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Revolution Again in Kyrgyzstan: Forward to the Past?

Andrea Schmitz

Kyrgyzstan's presidential election and constitutional referendum on 10 January 2021 represent the provisional endpoint of a series of violent episodes that has gripped the country since October 2020. The victory of the populist Sadyr Japarov and approval for his plan to reintroduce a presidential system of government prepares the ground for a dismantling of democratic principles and rule of law, so that politically Kyrgyzstan is set to look more like its Central Asian neighbours. A new constitution is in preparation. The draft bears the portents of a neo-traditional roll-back that rebuffs a young generation demanding more democracy and rule of law, and has the potential to deeply polarise the nation.

The early election emerged out of a political crisis triggered by violent protests that toppled the government – for the third time after 2005 and 2010. The protests were sparked by vote-buying and other irregularities during the 4 October elections to the single-chamber parliament, the *Jogorku Kenesh*. Of the sixteen parties that stood for election only four passed the seven percent hurdle: *Birimdik* represents the political establishment backing (now former) President Sooronbai Jeenbekov (elected October 2017), while *Mekenim Kyrgyzstan* is widely believed to function as the political wing of organised crime. Two minor opposition parties also won seats.

Supporters of the defeated parties rallied to protest the irregularities documented during the campaign and demanded that the result be annulled. The Central Election

Commission quickly conceded, on 6 October declaring the vote invalid to “avoid tension” and announcing a rerun in November. By that point, however, such concessions could no longer appease the protesters: obviously, more was at stake than a new parliament. A social media campaign mobilised highly aggressive protests dominated by supporters of Sadyr Japarov – who since has been calling the shots in Bishkek.

The Government Falls

Japarov's political career began during the “tulip revolution” of 2005, which ended the rule of Askar Akayev and brought Kurmanbek Bakiyev to power. Bakiyev and his *Ak Jol* party combined a nationalist agenda with



an increasingly authoritarian style of government. In April 2010 he in turn was driven from office by mass protests. The significance of this second revolution was that it brought about a constitutional reform redistributing power between the president, prime minister and parliament and laid the groundwork for a parliamentary system. Japarov continued to promote the nationalist line, now as a member of parliament for the new *Ata-Jurt* party, which was founded as a vehicle for Bakiyev's supporters. He and associates did not shy from violent methods, storming the seat of the president and parliament in 2012 in an attempt to overthrow the government. Japarov avoided a prison sentence by fleeing abroad, but was detained in 2017 while attempting to re-enter the country and sentenced to eleven-and-a-half years imprisonment.

Japarov was still in a high-security prison in Bishkek when the vote was held on the 4 October 2020. As the post-election protests swelled, demonstrators stormed the prison on 5 October and freed Japarov along with a string of other political figures. While the others were soon back behind bars, Japarov's supporters installed him as leader within days. Faced with protesters threatening violence the prime minister resigned on 6 October and Japarov declared himself head of government by the "will of the people".

Parliament initially refused to back him, but relented after street fighting continued between Japarov's supporters and opponents, appointing him prime minister in an extraordinary session of parliament on 10 October. The legitimacy of the vote was contested, the decisive session being inquorate with fewer than half the members present. But the new leader moved fast, in particular appointing members of his network — many of them associates of former President Bakiyev — to key positions. The first cabinet meeting was held on 12 October; two days later parliament confirmed the self-appointed prime minister, this time with the required quorum.

Japarov had not yet reached his goal, however. His supporters continued to occupy

strategic locations in Bishkek and demanded the resignation of President Jeenbekov. Jeenbekov had indicated his willingness to step down, but initially insisted on an orderly succession. He was gone by 15 October, plainly under pressure from Japarov and his militant supporters. Kanat Isayev, as speaker of parliament Jeenbekov's constitutional interim successor, declined the opportunity. On 16 October parliament appointed Japarov instead, and the Supreme Court acquitted him of all outstanding charges. Japarov was now both prime minister and interim president.

Parliamentary Rubber Stamp

Japarov had always been clear that he intended to restore Kyrgyzstan's presidential system, prepare a new constitution and have it approved by referendum. But first new elections to the *Jogorku Kenesh* had to be held: Under pressure from Japarov's parliamentary associates they had been postponed again by the Central Election Commission — to 20 December — citing circumstances beyond its control. This was not the only instance of what Kyrgyz legal experts regard as unconstitutional transgression of parliamentary powers. An amendment to the Electoral Law rushed through by a majority of deputies on 22 October permitted the *Jogorku Kenesh* election to be postponed until summer 2021. The parliamentary vote was accompanied by gross procedural violations and probably also outright fraud. Postponing the election was crucial for Japarov, enabling him to mobilise support for a rapid constitutional amendment through strategic alliances in the existing *Jogorku Kenesh* and thus obviating the danger of a new parliament blocking his plans.

The Constitutional Chamber of the Supreme Court rejected a case brought by Kyrgyz activists seeking to challenge the parliament's decision on the basis of an *amicus curiae* brief that it itself had requested from the Venice Commission of the Council of Europe. Nor were protests and demonstra-

tions able to stop the roll-out of an obviously strategically planned transformation of the political system. On 17 November the parliament website published a draft proposal for a new constitution, which probably originates from still influential circles associated with former President Bakiyev; Talant Mamytov, who stepped in as acting head of state on 14 November to allow Japarov to stand in the presidential election, appointed an 89-member commission to finalise the text. At the same time the date was set for the presidential election and the parallel referendum in which the voters were to choose between a “presidential republic”, a “parliamentary republic” or “neither option” (the latter meaning to maintain the status quo). While experts were still arguing over whether it was legitimate to hold a referendum without giving the public opportunity to properly debate the proposal, parliament was again creating facts on the ground: A compliant majority rushed the required legislation through on 10 December.

Forward to the Past

Almost 80 percent of voters chose Japarov on 10 January, and even more backed a presidential system of government. Even if turnout was slightly less than 40 percent, the result is beyond doubt. The way is clear for the constitutional transformation desired by Japarov and his associates. While the proposal has yet to be finalised, and there will probably be another referendum to confirm it, it clearly introduces far-reaching changes. As would be expected in a presidential system the president heads the executive, and is permitted to serve two five-year terms (rather than previously one six-year term). The prime minister is – in a departure from the 2010 constitution – appointed by and answerable to the president. Parliament can remove the president only on grounds of grave misconduct or medical incapacity.

The constitutional proposal is imbued with neo-traditionalism. While the size of

the single-chamber parliament is likely to be reduced from 120 to 90 (as it was before 2010), a “congress of the people” (*kurultay*) modelled on Kyrgyz tradition is to function as “supreme consultative and coordinating organ of popular rule”. The modalities of election or appointment of its members have yet to be clarified. The president will decide when the congress convenes and report to it; it will advise him on appointments and all areas of policy.

Unlike the constitution of 2010, the new proposal of 2020 makes no mention of rule of law. Instead the preamble emphasises “orientation on the traditions and recommendations of the ancestors” and “moral principles common to mankind”, which are explained in a specific article and place special weight on patriarchal norms of family, tradition and religion. The dissemination of information that contradicts “accepted moral values and traditions” becomes an offence subject to prosecution. If these values are granted constitutional status it must be feared that they will also be codified in positive law.

A Polarised Society

These changes represent a clear rejection of the democratic principles and rule of law established by the 2010 revolution. Japarov has consistently legitimised his power grab as “the will of the people”. He enjoys the support of a rapidly mobilisable alliance of the disaffected – who reject the parliamentary system and its political and intellectual establishment – as well as the backing of significant sections of the elites. The idea of a strong president ensuring order and justice is apparently attractive to the nationalists and conservatives who make up the bulk of Japarov’s supporters. They skew heavily rural, where large parts of the population struggle to make ends meet. The populist promise of “honest politics” resonates there, as do Japarov’s simplistic claims and explanations.

Criticisms of Japarov’s democratic deficits do no harm to his popularity. The open

and latent violence that propelled him to power does not in the eyes of his supporters speak against him, nor did his aggressive election campaign or the fact that he diverted state resources to fund it. Even the suspicion that prominent criminals funded Japarov's campaign and that his popularity was boosted by professional social media manipulation appears not to concern his adherents.

Hard times are ahead for critics of Japarov's authoritarian populism. This applies to all the civil society organisations, intellectuals, journalists, and not least the many women who have been campaigning for years for human rights and a democratic order. These groups have experienced intimidation and threats of violence since the events of October 2020, and it must be feared that the pressure will increase. This applies above all in the event of Japarov failing to fulfil the expectations of his supporters. In order to stifle protests he might – like Bakiyev before him – be tempted to deflect criticism using increasingly repressive means.

Germany and the EU should do everything in their power to prevent that happening, firstly pressing for a fundamental revision of the draft constitution, which is currently being reviewed by the Venice Commission. Beyond that, support for critical media should be foregrounded and prioritised in political dialogue.

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