal Doctrines of the Rule of Law and the Legal State. Ed. R. Silkenat, J.E. Hickey, Jr., and P.D. Barenboim.
21. Dordrecht: Springer. Sidney, A. 1698. Discourses Concerning Government. London: Booksellers of London and Westminster.
22. Tacitus, C. 1906. Annalium libri. Ed. C.D. Fisher. Oxford: Oxford University Press.
23. Tacitus, C. 1911. Historiarum libri. Ed. C.D. Fisher. Oxford: Oxford University Press.
24. Tullius Cicero, M. 1913. De officiis. Ed. W. Miller. Cambridge, Mass.: Harvard University
25. Tullius Cicero, M. 1928. De re publica et De legibus. Ed. C.W. Keyes. Cambridge, Mass.: Harvard University Press.
26. Harvard University Press.
27. <https://ru.wikipedia.org>
28. <https://constitution.uz/ru/pages/democracy>
29. Saidov A.Kh. Formation of the constitutional foundations of statehood in the Republic of Uzbekistan. T. 2017.
30. The Constitution of the Republic of Uzbekistan: <https://constitution.uz>