

## Bicameralism and Democracy in the Republic of Tajikistan

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### Introduction

Political institutions, additionally to economic, international and cultural “conditions of democracy”, appear as the necessary prime “framework” (as the set of rules, forms and procedures) for the democracy to emerge and consolidate. Political institutions are especially important in countries with divided societies<sup>1</sup>. The design and the format of political institutions can systematically favor or disadvantage religious, ethnic or regional groups and their inclusion or exclusion from the process of decision-making; by these means institutions are capable of facilitating conflict management in divided societies. The bicameral system of parliament is one of democratic institutions, entitled to facilitate conflicts by means of representation of different groups on the political arena<sup>2</sup>. Usually it is the second chamber which appears as a forum for discussion and facilitation of these different (at times, conflicting) interests. Moreover, bicameralism is assumed to strengthen the principle of the separation of powers in a country<sup>3</sup>.

On September 26, 1999, as a result of a referendum, new changes and amendments were made to the Constitution of the Republic of Tajikistan, a multi-ethnic state in transition, divided by regional clashes. Around 99% of the population voted in favor of the principal changes in the constitutional system of the republic – instead of unicameral parliament bicameralism received the popular vote to be institutionalized. As far back as 1999, when arguing for the necessity of the introduction of bicameralism, politicians were assuring the public that bicameralism would make the interests of the population of the regions and minorities be better represented<sup>4</sup>. The second chamber was expected to become the forum for discussions of the interests of the regional population. Moreover, they declared that the state power would be more clearly separated among its branches. As a result, the introduction of bicameralism was expected to lead to stabilization of the political situation in the post-civil (or inter-regional) war country and consolidation of the newly introduced democratic regime.

Five years have passed since that time and now it is time to make an analysis and evaluation of the functioning of the bicameral system of parliament in Tajikistan. Unfortunately, despite active debates within Tajikistan, there is still no academic research that has focused on the study of the role of the political institutions for the promotion of democracy, particularly, the bicameral system of parliament, in Tajikistan, while Tajikistan, by itself, presents an interesting case. Bicameralism was introduced in Tajikistan exactly for the purpose of conflict management and promotion of democracy. Therefore, the Tajik case is worth studying it to receive answers to the following questions: How can the introduction of one of the democratic institutions in divided societies in the transition foster democracy? To what extent did the

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<sup>1</sup> Andrew Reynolds *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. New York: Oxford University Press, 3

<sup>2</sup> *Ibid.*, 6

<sup>3</sup> Yash Ghai In Andrew Reynolds *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. New York: Oxford University Press, 7

<sup>4</sup> In 1999 politicians argued for better (and equal) representation of interests of the *population of the regions*, however, in accordance with the Constitution the second chamber equally represents *regions*. I hold that equal representation does make sense when the interests of the regional population are represented and taken into account during the decision-making process, not simply nominal (formal) representation of the regional elite.

introduction of bicameralism favor stabilization and consolidation of democracy in Tajikistan (if it has at all)? How much did the initial expectations meet the current state of events? The present paper is the first attempt to address these issues.

However, there is a large amount of work dedicated to the meaning and the most favorable conditions of democracy, as well as advantages and disadvantages of bicameralism. Discussions on democracy come down to conceptual disagreements about factors that comprise its essence. One can distinguish among two approaches. The first can be identified as minimal (or formal) democracy, understood as a procedurally defined regime, composed of a set of rules, procedures and institutions<sup>5</sup>. The second could be named substantive democracy, which is focused on processes of regulating power relations in such a way as to maximize the opportunities for individuals and societal groups to influence the conditions in which they live through broad participation in political decision-making<sup>6</sup>.

In deliberations about “conditions of democracy” scholars prioritize either economic, international, cultural or political institutions factors that affect the prospects for building a stable or consolidated democracy<sup>7</sup>. In debates about advantages or disadvantages of bicameralism, scholars underline that a unicameral system better fits smaller, non-federal, homogeneous (in terms of culture, ethnicity, and other factors) countries, while divided elected legislatures are more suitable for big states with federal composition<sup>8</sup>. I will consider these points in depth in the first chapter.

The present study provides an analysis and evaluation of the origins and functioning of the bicameral parliament in Tajikistan from 2000 till 2005 in terms of its favoring democracy, as well as consideration of possible practical recommendations for its improvement. My primary sources include the Constitution, constitutional laws and minutes of parliamentary discussions along with interview with deputies of the lower and upper chambers. The interviews were conducted according to a fixed-question-open-response format with specific questions, some were tape-recorded, in others I depended on note-taking (see Appendix for the interview schedule and a list of interviewees). I also conducted archival research in the parliament of the Republic of Tajikistan, as well as empirical data analysis.

Ultimately, I will show that in spite of the fact that the introduction of bicameralism contributed to stabilization of the political situation in the country after the civil war 1992-97, it did not contribute to democracy. Instead, this institutional change led to greater consolidation of the state power in the hands of the president. Therefore, I will argue that the introduction of one of the democratic institutions in the conditions of all the “non-democratic” institutions would scarcely contribute to democracy; introduction of one democratic institution should be balanced as regards the existing ones.

The aim of the first chapter of the current study “Bicameralism as a democratic institutional arrangement” will be to conceptualize democracy, as I understand and will use it in the present

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<sup>5</sup> Arend Lijphart *Democracies: Patterns of Majoritarian and Consensus Government of Twenty-one Countries*. New Haven and London: Yale University, 1984, 21

Jean Grugel *Democratization: a Critical Introduction*. New York: Palgrave, 2002, 6

<sup>6</sup> Holden B. In Jean Grugel *Democratization: a Critical Introduction*. New York: Palgrave, 2002, 6

Kaldo and Vejvoda In Grugel *Democratization: a Critical Introduction*. New York: Palgrave, 2002, 6

<sup>7</sup> Jean Grugel *Democratization: a Critical Introduction*. New York: Palgrave, 2002, 242

<sup>8</sup> Edward R. Rakhimkulov *The Relative Pros and Cons of the Second Chamber in the Ukrainian context* / [www.spea.indiana.edu](http://www.spea.indiana.edu) 29/03/2005

George Tsebelis / Jeannette Money *Bicameralism* Cambridge: Cambridge University Press, 1997, 36

George W. Carey “Separation of Powers and the Madisonian Model: A Reply to the Critics”, *The American Political Science Review*, 1978, vol. 72 (1): 152

Karl Loewenstein In Ivan Kristan, *Bicameralism and Democracy*, [www.sigov.si](http://www.sigov.si) /24/11/2005

Ivan Kristan *Bicameralism and Democracy*, [www.sigov.si](http://www.sigov.si) / 26/11/2005

O. Bulakov, *Factors Influencing on the Structure of Parliament*, [www.law-n-life](http://www.law-n-life), 26/11/2004

research, identify the importance of political institutions to favor democracy in divided societies in the transition and outline the theoretical links between democracy and bicameralism. This will be done to evaluate the bicameral parliament in Tajikistan in terms of the identified variables (concepts) later on. The first chapter will be divided into two subchapters: "Preliminary identification of democracy and its factors and conditions" and "Bicameralism: foundations, types, and the relationship with democracy".

The aim of the second chapter "Prerequisites and origins of bicameral system of parliament in Tajikistan" will be to analyze the political history of Tajikistan before 1999 and the peculiarities of the Tajik context. This could help us better understand the conditions which the bicameral system of parliament emerged and developed in. The second chapter will be split into two sub-chapters: "Social and political history before 2000" and "Introduction of bicameralism and its main justifications". The first sub-chapter, in its turn, will be divided into three separate parts: "Divided history of Tajiks", "Tajiks under the Soviet rule" and "Civil war 1992-1997: preconditions and consequences".

The aim of the third chapter "Bicameralism and democracy in Tajikistan" will be to analyze how much the introduction of bicameralism contributed to democracy in the past five years, 2000-05. As conceptualized in the first chapter, I will analyze whether the introduction of the bicameral system of parliament in Tajikistan strengthened the principle of the separation of powers. I will also evaluate how much the second chamber represents the interests of the population of the regions and protects minorities via minority representation. The third chapter will be split into two sub-chapters: "Bicameralism in terms of the separation of powers" and "Bicameralism in terms of representation of the regions and minorities". The first sub-chapter, in its turn, will be divided into three parts: "Bicameralism in terms of the separation of powers", "Constitutional design of bicameralism" and "Bicameralism in practice".

The final chapter concludes by summarizing the results of the present research and giving practical recommendations for improvement of the bicameral parliament in the Republic of Tajikistan. I will also suggest some prospects for future research in the field.

## Chapter 1: Bicameralism as a Democratic Institutional Arrangement

If in earlier periods of the twentieth century democracy was generally limited to a couple of dozen countries that enjoyed auspicious social, economic and cultural conditions, after the beginning of the third wave of democratization, as Huntington puts it, in 1974, and especially after the collapse of communism beginning from 1989, many countries with less propitious conditions have embarked on the democratic path of development. This situation poses the question of how best to foster democracy under more difficult conditions.

Thus, the aim of the present chapter is to conceptualize democracy, as I understand and will use it in the present research, identify importance of political institutions to favor democracy in the divided societies in the transition and figure out the theoretical links between democracy and bicameralism, as one of the main democratic institutional arrangements. For this purpose, firstly, I will review some well-known definitions of democracy and factors that are expected to contribute or prevent the establishment and stabilization of this regime type. This will be done in order to come up with my meaning of democracy, the most appropriate in terms of analysis of political institutions, particularly, in the divided societies in transition. Secondly, I will identify types of bicameralism in order to classify the bicameral system of parliament in Tajikistan in the next chapter. I will also review pros and cons of bicameralism in order to have explicit association of bicameralism with democracy for the reason of evaluation of bicameral parliament in Tajikistan in terms of the identified variables (concepts). My basic question here will be *how* bicameralism is favorable for democratic transition.

### 1.1 Preliminary identification of democracy and its factors and conditions

Democracy is itself a contested concept. Many authors accept the assumption that liberal democracy is characterized by elections, the existence of a multi-party political system and a set of procedures for government.<sup>9</sup> Some others, however, argue that neither the creation of political parties nor the holding of elections, in themselves, guarantee the existence of key democratic freedoms and rights<sup>10</sup>.

One of the most famous conceptualizations of democracy is developed by A. Lijphart. He distinguishes between majoritarian (government by the majority of people) and consensus (government, where the opinions of all the affected by the governmental decisions are considered) models of democracy, which differ on eight institutional dimensions. The former is characterized by concentration of executive power: one-party and bare-majority cabinets, fusion of power and cabinet dominance, asymmetric bicameralism, two-party system, one-dimensional party system, plurality system of elections, unitary and centralized government and exclusively representative democracy with no room for any direct democracy, such as the referendum. The consensus democracy, alternatively, is shaped by the executive power-sharing: grand coalition, separation of powers, balanced bicameralism and minority representation, multi-party system, multi-dimensional party system, proportional representation, territorial and non-territorial federalism and decentralization, and written constitution and minority veto<sup>11</sup>.

Even from these sketchy introductory remarks, it may be clear that the main dispute about the meaning of democracy comes down to the conceptual disagreements about factors that comprise its essence. One can distinguish among two approaches. The first can be identified as *minimal (or formal) democracy*, understood as a procedurally defined regime, composed of a set of rules, procedures and institutions. The second could be named *substantive democracy*, which is focused on processes of regulating power relations in such a way as to maximize the opportunities for individuals and societal groups to influence the conditions in which they live through broad participation in the political decision-making.<sup>12</sup>

<sup>9</sup> Jean Grugel *Democratization: a Critical Introduction*. New York: Palgrave, 2002, 6

<sup>10</sup> Holden B. In Jean Grugel *Democratization: a Critical Introduction*. New York: Palgrave, 2002, 6

<sup>11</sup> Arend Lijphart *Democracies: Patterns of Majoritarian and Consensus Government of Twenty-one Countries*. New Haven and London: Yale University, 1984, 21

<sup>12</sup> Kaldo and Vejvoda In Grugel *Democratization: a Critical Introduction*. New York: Palgrave, 2002, 6

However, as I emphasized in the beginning of the chapter, it is not the aim of the present sub-chapter to give an ultimate definition of democracy or get into the disputes about its meaning, but rather to come up with a narrowly conceptualized background concept of democracy. Therefore, I will define democracy in terms of civil (human) rights observance, protection of minority rights via minority representation, separation of powers (as the preservice of the principle of checks and balances) and the rule of law (as one of the main outcomes of the democratic regimes). I argue that this conceptualization is the most appropriate as it preserves the balance between substantive and formal concepts of democracy, capturing both “civil”, representational and institutional aspects of the idea of democracy.

Deliberating about the “conditions of democracy”, it is often argued that economic, international and cultural factors affect the prospects for building a stable or consolidated democracy. Economic development may lead to poverty alleviation and a rise in living standards as it makes the provision of services and public goods possible and, at least, satisfactory. It also makes possible the creation of a complex and dense civil society with stable rules and norms of behavior. However, economic growth does not automatically guarantee the emergence of democracy, not the least because it may take many years after the regime change until its satisfactory level is reached. Different international actors can be important in supporting the case of democracy in a particular country, but the national political actors do not always take advantage of such an intervention.<sup>13</sup> Cultural factors are the most problematic, firstly because it is difficult to conceptualize and operationalize culture, as it is rather ambivalent and also highly disputable notion; secondly, it is always difficult to measure the contribution of the culture to democracy. Moreover, the change in the culture takes not one generation; it is the long process and scarcely can be regarded as the prime contributor to democratization of a country during the process of its transition to democracy.

In contrast, political institutions more easily can be altered to improve the prospects for democracy because frequently what is needed is legal amendments to the constitution, supported by the people and further institutional and documentary re-arrangements. I would argue that the (re)-design of democratic institutions during the transitional processes is the very basic step toward democracy. The democratic institutions create the necessary prime “framework” for democracy to emerge and develop; without democratic institutions democracy, cannot be built up and enlarged.

It is certainly in divided societies that institutional arrangements have the greatest impact. The design and the format of political institutions can systematically favor or disadvantage national, religious, ethnic or regional groups, their inclusion or exclusion from the process of decision-making. Therefore, by these means institutions are capable of facilitating conflict management in divided societies. For example, a first-past-the post (majoritarian) electoral system may systematically and profoundly disadvantage even large minority groups, especially those that are geographically dispersed. Under these conditions, building loyalty to the system among definite segments of the society is likely to be more difficult than in the proportional representation electoral system (PR). It is so for the reason that PR system guarantees representation of the various social, ethnic (via quotas) or political groups (via party lists) proportionally to their amount (total number)<sup>14</sup>.

A considerable amount of work has been done in the last decade on the relationship between specific political institutions, conflict management, and democracy in divided societies. Despite huge debate, scholars agree that there are at least four institutions that hugely contribute to democracy and conflict management via democratic tools. It is parliamentarism (versus presidentialism) as a system of government, federal (versus unitary) political system, proportional (versus majoritarian) electoral system and bicameral system of parliament (versus unitarism)<sup>15</sup>.

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<sup>13</sup> Jean Grugel *Democratization: a Critical Introduction*. New York: Palgrave, 2002, 242

<sup>14</sup> Andrew Reynolds *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. New York: Oxford University Press, 3

<sup>15</sup> Andrew Reynolds *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. New York: Oxford University Press, 3

Political scientists often highlight parliamentary democracy as preferable to presidentialism. Critics of presidentialism have claimed that this system of government fosters zero-sum competition, easily promotes deadlock between the executive and the legislative branches. Moreover, it threatens one of the democratic principles: principle of separation of powers or power-sharing; moreover, it encourages personalist leadership with concentration of power in the hands of one politician<sup>16</sup>. Certainly, parliamentary system of government favors wider representation of different social and political (or ethnic) groups, consequent consideration of different opinions during the decision-making process. Therefore, parliamentarism diminishes the probability of conflicts, while, in the case of conflicts, favors their easier resolution through discussions and ending up with consensus. However, nearly all new democracies have had elected presidents with varying degrees of political power what may witness either about a lack of democracy in these states or the growing possibility of presidential system to manage conflicts in divided societies in the contemporary world.

When communal groups are geographically concentrated within the nation-state, some types of federalism or decentralization are often promoted as the key to reassuring minorities that they will have some political influence. Federalism or decentralization enables religious, national, and ethnic groups that are a minority at the national level to have significant input or even to govern at the local or State level. For this reason, federalism has advantages in terms of democracy in divided societies<sup>17</sup>. However, I would argue that some of these advantages can be reproduced through decentralization of power in unitary states as well. As Ghai emphasizes, what is important here are three important constitutional mechanisms for the inclusion of minority voices – autonomy, inclusive representation, and power sharing – in their asymmetry<sup>18</sup>. These factors can also be present in the unitary state. Wide autonomy of the ethnic or national units (not necessarily within the federal state structure) or bicameral system of parliament, which can guarantee inclusive representation and clear separation of powers between branches of power as constitutional arrangement and the guarantee of power-sharing are the simple examples.

Electoral systems have long been recognized as one of the most important institutions because they structure the dome of political competition. They offer incentives, as Sartori underlines, for political actors to behave in certain ways by rewarding them with electoral success. They can reward particular types of behavior and place constraints on others<sup>19</sup>. Electoral systems also affect the number of parties that win seats, the degree of proportionality between seats and votes and the type of representation. In their turn, by shaping the number of parties in a party system, electoral rules affect whether a democracy is in accordance with majoritarian or consensus models of Lijphart's famous continuum. In a majoritarian democracy, the "winners take all", while a consensus democracy (with proportional electoral system) is more induced to have strong mechanisms of power-sharing. Therefore, electoral system is an important institution contributing to conflict management in divided societies and shaping democracy<sup>20</sup>.

Another important institution which is expected to contribute to democracy in divided societies is a bicameral system of parliament. This is not to say that there is no democracy in the states with unicameralism, but to underline that a bicameral system of parliament creates the institutional framework which makes development of democracy more probable in a divided (or heterogeneous) country. I will turn to the discussion of bicameralism in the next sub-chapter.

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<sup>16</sup> Juan Linz In Andrew Reynolds *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. New York: Oxford University Press, 2000, 6

<sup>17</sup> Andrew Reynolds *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. New York: Oxford University Press, 6

<sup>18</sup> Yash Ghai In Andrew Reynolds *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. New York: Oxford University Press, 7

<sup>19</sup> Sartori G. In Andrew Reynolds *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. New York: Oxford University Press, 8

<sup>20</sup> Andrew Reynolds *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. New York: Oxford University Press, 8

### 1.2 Bicameralism: Foundations, Types, and the Relationship with Democracy

Bicameralism is a system of legislature consisting of two houses, chambers or assemblies. Usually, despite their official names, houses of parliament are considered as the first or lower house and the second or upper house. Bicameral legislature in the modern sense appeared in the fourteenth century in England. By the eighteenth century, the British parliament became widely regarded as the model of bicameralism. "England's legislative practice of meeting in two separate decision-making assemblies – the House of Commons and the House of Lords was then recast in terms of the ancient Greek theory of mixed government [...] The balance of power between the various societal interests guaranteed that the political system would not evolve into tyranny of one group over the others"<sup>21</sup>.

Nowadays there is a great number of different variations of bicameralism throughout the world. All 53 contemporary bicameral legislatures slightly or substantially vary from country to country, reflecting specific political preferences, as well as different historical, social, cultural and economic conditions. However, despite its diversity, political analysts associate differences with two main aspects: the method of (s)election of members of both houses and relative legislative power of both houses.<sup>22</sup> Hence, Lijphart attributes variation to the degree of congruence between two legislative houses and power asymmetries. He defines "congruence" as similarity of political composition. Congruence does not necessarily imply identity of positions as it is impossible to have identical or even similar positions on several issues within a fraction and the more so within a house. At the same time, disparities in power range from full symmetry, where agreement of the two houses is necessary to enact a law, to total asymmetry, where one house is granted decision-making power<sup>23</sup>.

Using these categories, Lijphard identifies three types of bicameralism: "strong", "weak" and "insignificant". "Strong" bicameralism implies incongruence of houses in political composition and symmetry or only moderate asymmetry with regard to their respective legislative powers. Australia, Germany, Switzerland and the United States are examples of "strong bicameralism". "Weak" bicameral legislatures are characterized either by asymmetrical power or by congruent chambers. "Weak" bicameral systems are represented in Canada, United Kingdom, Belgium, Italy and Japan. "Insignificant" bicameralism in its turn characterizes congruent and extremely asymmetrical systems. There are two of them: in Austria and Ireland<sup>24</sup>.

This typology shows the main characteristics by which bicameral parliaments vary and it collects them in different groups. Although it does not show peculiarities and similarities of bicameral parliaments within the group, it is a good means for identification and classification of the legislative systems around the world.

In the course of historical and contemporary debate, political scholars and analysts perceived and go on considering bicameralism dissimilarly; some argue for, some against a bicameral system of parliament, underling either its advantages or disadvantages respectively. Madison's main argument for bicameralism in terms of the separation of powers aimed at avoidance of governmental tyranny and this concern was his principal rationale for advocating a divided legislature in the United States<sup>25</sup>. The American concept of an upper house was derived from the British concept but introduced bicameralism as the guardian of the interests of member states in the federation. Madison argued that the "weight of legislative authority requires that [the legislature] [...] should be divided". A second (upper) chamber, he asserted, would serve the people to protect against their rulers<sup>26</sup>.

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<sup>21</sup> George Tsebelis and Money Jeannette *Bicameralism*. Cambridge: Cambridge University Press, 1997, 21

<sup>22</sup> *Ibid.*, 44

<sup>23</sup> Arend Lijphard *Democracies: Patterns of Majoritarian and Consensus Government of Twenty-one Countries*. New Haven and London: Yale University Press, 1984, 99

<sup>24</sup> *Ibid.*, 99

<sup>25</sup> George W. Carey "Separation of Powers and the Madisonian Model: A Reply to the Critics", *The American Political Science Review*, 1978, vol. 72 (1): 152

<sup>26</sup> Jacob E. Cooke ed. *The Federalist*. New York: Meridian, 1961, 45

Madison's argument was further developed by Ethridge who supported the idea that a unicameral system tends to intensify the influence of elite, "when decisions can be made [...] without being subjected to multicameralism and other separations of power"<sup>27</sup>. In general, however, the majority of scholars agree that a unicameral system better fits smaller, non-federal, homogeneous (in terms of culture, ethnicity, and other factors) countries, while divided elected legislatures are more suitable for big states with federal composition<sup>28</sup>.

The theoretic debate over efficiency of either a bicameral elected legislature or a single-chamber parliament has reemerged with the fall of the socialist system in Eastern and Central Europe and the collapse of the Soviet Union with the consequent emergence of new democracies on its landscape. In 1992, after long constitutional discussions, the Czech Republic adopted a bicameral system. The same year, Poland reintroduced bicameralism with the addition of the Senate after its liquidation in 1952. The most recent examples of the bicameralism are Taiwan (the Legislative Yuan there co-exists with the National Assembly), Kazakhstan, Tajikistan and Uzbekistan (in 2005).

In general, as mentioned earlier, large federal or ethnically heterogeneous states opt for bicameral elected parliaments to accommodate the representation of conflicting interests (regional, ethnic, or otherwise diverse) into the legislative process. The most frequently cited advantages of the two-chamber system are explained by, firstly, the need to balance political power, which is more intense in large countries with heterogeneous (or divided) population. Secondly, it is the perceived need for efficiency of the legislative process that makes the states opt for bicameralism. The proponents of bicameral legislature argue, in this respect, that a functionally divided parliament facilitates efficiency in the lawmaking process because each chamber will closely focus on its specific legislative functions. This arrangement will eventually benefit the society as a whole, and separate spheres in particular (economy, taxation, social welfare system). The issue of concern in this type of reasoning is the ability of the state to create the institutional structure that would promote stable arrangements between separate legislature's chambers, as well as between the branches of power (legislative-executive conflict).<sup>29</sup>

Scholars arguing for bicameralism cite the following *advantages* of the bicameral system:

- Ø Bicameral parliaments with both chambers elected better accommodate various interest groups (social, economic, cultural) or geographic units through widening the basis of representation in the legislature. As Kristan argues, the introduction of bicameralism is the recognition that society is plural and that numerous interests exist within it<sup>30</sup>. Two-chamber legislatures are adopted with the aim to enhance representation of sub-national (or regional) governments, and most of them are territorially elected. This is frequently done to offset the centralizing tendencies of unicameral legislatures usually elected on party base.
- Ø A change in the institutional structure of the parliament is often designed with the aim to establish a sustainable political order in a society. Hammond and Miller demonstrated this through the example of the U.S. Constitution: the interaction of bicameralism and the executive veto tends to produce stable effects despite the destabilizing impact of the legislative power to override the executive veto. This phenomenon is explained on the basis of the preferences of the legislators. In a majority-rule legislature there is always a possibility of choosing a dominating alternative for undesirable policies. The institution of bicameralism induces stability in the sense that clearly undesirable policies can be avoided in the interplay between two houses' members' preferences<sup>31</sup>.

<sup>27</sup> Marcus E. Ethridge In Edward R. Rakhimkulov *The Relative Pros and Cons of the Second Chamber in the Ukrainian Context*/ [www.spea.indiana.edu](http://www.spea.indiana.edu), 29/03/2005

<sup>28</sup> Edward R. Rakhimkulov *The Relative Pros and Cons of the Second Chamber in the Ukrainian Context* / [www.spea.indiana.edu](http://www.spea.indiana.edu), 29/03/2005

<sup>29</sup> Ibid.

<sup>30</sup> Ivan Kristan *Bicameralism and Democracy*, [www.sigov.si/](http://www.sigov.si/) 26/11/2005

<sup>31</sup> Thomas H. Hammond and Gary J. Miller In Edward R. Rakhimkulov *The Relative Pros and Cons of the Second Chamber in the Ukrainian Context*/ [www.spea.indiana.edu](http://www.spea.indiana.edu), 29/03/2005



- Ø Bicameralism leads to more sustainable policy outcomes and reduces conflict to a single main dimension. This argument is made by Tsebelis and Money, who rely on the results from the cooperative game-theoretic models. Elected upper chambers, even those that are considered by many scholars of comparative studies to be weak, have greater influence on policy outcomes because the decisions in a divided parliament have fewer policy cycling. This is justified by such institutional arrangements that are used to resolve conflicts between chambers and influence the policies adopted. The disagreements between chambers are solved through the process of sending bills back and forth, which is one of the most frequent solutions in the bargaining process between the two elected chambers<sup>32</sup>.
- Ø The key principle of modern democracy, a system of separation of powers, is expressed in bicameralism by strengthening democracy through the supervision of the two houses one over another. Loewenstein describes the bicameral system as a sub-system of a horizontal separation of powers, where the focus is on the mutual checks and balances between the two houses of parliament<sup>33</sup>.
- Ø The bicameral system slows down the legislative process, renders abrupt change difficult, forces legislators to have second thoughts, and therefore minimizes unpredictability and prejudice in governmental actions, as Riker in his paper on the merits of bicameralism emphasizes<sup>34</sup>. Moreover, thinking twice makes it more difficult to issue laws that would go against the rule of law or civil rights norms that are at the heart of democracy. However, this, along with the advantage, as Bulakov argues, at the same time suggests disadvantage of bicameral parliaments<sup>35</sup>.
- Ø Second chambers are often considered to be bodies of greater deliberation and discussion. Usually, issues of great social concern are expected to receive more attention in the upper chamber. e.g. in 1981, the Spanish Senate spent nearly a month on the issue of divorce and abortion in this Catholic country, whereas Congress discussed it only for two days. Also, the U.S. Senate is considered a slower institution on major issues. In Tajikistan it is law "of struggle against extremism" which was deliberated in the Second chamber during more than a year before adoption. Second chambers with few exceptions have fewer members and softer procedural rules with regard to time limits.

In contrast, *disadvantages* of bicameral parliaments, in summary, are the following:

- Ø An argument used by opponents of bicameralism reads that bicameral parliament is like a carriage with a horse at each end, each pulling in opposite directions. Those opposing the bicameral system of parliaments cite the following reasons for having a single-chamber legislature: firstly, the principle of the indivisible sovereignty of the people is preserved and, secondly, the fact that there is no supreme body (the upper house, which tends to have a conservative character), to control the representatives of the people (the lower house)<sup>36</sup>. The proponents of unicameralism also emphasize that:
- Ø "Second chamber may appear as a drag on the way of democracy, especially when its members are elected indirectly or when they are not elected at all and instead are appointed"<sup>37</sup>. That is, the question of legitimacy of indirectly elected members of the parliament is raised.
- Ø Bicameralism may include the opportunity of conflicts emergence in the power structures and lead to the legislative deadlock in the case of symmetrical bicameralism. Bulakov also assumes that bicameralism may initiate delays in the passage of important

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<sup>32</sup> George Tsebelis and Jeannette Money *Bicameralism* Cambridge: Cambridge University Press, 1997, 36

<sup>33</sup> Karl Loewenstein In Ivan Kristan, *Bicameralism and Democracy*, [www.sigov.si](http://www.sigov.si) /24/11/2005

<sup>34</sup> William H.Riker In Edward R. Rakhimkulov *The Relative Pros and Cons of the Second Chamber in the Ukrainian Context/* [www.spea.indiana.edu](http://www.spea.indiana.edu) , 29/03/2005

<sup>35</sup> O. Bulakov, *Factors Influencing on the Structure of Parliament*, [www.law-n-life](http://www.law-n-life), 26/11/2004

<sup>36</sup> Edward R. Rakhimkulov *The Relative Pros and Cons of the Second Chamber in the Ukrainian Context/* [www.spea.indiana.edu](http://www.spea.indiana.edu) , 29/03/2005

<sup>37</sup> Ivan Kristan, *Bicameralism and Democracy*, [www.sigov.si](http://www.sigov.si)

laws as hearing in two houses takes more time; especially when the second house works not on the constant base<sup>38</sup>.

- Ø A democratic principle of representation is based on universal suffrage and is better realized in single-chamber parliaments. In this case, the aim of the legislation is the advancement of the general interest. If the second chamber also represents a general interest, it is redundant.
- Ø Unicameralism is advantageous from the point of view of unitary nature of the nature. The introduction of a bicameral legislature can lead to the enforcement of a federalist structure that would institutionalize trivial division lines in the nation.

### *Conclusion*

There are political institutions that are assumed to better favor democracy in divided societies. These are parliamentarism as a system of government, federal political system, proportional electoral system and bicameral system of parliament. Bicameralism, in its turn, is expected to contribute to democracy in terms of strengthening the principle of separation of powers (as the constitutional arrangement, guaranteeing the principle of checks and balances) and protection of minority rights via minority representation. All these, after all, create a solid ground for the rule of law in a country.

In the divided (or heterogeneous) countries, who may suffer from conflicts between interests that ensue from differences between regions, or social and cultural diversity, bicameralism, on the one hand, may prove a useful mechanism for securing the access of regional, minority or other interests to the parliamentary arena. It is also a good means to arrange for peaceful settlement of conflicts in divided societies. On the other hand, in nations where these divisions are not strong, bicameralism may not be appropriate. The reasons for that are the following: the introduction of bicameralism threatens to institutionalize differences and division along regional, ethnic, or otherwise diverse lines. Therefore, it may undermine the unitary nature of the nation, may provide legislative deadlock and delays in the passage of legislation plus it raises issues of legitimacy of usually indirectly elected second chamber. Thus, definite political institutions should be designed in accordance with the historical, social, ethnic and cultural peculiarities of the countries in order to produce advantages, not the other way round.

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<sup>38</sup> O. Bulakov, *Factors Influencing on the Structure of Parliaments*, [www.law-n-life.ru](http://www.law-n-life.ru), 26/11/04

## Chapter 2: Prerequisites and Origins of Bicameral System of Parliament in Tajikistan

At times, there is an interesting sense of *déjà vu*, as though the post-war period is a replay of earlier history, when the peculiarities of social and political legacy identify the present political situation. It is against this troubled background that current developments in Tajikistan should be assessed, as the latter is one of the most artificial Soviet constructions, formed of areas that had minimal shared history in the past and influenced much by its topography. Moreover, in the analysis of political events in Central Asia, three factors should always be taken into account: the regional paradigm, traditional structure of societies and the role of personalities; the latter - both in positive (the role of strong leaders for the process of peace restoration or national state-building) and negative (in terms of struggle for power among definite powerful individuals) senses<sup>39</sup>. Therefore, the background to any given event should be analyzed in its complexity in order to avoid simplifications and wrong analytical inferences, as it is usually a complex mixture of factors that is responsible for one or another political situation in the past or present and which makes political leaders respond to the existing situation through different reforms and institutional (constitutional) restructuring.

Thus, the aim of the present chapter is to analyze the political history of Tajikistan before 1999 and the peculiarities of the Tajik context. This could help us better understand the conditions, which the bicameral system of parliament emerged and developed in. For this purpose, firstly, I will review the history of Tajiks in order to show that ethnic diversity, regionalism and traditional social lifestyle are not new phenomena but have been deeply embedded characteristics of Tajik society. During the pre-Soviet period, the traditional loyalties, preserved for centuries, were formed. Secondly, I will analyze the process of the national elite and power structures formation during the Soviet time, which, indeed was also, mostly, based on the regional ground and supplemented by the clan structure of Tajik society. Thirdly, I will explore the prerequisites and consequences of the civil war (1992-97), as the political factor, witnessing the perseverance of the traditional regional loyalties in contemporary Tajikistan. The civil war greatly defined the post-war development of independent Tajikistan, including the defining characteristics of its further institution-building process. Then, I will give an overview of the process of bicameralism introduction in Tajikistan, showing how the idea of bicameralism emerged, who supported it and what the main justifications and expectations from bicameralism were as far back as in 1999<sup>40</sup>.

### 2.1 Social and Political History before 2000

#### 2.1.1 Divided History of Tajiks

Tajiks, as a nation, consist of some ethnic groups distinct in histories, social structures, customs and culture with dialectical and psychological stereotyping differences<sup>41</sup>. These groups were formed as far back as in the pre-Soviet period, which after the construction of the Tajik state started sharply separating the country on different "ethnic" divisions. In this sub-chapter I will emphasize that the main characteristics of Tajik society, regionalism and traditional social lifestyle, expressed, primarily, in the domination of regional loyalties and family links during the process of formation of the political elite in Tajikistan, are the historical heritage.

Historically, there have been two main areas of Tajik settlement: on the plains (the Fergana Valley and the basins of the Zaravshan, Syr Darya and Surkhandarya rivers) and in the mountains (the central and southwest regions). There were very different economic, political and cultural environments and until the Soviet period there was relatively little direct interaction between the inhabitants of the two areas<sup>42</sup>. For centuries the former was the region of the trans-Eurasian trade routes; therefore, there was a constant movement of goods, news

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<sup>39</sup> Akiner Shirin *Tajikistan. Disintegration or Reconciliation?* Great Britain: The Royal Institute of International Affairs, 2001, 7

<sup>40</sup> It was in 1999, when according to the constitutional and legal reform, amendments to the Constitution, introducing bicameralism, were made; however, only in 2000 the first elections to the new professional and bicameral parliament, were conducted.

<sup>41</sup> *Ibid.*, 8

<sup>42</sup> *Ibid.*, 8

and ideas here. Such a geographic location contributed to some ethnic and cultural assimilations and, consequently, complex and eclectic societies. Today this territory is divided between Tajikistan (Khujand) and Uzbekistan (Bukhara and Samarkand).

The Tajiks of the mountains, in contrast, until recently were cut off from outside influences. They lived mostly in the valleys (northwest of Gorno-Badakhshan) and southeast (Kulyab). Their settlements were small, widely dispersed and isolated by the mountains, which favored the development of tight-knit communities with strong local identities<sup>43</sup>. The population of this territorial unit was comprised of primarily the so-called Kulyabis, who, prior to the twentieth century, constituted an independent principality.

In the territory of Tajikistan, southwest of Gorno-Badakhshan, culturally and linguistically different from the other Tajiks, the ethnic group, Pamiris, lived in the valleys and foothills of Amu Darya/Panj River as well<sup>44</sup>. They used different, incomprehensible for Tajiks language; moreover, almost all of them were Ismaili, while the rest of Tajiks were Sunni Muslims<sup>45</sup>.

Uzbeks constituted and still comprise the largest community of non-Iranian peoples<sup>46</sup>. "Uzbek" like "Tajik" is a term for groups of different origins, histories and patterns of assimilation. During the pre-Soviet time, the majority of them lived in compact communities (Gissar region) and maintained their traditional self-designations<sup>47</sup>. There were also settlements of Kyrgyz in the center-north and east (Karategin region) and also small group of Kazakhs and Turkmen in the south of Tajikistan (Kurgan-Tyube region), Tatars and Koreans. Other long-established immigrants included Arabs (mostly, in Kulyab), who numbered several thousands.<sup>48</sup>

Thus, different pre-Soviet geographical settlements of different ethnical groups are responsible for the heterogeneous ethnic composition and split of these ethnic groups into different regions of the Soviet Tajik Republic and, afterwards, independent Tajikistan. However, despite such ethnic diversity, when we talk about Tajik society, as a whole, we imply a traditional society. Family in Tajik society always existed in a specific form, namely, in the form of big undivided community of relatives, consisting not only of parents and their children, but also several generations of the male line<sup>49</sup>. Such a big family owned the common land, cultivating it all together. During such an activity the division of labor was accurately preserved<sup>50</sup>, which made every member of the family very important for the life being of the family. Moreover, what is important for our further study is the following characteristic of traditional society, rooted in the mentality of every member. It was the moral "obligation" of every member of the family to take care of each other. If someone violates this principle, one will inevitably incur the family condemnation. Later on, during the Soviet era, these regional distinctions and traditional or, I would say, clan structure of the pre-Soviet Tajik society were strengthened, even though, one would argue the opposite.

### 2.1.2 Tajiks under the Soviet Rule

The events, following the acquisition of independence of Tajikistan in 1991, were mostly conditioned by the time, preceding it. Apart from all the positive aspects of Soviet rule (rise in the level of popular education, urbanization, industrialization, etc.), there were negative features as well. In this sub-chapter, I will argue that the regional distinctions due to "over-representation" of some ethnic groups at the cost of the exclusiveness of the others and the clan structure of Tajik society, were reinforced during the Soviet time. Moreover, these were,

<sup>43</sup> Gregory Gleason *The Central Asian States, Discovering Independence*. United Kingdom: Westview, 1997, 62

<sup>44</sup> Nowadays Pamiris proceed inhabiting this territory

<sup>45</sup> L.S. Ivanov *Strani Mira (Countries of the World)*. Manual. Moscow: Republic, 1999, 399

<sup>46</sup> Today Uzbeks comprise about 25 per cent of the population of Tajikistan

<sup>47</sup> V.I. Bushkov/D.V. Mikul'skii *Anatomiya Grajdanskoj Voini v Tajikistane (Etno-social'nie Processi ii Politicheskaya Bor'ba, 1992-1995 (Anatomy of the Civil War in Tajikistan (Ethno-Social Processes and Political Struggle, 1992-95))*. Moscow: In-t Etnologii ii Antropologii RAN,10

<sup>48</sup> *Ibid.*, 10

<sup>49</sup> *Ibid.*, 11

<sup>50</sup> Beatrice F. Manz Historical Background In Manz F. Beatrice *Central Asia in Historical perspective*. United Kingdom: Westview, 1994, 7

primarily, the identifying factors in the formation of the national elite and power structures in Soviet Tajikistan. Therefore, regional and clan belonging gained a political nature, which in the situation of other stimulating concomitant circumstances led to the bloody events of the beginning of 1990s (but I will turn to this (late) point in the next sub-chapter).

Thus, a formal delimitation of the entire Central Asia started in 1924, as a result of which five administrative-territorial units (future independent states) were formed. The new borders were based primarily on ethno-linguistic divisions; the aim was to unite the main indigenous groups of the region within these administrative units. For the Turkic groups of the region – the Kazakhs, Kyrgys, Turkmen and Uzbeks – the division was reasonably satisfactory, as eighty-ninety per cent of these peoples were included within the boundaries of their titular republics<sup>51</sup>. The Tajik experience, however, was somewhat different. Tajikistan, as created in 1924, was given the status of an Autonomous Soviet Socialist Republic (ASSR) and was subordinated to the Uzbek Soviet Socialist Republic (SSR). The Tajik ASSR comprised the southern and central mountains and a narrow line of land to the North of the Turkestan Range. These new boundaries in effect recognized and legitimized the ancient division between plain-dwellers and mountain-dwellers<sup>52</sup>.

However, initially, one of the most developed regions, Khujand, was excluded from the framework of the Tajik ASSR. Later on, after huge historical debates between Central Asian ethnographers and politicians, in 1929, a new demarcation was finally agreed upon. The main concession was that Khujand province was allocated to Tajik ASSR. This added 26.100 sq. km. and a population of about 250.800<sup>53</sup>. Moreover, with this concession, the status of Tajikistan was thereupon upgraded from an autonomous republic within Uzbekistan to a constituent republic, the Tajik Soviet Socialist Republic. This was an improvement on the previous situation, but over half a million Tajiks, and much of the territory that the Tajiks regarded as theirs by virtue of many centuries of settlement, were still left within the boundaries of Uzbekistan (Samarkand and Bukhara)<sup>54</sup>. In accordance with the declaration adopted on October 6, 1929, the creation of the Soviet Tajik Republic included the Gorno-Badakhshan autonomous oblast and the regions of Khujand, Hissar, Uro-Teppa, Pendjikent, Kulob, Qurghanteppa and Gharm<sup>55</sup>.

In the analysis of the development of the Tajiks under Soviet rule, the core point is the consideration of the national elite formation during the Soviet period and the existed power relationships. Since the defining moment of the establishment of statehood in 1924 till the middle of the 1940s, the power structures were formed in balance by the different regional representatives. Party structures were controlled by the representatives of Russia and other nations, as well as Tajik-Pamiris, parliament was led by Tajik-Garmis and a government formed by the Tajik-Khujandis<sup>56</sup>.

The crucial moment in the change of regional politics occurred during the period of government of D. Protopopov<sup>57</sup>. He made attempts to distance Khujandis<sup>58</sup> from power. However, such a

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<sup>51</sup> Edward Allworth *Central Asia. 120 Years of Russian Rule*, 1980, 30

<sup>52</sup> Lola Dodhudoeva O Nekotorih Osobennostyah Social'noi ii Politicheskoi Istorii Predindustrial'noi Central'noi Azii (About Some Peculiarities of the Social and Political History of Pre-industrial Central Asia) In Shozimov P. Gosudarstvo ii Religiya: Poisk Putei Prodoljeniya Dialoga (*State and Religion: Search for the Ways of Proceeding Dialogue*). Dushanbe: Irfon, 2005, 136

<sup>53</sup> Akiner Shirin *Tajikistan. Disintegration or Reconciliation?* Great Britain: The Royal Institute of International Affairs, 2001, 15

<sup>54</sup> *Ibid.*, 15

<sup>55</sup> Davlat Khudonazar The Conflict in Tajikistan: Questions of Regionalism In Sagdeev Z. Roald/ Eisenhower Susan *Central Asia: Conflict, Resolution, and Change*. New York: Associate editors Douglas Goudie and Heather Parrish, 1995, 252

<sup>56</sup> Davlat Khudonazar The Conflict in Tajikistan: Questions of Regionalism In Sagdeev Z. Roald/ Eisenhower Susan *Central Asia: Conflict, Resolution, and Change*. New York: Associate editors Douglas Goudie and Heather Parrish, 1995, 252

<sup>57</sup> D. Protopopov was the First Secretary of the Communist Party of Tajikistan from 1937 to 1946

policy brought a counter-reaction; it fostered the political activism of the “Northerners” and developed ideas of self-preservation and defense of regional interests<sup>59</sup> (254 CA). It was like a spark, triggering the explosion. As a result, by the middle of the 1940s the distribution of power had the following configuration: the party structure – Khujand, the government – Khujand and the parliament – Pamir/ Garm<sup>60</sup>. Considering the fact that parliament played almost no decisive role in political life, power was practically concentrated in the hands of representatives of one region, Khujand.

There were two principal reasons for the domination of Leninabadis: first, Leninabad province was the most industrialized part of the country. It had a large, relatively compact population. The general level of education was high; there was, moreover, an established tradition of political activism and urban administration<sup>61</sup>. Therefore, it is not surprising that this region had taken the lead in state affairs. Second, during the Soviet time the relationship among the Leninabadis themselves, existed in the form of social networks based on patronage, so-called, clans, were much stronger in comparison with the representatives of other regions<sup>62</sup>. These clans in Tajikistan focused on forceful individuals, who were perceived to have the qualities necessary to further group interests and had geographical dimension.

It is also important to take note of the fact that one region of Tajikistan, Kulyab, was more underrepresented, than others in the Tajik political elite. This situation is interpreted differently. One group of scholars explains it in terms of deliberate exclusion, that is, that Kulyabis were “kept out by others” (Leninabadis)<sup>63</sup>. Another group argues that the Kulyabis themselves chose not to compete in a sphere that did not offer them greater benefits than those they already enjoyed on their own territory<sup>64</sup>. Within Kulyab they had status, wealth and ran their affairs almost independently of the capital. The major infrastructure projects in the region, i.e. irrigation and road building, were decreed and largely financed directly by Moscow. Therefore, Kulyabis had little incentive to seek influence in Dushanbe. In any case, what is important, is that during the Soviet time Kulyabis stayed aside from the state political power.

Hence, since the 1940s the struggle for power between regions (not individuals as such) began. This means that first, the strengthening of regionalism developed from protecting regional interests, which later on boiled over into rigid localism and latent political competition between the regions. Second, the regional competition at the highest echelons of power created fertile soil for the development of regionalism<sup>65</sup> at all levels. The accent on regional distinctions also replaced the national unification and the construction of basic civic consolidation. Third, the domination of the representatives of one region contributed to the solution of the questions of economic development of different parts of the republic by local demands of the “privileged” regions<sup>66</sup>. That is, those Khujandis, who were in power, promoted the main investments in the Northern part of Tajikistan at the cost of the “deprivation” of the

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<sup>58</sup> Khujandis during the Soviet time were called Leninabadis (by the name of the capital of Leninabad oblast, nowadays Sogd oblast with capital Khujand) or “Northerners”

<sup>59</sup> Ibid., 254

<sup>60</sup> Ibid., 254

<sup>61</sup> Shirin Akiner *Tajikistan. Disintegration or Reconciliation?* Great Britain: The Royal Institute of International Affairs, 2001, 20

<sup>62</sup> A.M. Khazanov *Underdevelopment and Ethnic Relations in Central Asia* In Manz F. Beatrice *Central Asia in Historical Perspective*. United Kingdom: Westview, 1994, 147

<sup>63</sup> V.I. Bushkov/D.V. Mikul'skii *Anatomiya Grajdanskoi Voini v Tajikistane (Etno-social'nie Processi ii Politicheskaya Bor'ba, 1992-1995 (Anatomy of the Civil War in Tajikistan (Ethno-Social Processes and Political Struggle, 1992-95))*. Moscow: In-t Etnologii ii Antropologii, 38

<sup>64</sup> Shirin Akiner *Tajikistan. Disintegration or Reconciliation?* Great Britain: The Royal Institute of International affairs, 2001, 21

<sup>65</sup> I use the term “regionalism” to indicate the state of events, when the generic ancestry of people acquires political meaning and mostly defines their attitude and behavior as regards the outside world (e.g. representatives of other regions)

<sup>66</sup> Davlat Khudonazar *The Conflict in Tajikistan: Questions of Regionalism* In Sagdeev Z. Roald/ Eisenhower Susan *Central Asia: Conflict, Resolution, and Change*. New York: Associate editors Douglas Goudie and Heather Parrish, 1995, 252

South, which, in its turn, highlighted the social tensions within the “deprived” regions. Here the traditional clan structure of the Tajik society approved itself completely.

Gretsky also emphasizes that a little was done by the Soviet rulers to eradicate natural regionalism in Tajikistan, as little was done in terms of filling in gaps in transportation infrastructure<sup>67</sup>. The main parts of the country during seventy years of Soviet rule remained separated from each other. For example, Khujand province is still connected with the rest of the country by a road, which goes through Uzbekistan and a railroad crossing both Uzbekistan and Turkmenistan. This fact, indeed, only strengthened regional distinctions and cultural, social and political distances between regions. The consequences of all these processes came to light from the first days of acquisition of independence by Tajikistan.

### 2.1.3 Civil War 1992-1997: Preconditions and Consequences

The process of nation-building in Soviet Tajikistan, as discussed above, was from the outset endangered by regional distinctions within Tajik society. “The atomization of traditional communities enhanced micro-ethnicities and micro-loyalties”<sup>68</sup> and by the 1990s Tajik society was already brittle, with a potential for shattering. In the last years of the existence of the Soviet Union these divided structure of the society boiled over into a number of powerful social trends and drives (previously latent), primarily, socio-economic and political. In this sub-chapter, I will argue that the civil war in Tajikistan became the Tajik reality, due to the skilful use of contradictions and rivalries between the representatives of the main regions, which emerged in the pre-modern time and were reinforced during the Soviet era by the new leaders, struggling for power. However, these leaders could not have succeeded, if not for the accompanying factors, favoring the warming of the tensions: poverty and unemployment, resurgence of Islam and criminalization of the society. I will also emphasize that the peaceful accord of this inter-regional or inter-clan conflict prepared the base for the new institution-building process in Tajikistan.

Thus, Laws “Of state language” (22/07/1989), “Of freedom of consciousness and religious organizations” (08/12/1990), “Of public organizations” (12/12/1990), *Declaration “Of state independence of the Republic of Tajikistan”* by the Supreme Council (09/09/1991) were adopted in the beginning of 1990s. Tajikistan was proclaimed a democratic state with a presidential form of government. In November 1991 the former Secretary of the Communist Party of the Tajik SSR, Nabiev, a Khujandi, was elected president, for the first time in the history of Tajiks through direct presidential elections<sup>69</sup>. All these events favored the liberalization of the political and politicization of the social lives in Tajikistan.

Consequently, new political forces ready to struggle for power, started emerging. Rastokhez (Rebirth) National Front, Democratic Party (DP)<sup>70</sup> of Tajikistan and La’l-i Badakhshan (the Ruby of Badakhshan) comprised, so to say, “democratic” movements, opposing the old regime<sup>71</sup>. These organizations had much in common. Initially, they started from liberal democratic platforms, arguing for political reform and economic liberalization<sup>72</sup>. However, later on, they acquired a nationalistic nature. In February 1990 they organized mass demonstrations against

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<sup>67</sup> Sergei Gretsky Civil war in Tajikistan: Causes, Developments, and Prospects for peace In Sagdeev Z. Roald/ Eisenhower Susan *Central Asia: Conflict, Resolution, and Change*. New York: Associate editors Douglas Goudie and Heather Parrish, 1995, 220

<sup>68</sup> Shirin Akiner *Tajikistan. Disintegration or Reconciliation?* Great Britain: The Royal Institute of International affairs, 2001, 25

<sup>69</sup> V.I. Bushkov/Mikul’skii D.V. *Anatomiya Grajdanskoi Voini v Tajikistane (Etno-social’nie Processi ii Politicheskaya Bor’ba, 1992-1995 (Anatomy of the Civil War in Tajikistan (Ethno-social Processes and Political Struggle, 1992-95))*. Moscow: In-t Etnologii ii Antropologii, 56

<sup>70</sup> “Democrats” was little more than a label, by which the new contenders for power sought to distinguish themselves from those already in office. Excited by the success in the street demonstrations, the “democrats” believed that they had a mandate to overthrow the regime by any available means but, indeed, they were very far from the common people.

<sup>71</sup> Mavlton Muhtorov, Abuali Toirov *The Political Parties of the Republic of Tajikistan*. Dushanbe: Status, 2004, 76

<sup>72</sup> Sergei Gretsky Civil War in Tajikistan: Causes, Developments, and Prospects for Peace In Sagdeev Z. Roald/ Eisenhower Susan *Central Asia: Conflict, Resolution, and Change*. New York: Associate editors Douglas Goudie and Heather Parrish, 218

Armenians, as, on the eve, there were rumors that a large number of Armenian refugees from Azerbaijan had to be re-housed in Dushanbe, supposedly taking priority over those Tajiks who had been on the city's housing list for a long time. The demonstrations were accompanied by slogans such as "Tajikistan for Tajiks". Afterwards, the leaders of the parties decided to use another "winning" factor, which would bring them popular support. They argued against the occupation of power for more than half a century by Khujandis<sup>73</sup>. These groups underlined that for years Khujandis governed the country, which led to the exclusion of other regions from governing the state. Moreover, Khujandis, in their words, were responsible for the extreme poverty and unemployment in the Southern regions of the republic<sup>74</sup>. Therefore, they demanded the resignation of president Nabiev and his cabinet.

Simultaneously, the processes of activization and politization of Islam, under the leading role of Muslim leaders (Akbar Turajonzoda, Shodmon Yusuf, Said Abdullo Nuri) occurred. Groups that had previously been concerned more with ritual observance and the study of religious texts now began to favor a political agenda in Tajikistan. This period may be characterized primarily by two trends. One, apparently drawing inspiration from the works of Muslim leaders abroad, took root among marginalized urban youth<sup>75</sup>. The other seems to have been more of a village phenomenon, centered on traditional mentors and bound together by local family-community networks<sup>76</sup>. The movement soon spread to most parts of the country. As a result, the Islamic Rebirth Party (IRP) of Tajikistan, the branch party of the all-Union Islamic party, was registered in mid of 1991 with the aims of "spiritual revival of the population and the implementation of Islamic principles"<sup>77</sup>. The leaders opposed the government and demanded its resignation in order to form the *Islamic* government (as in the Iranian model) afterwards.

Another factor, contributing to the start of the civil conflict and general destabilization of the situation was the criminalization of Tajik society, first, due to "opening" new routes of illegal transportation of drugs from Afghanistan to Russia and Europe<sup>78</sup>. The poor population, in their desire to earn a living was easily involved in this criminal business. Second, thanks to open borders with Afghanistan, Tajikistan was filled by criminals and weapons, remaining from the times of war in Afghanistan (1979-1989)<sup>79</sup>. People could easily buy and sell weapons in the streets of Dushanbe in this period.

Thus, in order to undermine the growing opposition, Nabiev made a series of moves in March 1992. The attacks on the opposition culminated in a televised address by Kenjaev, Hudjandi, the future speaker of the Parliament, in which he attacked Navjuvanov, Pamiri, head of the Ministry of the Interior, for exceeding his authority<sup>80</sup>. However, contrary to expectations, this was the incident that finally destabilized the situation, inciting a confrontation that led to the open confrontation between regional clans and bloodshed. Navjuvanov's supporters gathered spontaneously in the center of Dushanbe, in Shahidon (Martyrs') Square and called for

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<sup>73</sup> V.F. Pryahin *Regional'nie Konflikti na Post-sovetskom Prostranstve: Abhaziya, Yujnaya Osetiya, Nagornii Karabah, Tajikstan (Regional Conflicts on the Post-Soviet Space: Abhaziya, Southern Osetiya, Nagorni-Karabakh, Tajikistan)*. Moscow: Gnom, 2002, 44

<sup>74</sup> It is noteworthy, that the majority of members of these parties came from Garm, Karategin and Pamir regions, the poorest regions of Tajikistan. Therefore, these regions became the fertile ground for development of the anti-government movements.

<sup>75</sup> Davlat Usmon Tajik Conflict and Measures of Trust In Arne Seifert *Trust Building between Islamists and Secularists – Tajik Experiment*. Dushanbe: Devashtich, 241

<sup>76</sup> Shodi Shabdolov Formation of the Tajiks Secular State: Lessons of the History In P. Shozimov *State and Religion: Search for the Ways of Proceeding Dialogue*. Dushanbe: Irfon, 2005, 69

<sup>77</sup> Safarov Saifullo National State and Religion in the Modern Tajikistan In P. Shozimov *State and Religion: Search for the Ways of Proceeding Dialogue*. Dushanbe: Irfon, 2005, 74

<sup>78</sup> Strengthening the regime in Iran made Tajikistan the main way of transportation of drugs from Afghanistan to Europe, where the 1 g. of drugs cost 200 times more than in any Asian country.

<sup>79</sup> V.F. Pryahin *Regional'nie Konflikti na Post-sovetskom Prostranstve: Abhaziya, Yujnaya Osetiya, Nagornii Karabah, Tajikstan (Regional Conflicts on the Post-soviet Space: Abhaziya, Southern Osetiya, Nagorni-Karabakh, Tajikistan)*. Moscow: Gnom, 2002, 37

<sup>80</sup> Akiner Shirin *Tajikistan. Disintegration or Reconciliation?* Great Britain: The Royal Institute of International affairs, 2001, 36



Kenjaev's dismissal. The slogans of the crowd, dominated, primarily, by Pamiris and Karateginis, were anti-government, anti-Khujandi, pro-opposition and pro-Islamist<sup>81</sup>. A rival demonstration of pro-government, pro-constitution and anti-Islamist factions formed nearby, in Ozodi (Freedom) Square; this consisted mainly of Khujandis and Kulyabis. The standoff continued throughout April, with each side continually provoking the other. After a series of violent collisions between these crowds, Nabiev agreed to the formation of a coalition Government of National Reconciliation (GNR)<sup>82</sup>, but still it was far from the solving the conflict. It is remarkable that by the end of 1992 the so-called "democrats" and Islamists united in the United Tajik Opposition (UTO). I underline that, at the first sight, such ideologically incompatible forces in public showed no personal or ideological disagreements and appeared as a joint front, opposing the Khujandi government. This front consisted, mainly, of Pamiris, Garmis and Karategins (Southern regions). On the other side, the government, consisting mostly of Khujandis and their supporters, Kulyabis stood (for the first time in history, Tajiks witnessed such an alliance: Khujandis and Kulyabis. As I indicated in the previous sub-chapter, Kulyabis were always neutral, showing no interest in participation in state structures). I would argue, that such a split on different opposing sides along the regional lines highlights, first, the regional (not the conflict between South and North, as is often argued, Kulyab is the Southern part of Tajikistan, Khujand is its Northern part), second, the political (not ideological – in the case of UTO) nature of the resistance.

It was during almost two years (1991 and 1992), that the government was not able to enforce law and order, because there was no national army, and the loyalties of the Presidential Guard, Ministry of the Interior and Ministry of National Security were divided<sup>83</sup>. Therefore, the role of parliament (the only legitimate state body during that period) in government of the country increased. Opposition forces demanded from it the solution of issues that originally were in responsibility of the government. However, the work of the Supreme Council (they worked from session to session) was influenced much by the events occurring in the streets of Dushanbe and other parts of the country. The deputies very often voted for the amendments to different laws, including the Constitution of the Republic of Tajikistan, and issued decrees, soon afterwards abolishing them<sup>84</sup>. Additionally, under pressure from the opposition, during a year several chairmen of the Supreme Council were appointed and dismissed from the position: Aslonov, Kenjaev and Iskandarov<sup>85</sup>.

Thus, it was in this state of anarchy, that the prominent XVI session of the Supreme Council was held in November 1992 near Khujand. This session was a landmark occasion in the history of independent Tajikistan. The GNR was defeated and a relatively unknown figure, Emomali Rahmonov, a Kulyabi, was elected acting head of government and state<sup>86</sup>. Very soon after his election, Rahmonov took steps to consolidate his position. A new government was formed, with ministerial posts allocated predominantly to Kulyabis and Hujandis. Opposition parties were banned, laws, passed by the GNR were declared invalid and judicial charges were brought against some of the opposition leaders<sup>87</sup>, but the political and military resistance was going on till the beginning of 1994.

In April 1994 the peace process in the Tajik conflict began and finished with the signing of the General Agreement on the Establishment of Peace and National Accord on June 27, 1997 (General Agreement). In total, Inter-Tajik peace talks took over four difficult years, and eight

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<sup>81</sup> Ibid, 37

<sup>82</sup> Ibid., 38

<sup>83</sup> Gregory Gleason *The Central Asian states, Discovering Independence*. United Kingdom: Westview, 1997, 64

<sup>84</sup> Abdulmajid Dostiev, interview by author, Dushanbe, Tajikistan, 13/04/2005

<sup>85</sup> M. Ubaidulloev, S. Hairulloev, A. Dostiev *The Foundation of a Newest Statehood*. Moscow: Radunica, 2002, 300

<sup>86</sup> During this session of the Supreme Council a decision was made to reform Tajikistan from presidential to parliamentary republic. Therefore, despite Nabiev was popularly elected president, in 1992 Rahmonov, firstly, was elected president by the deputies of the existing parliament (the Supreme Council) and only after the presidential elections in November 1994 popularly elected president, when Tajikistan again became the presidential republic.

<sup>87</sup> Akiner Shirin *Tajikistan. Disintegration or Reconciliation?* Great Britain: The Royal Institute of International Affairs, 2001, 39

rounds of talks to reach a settlement on the conflict, plus peace diplomacy of the United Nations, Iran and Russia as mediators of the conflict.

In terms of constitutional reform and the process of institution-building, it is important to note that during the civil war, on November 6, 1994, the first Constitution, confirming the presidential form of government in the republic, which admits the priority of human rights and freedoms and the democratic principles of separation of powers in Tajikistan (for the first time in the history of Tajiks) was adopted. The same month the second popularly elected president, acting currently, Emomali Rahmonov, was elected.

The General Agreement foresaw a transition period of 12-18 months in length, during which all the provisions of the Agreement (protocols etc.) should be fulfilled. It meant that as a result of the complete fulfillment of the Agreement, the sound constitutional and legal base for formation of a new state would be prepared. For this purpose, the following tasks should be executed:

- Ø Giving thirty per cent quota in the structures of the executive power (ministries, courts and law enforcement bodies) to UTO representatives
- Ø Free and voluntary return of refugees
- Ø Disarmament and reintegration of the military forces of the opposition into state military structures (Ministry of Defence, Security and the Interior) and reform of the governmental military structures, as well as adoption of the law of amnesty and act of mutual remission
- Ø Amendments and additions to the Constitution of Tajikistan, Law "Of elections" and "Of political parties" (legalization of forbidden oppositional and other political parties and movements), "Of mass-media" (stimulation of functioning free mass-media)
- Ø *Formation of the new parliament on the professional base*<sup>88</sup>
- Ø Thus, analysis of the results, which the civil war was finished with, showed that, when the Parties agreed on the share of the state power (30 per cent of the governmental seats were allocated to the opposition) the conflict was finished and all the regional, political and social contradictions were, as if, resolved. The reality demonstrated that the civil war in Tajikistan was the struggle for power between the authoritative leaders who could use all the contradictions, primarily, regional, which existed within the divided Tajik society for their private gains. This conclusion becomes evident, because, the opposition, having taken its 30 per cent quota, agreed that the remaining seats be filled in, again, by one regional clan: Kulyabis (plus some seats for Khujandis). That is, the structure of the government with domination of one regional clan remained, with that only difference that Kulyabis alternated with Khujandis.

The consequences of the civil war in Tajikistan were thousands of male deaths and their widows and orphans, a society exhausted by war and the newly born syndrome "never again", ruined economy (factories and plants) and communications, as well as poverty. Although, the peaceful settlement of this regional conflict gave an opportunity of the construction of new constitutional order and building new institutions, in the framework of which democratic and legal state can be built up and function. Adoption of the Constitution and popularly elected president were only the first steps, the next was the formation of the professional parliament.

## 2.2 Introduction of Bicameralism and its Main Justifications

All the proceeding history of Tajik independence: regional and political conflict, dissatisfaction with the unicameral parliament, working on a section to section base, and disorder in the legal field fostered insistently the necessity for the establishment of a professional parliament in Tajikistan during the mid 1990s. The professional parliament was expected to be the highest *representative* and *the only legislative* body. In this sub-chapter, I will analyze the origins of bicameralism and its main justifications. I will emphasize that the main justification for

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<sup>88</sup> General Agreement on the Establishment of Peace and National Accord between the UTO and the government of the Republic of Tajikistan of June 27, 1997

introduction of bicameralism was its representative role (representation of regions), as a lesson from the times of the civil war.

Hence, the idea of creation of a professional parliament, elaboration of Law on parliamentary elections and conduction of the elections were points of discussion as far back as during the intra-Tajik peace negotiations<sup>89</sup>. This was fixed in the Political Protocol, Protocol and Instructions "Of main functions and obligations of a Commission on National Reconciliation" (CNR<sup>90</sup>) of the General Agreement on the Establishment of Peace and National Accord that the professional parliament to be created during the transition period. At that time, it was the CNR, established on a parity basis from the representatives of UTO and the government, who was invoked to realize all the provisions of the General Agreement, including preparation of suggestions concerning the professional parliament.

However, in spite of the common recognition of the necessity of the introduction of a professional parliament, there were debates about its structure inside the CNR: unicameral or bicameral parliament - what is better for a unitary state divided by regional clashes? Therefore, there is no agreement among acting politicians of that time on who exactly initiated and played the decisive role for the establishment of bicameralism in Tajikistan. Some argue that it was UTO, who wanted by these means to get extra seats for its members in the new parliament<sup>91</sup>. Some support the idea that it was the president Rahmonov, who insisted on a bicameral system of parliament to guarantee equal representation of regions and stop regional conflicts<sup>92</sup>. Others assure that it was the international organizations (the UN, OSCE), mediators of the conflict, who defended the idea in order to have better prospects for stability and democracy in terms of separation of powers and minority and regional representation<sup>93</sup>.

What is a fact is that consensus was reached by the members of NCR in 1998 and the Committee of the Madjlisi Oli on state-building elaborated the constitutional position of a bicameral parliament. They designed the bicameral parliament in Tajikistan, mainly, in accordance with the models of bicameralism in the United States (as the prime example of an embodiment of the "idea" of democracy) and France (as the example of successful bicameralism in a unitary state)<sup>94</sup>. Later on, during the last day of the session of unicameral Madjlisi Oli, on June 1999, the project of the constitutional amendments was presented in the parliament. The project was approved by the deputies and presented for referendum on September 26, 1999. It was also approved by the majority of the population as well (99%)<sup>95</sup>. In Tajikistan from this date the history of a professional and bicameral parliament, the representative<sup>96</sup> and the legislative body, started. The parliament consists of Madjlisi Milli, the higher chamber, elected indirectly and working from session to session and professional Madjlisi Namoyandagon, the lower chamber<sup>97</sup>.

The huge popularity of the idea of bicameralism among the population in 1999 proceeded from arguments that were presented as justifications of this constitutional reform, first, by CNR and, afterwards, by government and parliament. They argued that by the introduction of the second, higher, chamber, first, the regions and minorities would be better represented<sup>98</sup>. This

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<sup>89</sup> Rafika Musaeva, interview by author, note-taking, Dushanbe, Tajikistan, April 15, 2005

<sup>90</sup> The CNR consisted from twenty-six persons: thirteen from the UTO and the rest from the government. The chairman of the NCR was the UTO representative Mr. Said Abdullo Nuri, while his vice-chairman – the government representative, Abdulmajid Dostiev.

<sup>91</sup> Yusuf Ahmedov, interview by author, note-taking, Dushanbe, Tajikistan, April 14, 2005

<sup>92</sup> M. Ubaidulloev, S. Hairulloev, A. Dostiev *The Foundation of a Newest Statehood*. Moscow: Radunica, 2002, 356

<sup>93</sup> Abdulmajid Dostiev, interview by author, note-taking, Dushanbe, Tajikistan, April 13, 2005

<sup>94</sup> Rafika Musaeva, interview by author, note-taking, Dushanbe, Tajikistan, April 15, 2005

<sup>95</sup> Kirill Nurjanov *Strategic Review of the Parliamentary Structure and Organization. Component 1: Reform of the System of State Government in Tajikistan*, Dushanbe: SMEC, 2001, 15

<sup>96</sup> During interviews all deputies underlined that it is, first, representative and only then, legislative body.

<sup>97</sup> Madjlisi Milli (National Council) and Madjlisi Namoyandagon (Council of representatives) together comprise Madjlisi Oli (the Supreme Council).

<sup>98</sup> Abdulmajid Dostiev, interview by author, Dushanbe, Tajikistan, April 13, 2005;

Kahor Mahkamov, interview by author, Dushanbe, Tajikistan April 12, 2005;

was expected to contribute to the consideration of interests of all groups, living in Tajikistan (as a lesson from the times of the civil war). Second, it would contribute to strengthening the declared democratic principle of separation of powers, which would guarantee the system of “checks and balances”, both between the branches of power and chambers of the parliament within it<sup>99</sup>. That is, the parliament was expected to “check” the executive power, while the second chamber would “check” and “balance” the lower one<sup>100</sup>. Overall, the expectations from bicameralism in Tajikistan were the contribution to stabilization and democratization of the country.

### Conclusion

Modern Tajikistan is a multi-ethnic state, consisting of culturally and linguistically different groups, living together for centuries. Some of these groups were formed historically as a result of geographical topography of Tajikistan, as the Tajiks, who are plain-dwellers (Khujandis and Ferganis) and those, who are mountain-dwellers (Pamiris and Kulyabis). Some were formed by the administrative-territorial delimitation policy of the Soviet rulers (huge settlements of Uzbeks were joined to Soviet Socialist Tajik Republic, while a great many Tajiks live in Bukhara and Samarkand, currently towns within Uzbekistan). Additionally, there are Diasporas of Russians, Kazakhs, Kyrgyz, Arabs, etc. in the contemporary Tajikistan.

Such heterogeneous and the “traditional lifestyle” characteristics of the Tajik nation reflected much on the national elite formation during the Soviet period, which, during this time, were reinforced and politicised. Since the 1940s it was the representatives of the Northern part of Tajikistan (Khujandis), who prevailed the power state structures. The situation of occupation of power by one regional Khujandi clan had two consequences for the post-Soviet development of Tajikistan: first, the regional competition at the highest echelons of power reinforced the sense of regionalism among the common citizens. Second, the power domination by the representatives of Khujand region led to its better economic development in comparison with the other parts of the republic, which, to the beginning of 1990s, were struck by poverty, unemployment and corruption (as general destabilizing factors). The stratification between the regions on the base of economic development contributed much to the tensions between representatives of the different regions (primarily, Khujandis, on the one side, and Pamiris, Garmis and Karategins, on the other side).

As a result, in the new conditions of democratization of the society (freedom of speech, religion, social and political organizations, alien to the times of the Soviet Union), in the early 1990s, these regional tensions were successfully used by the leaders of new “democratic” and Islamic movements. Later on, they comprised the “implacable” United Tajik Opposition, resisting the existent legitimate government. Although, the struggle against non-equal representation of regions, as well as economic under-development of the Southern regions and for political and economic reforms was the political curtain, hiding the trivial struggle for power. After receiving their share in the state power (30 per cent), the opposition compromised and the General Agreement on the Establishment of Peace and National Accord was signed. I would underline that this is the historical baggage of the regional division of the Tajik population that appeared as the destroying factor, pressing Tajiks to the civil (or better inter-regional) war.

However, its peaceful settlement laid the basis for the formation of a new state with a sound constitutional and legal base, an indispensable part of which, was the formation of the professional bicameral parliament. The acting constitution of the Republic of Tajikistan

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Mahkam Mahmudov, interview by author, Dushanbe, Tajikistan April 11, 2005

<sup>99</sup> Rafika Musaeva, interview by author, note-taking, Dushanbe, Tajikistan, April 15, 2005

<sup>100</sup> Z.M. Aliev Nekotorie Voprosi Stanovleniya Parlamentarizma v Respublike Tajikistan (Some Issues of Emerging Parliamentarism in the Republic of Tajikistan). *Vestnik Meiparlamentskoi Assamblei SNG (Manual of the Inter-Parliamentary Assembly of the CIS)*, Vol. 33, Issue 2, pp. 216

underlines that the bicameral parliament is, firstly, representative (as a lesson from the times of the civil war), secondly, the only legislative body in the republic. It is the equal representation of regions, which the second chamber of the parliament was, mainly, introduced for in 2000, plus the strengthening the democratic principle of separation of powers via the system of "checks and balances". In consequence, it was expected to lead to stabilization and consolidation of democracy in the country.

### Chapter 3: Bicameralism and Democracy in Tajikistan

The prime question of this chapter will be how much the introduction of bicameralism contributed to democracy in the past five years, 2000-05. As conceptualized in the first chapter, I will analyze whether the introduction of a bicameral system of parliament in Tajikistan strengthened the principle of separation of powers. I will also evaluate how much the second chamber represents the interests of the population of the regions and protects minorities via minority representation. For this purpose, firstly, I will analyze the constitutional system of Tajikistan and the constitutional design of bicameralism in order to assess the “checks and balances” role of the bicameral parliament in respect to the other branches of power: executive and judicial. Additionally, I will examine the preservation of the “checks and balances” mechanism and the principle of separation of powers between the houses of parliament. Later on, I will analyze the functioning bicameralism in Tajikistan in practice. Secondly, I will study the personal composition of the second chamber in order to assess how much the second chamber is the representative body of the regions and minorities.

#### 3.1 Bicameral Parliament in Tajikistan in Terms of the Separation of Powers

Guaranteeing the principle of the separation of powers, based on the mechanism of “checks and balances” is aimed at protecting a society from despotism<sup>101</sup>. It assures that none of the branches of power can abuse its power. The advocates of constitutionalism and democracy also highlight that the main idea here is “[...] to bring the executive under control and to place limits on the exercise of its power”<sup>102</sup>. In this sub-chapter, I will underline that, generally in Tajikistan, *as a constitutional arrangement*, the principle of separation of powers between the parliament and the other branches of power is preserved. However, the way of formation, some competences and practices of the second chamber create confusion in this principle. Additionally, *in practice*, due to the personal composition of the second chamber (almost all members of Madjlisi Milli are appointed by the president) plus the political composition of the lower chamber, with a majority loyal to the president (as a result of popular elections), the legislative power is not separated from the executive and the latter does not fulfill its “checks and balances” functions, in respect of the former. Such a composition of the second chamber also does not guarantee the work of the “checks and balances” mechanism of the second chamber as regards the lower one.

##### 3.1.1 Constitutional System of the Republic of Tajikistan

The Republic of Tajikistan is constitutionally defined as a sovereign, democratic, legal, secular, and unitary state<sup>103</sup>. The notion of democratic state is based on generally recognized civil, political, social and cultural rights, popular sovereignty, principles of ideological and political pluralism and multi-party system. The Constitution also proclaims the *people* of Tajikistan, regardless of their nationality, as bearers of sovereignty and *the only source of state power*, which it exercises directly – through referendum and elections and indirectly – through its representatives: the president, the government, Madjlisi Milli and Madjlisi Namoyandagon of Madjlisi Oli of the Republic of Tajikistan (National Assembly and Assembly of Representatives of the Highest Assembly respectively) and local madjlises (representative bodies) as well (art. 6).

It is important to note that state power is executed on the basis of the separation of powers in judicial, executive and legislative branches<sup>104</sup>. In this sense, the constitutional system seeks to guarantee the mechanism of checks and balances, that is, mutual control and sharing state power in order not to have excessive concentration of power in any of the branches.

The judiciary consists of the Supreme, Highest Economic and Military courts, as well as the Courts of Gorno-Badakhshan Autonomous Oblast (GBAO, the only autonomous oblast of Tajikistan), oblasts, Dushanbe-city and other city and district courts (art. 84). It is the

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<sup>101</sup> Sh.Ismailov Sh.M. Stanovlenie Parlamentarizma v Respublike Tajikistan (Emerging Parliamentarism in the Republic of Tajikistan). *Vestnik Mejparlamentskoi Assamblei SNG (Manual of the Inter-Parliamentary Assembly of the CIS)*, Vol. 32, Issue 1, pp. 234

<sup>102</sup> M.J.C. Vile *Constitutionalism and the Separation of powers* – 2nd ed., Indianapolis: Liberty Fund, Inc., 2

<sup>103</sup> The Constitution of the Republic of Tajikistan, art. 1

<sup>104</sup> *Ibid.*, art. 9

president who nominates the chairmen and deputy chairmen of the Constitutional, Supreme, Highest Economic and Military courts and Madjlisi Milli, who approves them. However, once appointed, the judges are separate and “independent and obey only the Constitution. Interference in the work of the courts is forbidden”<sup>105</sup>. The term of office of a judge is 10 years (art.84). The Constitution forbids the establishment of extraordinary courts. Neither the president, nor the parliament may call extraordinary courts to suppress the independence of any of the authorities for any goals (art.84).

There is also a Constitutional court, which is separated from all of three branches of power. Judges of the Constitutional court are nominated by the president and approved by parliament. It reflects on the complaints of individuals, organizations, deputies of Madjlisi Oli and the president on compliance of laws and other legal acts with the Constitution. If legal acts contradict the Constitution, the Constitutional court has the right to abolish them (art. 89).

As for the executive power, there is a dual executive in Tajikistan, consisting of the president and government, where the former has the central authority as head of government and state. It is the president who is the guarantor of the Constitution and human rights and freedoms, national independence, unity and territorial integrity, eternity of state (art. 64). The president's term of office is 7 years.

The president creates and abolishes ministries and state committees, appoints and retires prime-minister and other members of the government, as well as heads of regions and cities with the approval of Madjlisi Oli. If Madjlisi Oli does not approve the presidential nominees, the president has to nominate the other persons. The president signs laws and represents the republic at home and in international affairs. He is also the Commander-in Chief of the military forces of Tajikistan. In addition, he fixes the date of referendum and elections of deputies of Majlisi Oli (in accordance with the Constitution and constitutional procedures and terms) (art. 69).

Thus, the spectrum of authority of the president is rather wide. He occupies the central power within the executive branch, however, in accordance with the Constitution, he does not intervene in the work of either parliament or courts. That is, on the one hand, the president has a wide range of authority and power, on the other hand, on the principle issues of the state, he needs approval of the parliament: to enact a law and international treaties, form state budget, legitimize the government and the judiciary, declare a state of emergency and adopt foreign and home policy programs (art 69). He has the right of suspensive “veto” (to stop adoption of laws), which can be overturned by two-thirds majority of the general number of members of Madjlisi Oli.

The government, consisting of prime-minister, his deputies, ministers and head of state committees is formed both by the president and the parliament<sup>106</sup>. It is the president who nominates all the candidates to the government and the parliament who approves. The government is responsible before the president and the parliament: the president, as well as the parliament can initiate its dissolution, but it needs the approval of the other (art. 73)<sup>107</sup>. This implies that the perseverance of the principle of the separation of powers in Tajikistan is constitutionally supported additionally by the ways of formation of the government and its dual responsibility.

Therefore, as a constitutional arrangement, the executive (president and the government) is also separated from the judiciary and the legislature, consequently, the legislature is separated from the executive and the judiciary. This means, that the constitutional system of the Republic of Tajikistan, as a whole, ensures the principles of “separation of powers” and, as a result, “checks and balances”.

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<sup>105</sup> The Constitution of the Republic of Tajikistan, art. 87

<sup>106</sup> In accordance with the Constitution the government fulfills laws, decrees of the houses of the parliament, as well as the president. It also ensures elaboration of the economic, social and political development programs of Tajikistan.

<sup>107</sup> If the president initiates dissolution of the government, he needs the approval of the parliament (both houses), if the parliament does, the latter needs approval of the president.

### 3.1.2 Constitutional Design of Bicameralism

In accordance with article 48 of the Constitution, Madjlisi Oli, a bicameral parliament, is the highest legislative body of Tajikistan. Madjlisi Oli consists of Madjlisi Milli (upper house) and Madjlisi Namoyandagon (lower house). The legislative power is distributed between these two chambers: every house has its own exclusive power and responsibilities, while there are issues that are decided together. The term of office of both houses is five years and elections to the houses are held with a month interval. Both houses have the right to legislative initiative (as well as the president, government, Constitutional, Supreme, and the Highest Economic courts). However, it is important to note that it is the lower house who *adopts* laws, while the second house can only *approve* them or not, and give recommendations, without the right to make amendments<sup>108</sup>. The second chamber, primarily, is invoked to represent the interests of people of the regions during the legislative process and guarantee the “checks and balances” principle over the lower house and, primarily, the executive power as well.

The deputies of Madjlisi Namoyandagon are elected on the basis of general, equal and direct right to vote through secret ballot. Madjlisi Namoyandagon works on a *continual* and *professional* basis. Deputies of Madjlisi Namoyandagon cannot be deputies of another representative body or be engaged in any other professional activities except scientific, creative and pedagogical (art. 50). Its session is held once a year, beginning from the first workday of October and till the last workday of June.

The range of competence of Madjlisi Namoyandagon involves law-making, approval of social and economic programs, ratification and nullification of international treaties, approval of the decision to take or give state credit. The lower chamber establishes courts, organizes the plebiscite concerning drafts of important laws and other state and social issues, and fixes the salary of the president (art.57). It is approval of the state budget and amnesty, which is in the field of exclusive power of the lower chamber as well.

In order to have equal representation of regions in Madjlisi Milli, the second chamber, the representative body, Tajikistan was split into five administrative parts: Gorno-Badakhshan oblast, Sogd and Khatlon regions, Dushanbe-city plus cities of the republican jurisdiction. In spite of the non-equal spread of an amount of territory and population among these districts, each administrative part has an *equal* number of representatives in Madjlisi Milli – five persons from each (three fourths of the total number of the members). The basic idea of such equal representation is that the regions could balance their interests in the equal conditions<sup>109</sup>.

Three fourths of the members of Madjlisi Milli are elected indirectly, through secret ballot by regional representative bodies (madjlises of Gorno-Badakhshan Autonomous Oblast (GBAO) and its cities, regions, Dushanbe-city and the city districts, and other cities and districts of the republican jurisdiction) (art. 49). The rest, one fourth of members of the upper house, is appointed by the president. In addition, every former president has the right to be a member of Madjlisi Milli for life. The work of Madjlisi Milli is held in the form of sessions. Every next session is convened by the chairman of the house no less than four times a year<sup>110</sup>. Governmental, law enforcement bodies' officials, military men cannot be members of Madjlisi Milli.

Apart from the approval of laws, adopted by Madjlisi Namoyandagon, the competence of the upper house consists in the creation, abolition and change of administrative and territorial units. Members of Madjlisi Milli approve the chairmen and deputy chairmen of the Constitutional, Supreme and the Highest Economic Courts and General Prosecutor, nominated by the president (art.56) In the case of “systematic non-fulfillment of the constitutional laws by madjlises of local deputies (popularly elected bodies), Madjlisi Milli has the right to dissolve

<sup>108</sup> The Constitution of the Republic of Tajikistan, art. 60

<sup>109</sup> Mahmadsaid Ubaidullaev, interview by author, Dushanbe, Tajikistan, April 14, 2005 (see Appendix)

Abdulmajid Dostiev, interview by author, Dushanbe, Tajikistan, April 14, 2005

<sup>110</sup> Before June 23, 2003, when new amendments to the Constitution were made, it was no less than two times, when the sessions of Madjlisi Milli had to organize sessions



them”<sup>111</sup>. The latter means that article 80 of the Constitution legitimizes the right of the indirectly elected body to abolish the directly elected<sup>112</sup> one, as well as to judge, what the “systematic non-fulfillment of the Constitution and laws” is.

I argue that the provision of article 80 of the Constitution, firstly, legitimizes the situation, when the legislative body, Madjlisi Milli, acquired the functions of the judicial one, where the parliament appears in the role of the Constitutional court. The second chamber of the parliament is granted the right to judge what the “systematic non-fulfillment of the Constitution and laws” is. Hereby, this creates confusion in the separation of powers. That is, if there is acting Constitutional court, entitled to monitor both legislative and executive activities in compliance with the Constitution, it is the Court who should judge whether the local madjlises act in accordance with the Constitution or violate it.

Secondly, it undermines the very principle of democracy, because it diminishes the will of the people who created this body. I hold that one representative body cannot dissolve another one, especially, when the former is formed by the latter (as pointed out above, three quarters of the members of Madjlisi Milli are elected by the deputies of the local and regional madjlises). Moreover, one fourth of the members are appointed by the president, the executive power. The executive power, in accordance with the principles of democracy, in no case can dissolve the popularly elected body, as in democracy people are considered as the only source of power<sup>113</sup>.

These were the exclusive competencies of each house. In the joint power of both chambers, accepting the resignation of the president and fixing the date of the new elections are ascribed. The deputies of Madjlisi Oli during their common sessions also decide on the approval of the presidential decrees on appointment and resignation of the prime-minister and other members of the parliament; they agree or not on the introduction of the state of emergency and the use of the Tajik Military forces outside the country as well<sup>114</sup>.

In accordance with article 60 of the Constitution of Tajikistan, laws adopted by Madjlisi Namoyandagon, except the laws of state budget and amnesty, are presented to Madjlisi Milli for approval. A law is considered approved by Madjlisi Milli, if the majority of the total number of its members has voted for it. The Constitutional laws are adopted by no less than two thirds of the votes of both Madjlisi Namoyandagon and Madjlisi Milli. In the case of disapproval, the law is subject to a second hearing in Madjlisi Namoyandagon. In the case of disagreements, the law is considered passed if no less than two thirds of the total number of deputies of the lower house have voted for it. Then, the law draft goes to presidential signing, the president should sign it within the ten days after its adoption by three quarters of both houses.

This means that, normally, to enact a law, the agreement of both houses is necessary. However, the lower chamber is much stronger in its power, in comparison with the lower one. Additionally, houses differ in institutional organization and political representation, that is, incongruent in political composition. Therefore, using the notion of Lijphart, I assume that bicameral parliament in Tajikistan is *strong* bicameralism. Moreover, such constitutional structural organization of the work of parliament guarantees the impossibility of a deadlock in the legislative and representative power and makes it potentially infrequent that conflicts within the parliament may arise. If conflicts arise, the mechanism of temporary commissions of conciliation is foreseen, which can be initiated by the lower house, as well as the higher one for the solution of disagreements in the normal course of their work.

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<sup>111</sup> The Constitution of the Republic of Tajikistan (1994), art. 80 and the Constitutional Law of the Republic of Tajikistan “Of Madjlisi Oli of the Republic of Tajikistan”, art. 21.

<sup>112</sup> In accordance with the Constitutional law of the Republic of Tajikistan “Of elections of deputies to the local madjlises of popular deputies” (1999), art.1, local madjlises of popular deputies (local madjlises) are directly elected bodies

<sup>113</sup> This principle is also fixed in the Constitution of the Republic of Tajikistan, art. 6

<sup>114</sup> The Constitutional Law “Of Madjlisi Oli of the Republic of Tajikistan”, art. 10

The current analysis seems to indicate that apart from the provisions of article 80 of the Constitution, the constitutional arrangement of bicameralism in Tajikistan, in terms of the principle of separation of powers and guaranteeing the mechanism of “checks and balances” is almost perfect. However, very often, what is on paper is not what happens in practice.

### 3.1.3 Bicameralism in Practice

Tajikistan is a republic with strong presidential power, where the president, granted by the great popularity among the population, seeks to concentrate state power in his hands and influence all spheres of public and political lives. It is the president Rahmonov, with whom the peace accord of the civil war and processes of political stabilization are associated. Using his authority, in 2003, he required the parliament to arrange a referendum on fifty-six new amendments to the Constitution. The main amendment was the revision of article 65 of the Constitution, which would allow Rahmonov to stand for president for two more seven-year terms, beginning in 2006 (it is illegitimate to vote by a list of 56 amendments: “yes” or “no” (including the possibility of prolonging Rahmonov’s term, reform in education and health systems and simply technical issues)<sup>115</sup>. The overwhelming majority supported all the 56 suggested amendments at once<sup>116</sup>. This was a vivid example of, first, the huge popularity of the president, second, his significant influence on parliament. Therefore, I will underline that in Tajikistan, due to such strong presidential authority, in practice, the legislative power of the bicameral parliament, despite almost perfect constitutional design, is not separated from the executive. It does not so much check and balance the president and government (formed by the president, who is head of government). Moreover, the second chamber does not check and balance the lower house.

In the first term of the bicameral parliament, 84 per cent (30 from 34) of the members of Madjlisi Milli was filled by people appointed by the president. From this number, the majority, 18 persons, were comprised of the chairmen of the regions and cities, who after being elected to Madjlisi Milli do not stop being chairmen of the oblast, regions and cities (the executive). In accordance with the Constitution, initially, it is the president who “appoints and dismisses the chairmen of GBAO, all the regions and cities” (art. 69, p.5)<sup>117</sup>. Additionally, there are 8 persons, appointed by presidential decree (the presidential quota - one fourth of the total number of the members) and four other people took positions appointed by the president as well (e.g. chairman of the Agency of Anti-monopoly system and the support of entrepreneurship under the Government of the Republic of Tajikistan or the president of the Academy of Science)<sup>118</sup>.

All the above-said imply, first, that the second chamber is almost completely comprised by representatives of the president. Therefore, in Tajikistan, it is the president who “appoints” the members of the upper chamber of the parliament or the executive power, which comprises one half of the legislative one. Certainly this is a rude violation of the principle of the separation of powers, where we can scarcely expect the efficient work of the mechanism of “checks and balances” between the parliament and the executive. They greatly depend on the presidential “good will”, therefore, would not contradict him or put barriers to the passing of his initiatives. Second, in such a configuration of the personal composition of both houses, it is, in principle, impossible that the second chamber would check and balance the lower one. The presidential party, People’s Democratic Party of Tajikistan (PDPT) in 2000 won 64,5 per cent of the popular

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<sup>115</sup> Sh. Shoismatulloev Uchastie v Viborah v Parliament (Participation in the Parliamentary Elections in the Republic of Tajikistan) In G.G. Kaharov *Vibori Glazami Tajikistancev (Elections in the View of the Population of Tajikistan). Monitoring of the Public Opinion*. Dushanbe: Evraziya, 2005, 41

<sup>116</sup> The OSCE and Freedom house reports emphasize that one month, that was given for public discussion of the amendments, was a few time for the changes of such importance to the Constitutional system of Tajikistan. Moreover, the public discussions were latent with the accent on technical changes, while the main amendment, concerning the presidential term, were covert – [www.freedomhouse.org](http://www.freedomhouse.org); [www.osce.com/odihr](http://www.osce.com/odihr) 21/04/05.

<sup>117</sup> Additionally, the local madjlises have to approve the presidential decrees on the appointment, however, during the history of Rahmonov presidency, there was not a case of non-approval the presidential nominees by the local madjlises) in the words of A. Dostiev and Yu. Ahmedov

<sup>118</sup> In the second convocation there are 8 direct presidential appointees plus 23 people, occupying the positions, appointed by the president. Totally, 31 from 34 are loyal to the president.

vote and occupies now 30 seats in the lower house of the parliament<sup>119</sup>. It goes without saying that deputies of both chambers, being loyal to the president, are of similar political views, thoughts (if this is not true, the president would not allow them to get into power: by party list – Madjlisi Namoyandagon or chairmen of the regions and cities – Madjlisi Milli) and creed. They are from the same political camp. Therefore, they do not usually have principal contradictions. However, if the results of the occupation of the lower house by PDPT is the consequence of direct popular elections, the results we have with the elections to the second chamber (members, “appointed” by the president), is the effect of the indirect elections by deputies of the local madjlises.

As a result, during the five years of the functioning the bicameral system of parliament, from the 310 laws and 537 decrees, Madjlisi Milli stopped the adoption of only three laws in their initial form, sending them back to the lower chamber. These were: Laws of the Republic of Tajikistan “Of state notariat” (June 16, 2003), “Of tender” (November 11, 2003) and “Of licensing some kinds of activities” (February 12, 2004), all initiated by Madjlisi Namoyandagon<sup>120</sup> (not the government or the president). In the case of the law “Of state notariat”, the amendments, suggested by Madjlisi Milli, were about the technical omission of the text of the oath for the employees of notariat<sup>121</sup>. Additionally, “some norms did not correspond to the norms of law-writing” and there was a sentence missed; one article of the law has to change article 22 of the law, while the law consisted totally of 21 articles<sup>122</sup>. The law “Of tender” was suggested to be amended in terms of contradictions (art. 37) with the provisions of the Civil Code (art. 562) and the Constitution, as well as to identify the professional skills of sub-contractor in accordance with world practice<sup>123</sup>. The law “Of licensing some kinds of activities” was enriched by the suggestions of Madjlisi Milli, concerning the reduction of the number of kinds of activities, obligatory for licensing<sup>124</sup>. The recommendations also concerned the state bodies, who have the right to cancel the license, as well as elimination of contradictions between the articles of the law itself, the Civil Code and the Constitution<sup>125</sup>.

Madjlisi Namoyandagon took into consideration all the suggestions of Madjlisi Milli, though, they were not so important. The deputies of the lower house always try to avoid open conflicts or contradictions with the second chamber, very often compromising. First, as I have already mentioned, because they are from the same political camp. Second, it is the vivid memory of the times of the civil war, the fear of repetition of the events of the beginning of 1990s (political and legislative crises), which makes the deputies of Madjlisi Oli (both houses) be flexible in the relations between the houses<sup>126</sup>. Therefore, all the disagreements are solved during the common meetings in the commissions of conciliation.

However, in spite of the positive aspects of such smooth interactions between the houses and nominal equal representation of the regions by the upper house, I argue that what Madjlisi Milli does is fulfill the role of correctors, checking grammatical and stylistic mistakes of the lower chamber. Additionally, they appear as a Constitutional Court, checking the laws, adopted by Madjlisi Namoyandagon, in compliance with the Constitution and other laws, instead of assigned to them the role of “checking” the work of the lower chamber and, as a whole, the executive.

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<sup>119</sup> As a result of the popular elections of the deputies of Madjlisi Namoyandagon in 2000, PDPT took 64,5 percents (30 seats), Communist Party (CP) 20,6 per cents (13), Islamic Renaissance Party (IRP) 7,5 percent (2) and non-partisans (pro PDPT) 15 seats. In 2005 PDPT took 74,9 per cents, CP – 16 and IRP 7,5 percent.

<sup>120</sup> *The Legal Acts Adopted by Madjlisi Oli of the Republic of Tajikistan (2000-2005) (Report)*. Dushanbe: Sharq, 4

<sup>121</sup> Sherhon Salimov (initiator of this law draft), interview by author, April 11, 2005, Dushanbe, Tajikistan

<sup>122</sup> Mahkam Mahmudov The Ninth Session of Madjlisi Milli Madjlisi Oli. *Sadoi Mardum (Popular Voice)* Vol. 1577-1578, Issue 77-78 19/07/2003, 5

<sup>123</sup> Kosimjon Kosimov The Tenth Session of Madjlisi Milli Madjlisi Oli. *Sadoi Mardum (Popular Voice)* Vol. 1661-1661, Issue 16-17 17/02/2004, 5

<sup>124</sup> Review of the Current Regime of Licensing in Tajikistan, PRAGMA/USAID, August 2003

<sup>125</sup> Yusufjon Ahmedov (initiator of this law draft), interview by author, April 14, 2005, Dushanbe, Tajikistan

<sup>126</sup> Yusufjon Dostiev, interview by author, April 13, 2005, Dushanbe, Tajikistan

Therefore, I would recommend to make amendments to the Constitution in accordance with which three fourths of the members of Madjlisi Milli should be elected not only *by* deputies of the local madjlises, but *from among* them as well. This would, first, stop comprising the second chamber by the executives, appointed by the president (not independent in practice) and loyal to him. As a result, this amendment would contribute to guarantying the principle of the separation of powers both between the executive and the legislature and houses of the parliament as it would decrease the presidential power over the second chamber and, in consequence, over the parliament, as a whole.

Second, deputies, elected from among the local deputies would be real representatives of the population of the regions, as they would be elected by them. These deputies would feel that they are trusted by the people (not president), therefore should take care of the interests of the regional people. Moreover, even pragmatically they would take care about people's interests in order to be re-elected during the next elections, not as it is now, when they consider only about demonstrating their greatest loyalty to the president in order to save their positions. This point is very much related to the question of the minority and regional representation to which I will turn in the next sub-chapter.

### 3.2 Bicameralism in Terms of Representation of the Regions and Minorities

Representation means that people of a nation are present in the decision-making process, where political representatives are agents of those whom they represent<sup>127</sup>. The main idea of representation implies the perseverance of the principle of inclusiveness of all major ethnic, class or regional segments of the society<sup>128</sup>. In this sub-chapter I will highlight that members of Madjlisi Milli do not represent the population of the regions, though they represent, primarily, regional political elite, controlled by the president. They also do not represent minorities, living on the territory of Tajikistan, though there are members of non-Tajik nationalities in Madjlisi Milli.

As discussed in the previous sub-chapter, three fourths of the members of the second chamber are elected indirectly by the local representative bodies, who, in their turn, are elected directly by the people. However, despite good constitutional arrangements, the practice shows that the majority of members of Madjlisi Milli are chairmen of the cities (18 among 34), who are initially appointed by the president and 4 persons (in parallel to their membership in Madjlisi Milli) take positions appointed by the president as well<sup>129</sup>.

Such a situation is an indicator of not only mergence of powers, but a lack of representation of *people* of the regions by members of Madjlisi Milli. If members of Madjlisi Milli are initially appointed by the president, which means that they are in power thanks to the latter's "good will", they would take care about the interests of the person, who authorized them, i.e. the president, not the people. Chairmen of the oblast, regions and cities are detached from people and generally are not concerned with the representation of the interests of the population of the regions as their authority and position does not depend on them directly. This implies that members of Madjlisi Milli are representatives of the president and the regional political elite.

As a result, among 310 laws and 537 decrees, adopted by Madjlisi Oli during the past five years, only 6 were initiated by Madjlisi Milli. The law initiatives concerned amendments and additions to the Constitutional laws "Of Madjlisi Oli" (11/02/2004), "Of legal status of members of Madjlisi Milli and Madjlisi Namoyandagon" (10/11/2004), "Of use of atom energy" (10/11/2004), "Of popular medicine" (17/11/2004) etc. It is evident that these laws have little to do with standing for the interests of the regions and their equal representation in the decision-making process. In comparison, 70 laws were initiated by deputies of Madjlisi

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<sup>127</sup> T.C. Pocklington *Representative Democracy. An Introduction to Politics and Government*. Canada: Harcourt Brace, 17

<sup>128</sup> Bogdanor Vernon *Representatives of the People? Parliamentarians and Constituents in Western democracies*. Cambridge: Policy Studies Institute, 1985, 287

<sup>129</sup> Additionally to this number there are 8 persons appointed to Madjlisi Milli directly by the president.

Namoyandagon, 173 by the government and 61 by the president<sup>130</sup>. These laws concerned education, medicine, healthcare, investments, economic and social development, railways building, etc.

Apart from the fact that members of Madjlisi Milli do not represent the population of the regions, they do not represent minorities either. Although there were 3 Uzbeks, 1 Kyrgyz and 1 Russian in the previous convocation (in the acting parliament, there is only 1 Uzbek, the rest are Tajiks), they were not elected from their national or ethnic communities and are not supposed to represent the interests of these groups (Uzbeks, who comprise the largest diaspora – more than 25 per cent, Kyrgyz – 5 per cent and Russians – 2 per cent). Instead, it would be the demonstration of guaranteeing the principle of representative democracy if regions are represented not by political elite but the elected deputies of the local madjlises. Additionally, it would be the demonstration of adherence to the principle of inclusiveness if minorities are represented in the second chamber via special minority group quota. Therefore, as in the case with the perseverance of the principle of the separation of powers, the change of the way of formation of the second chamber could change the situation positively.

### Conclusion

The bicameral system of parliament in Tajikistan, being introduced, primarily, for the purpose of equal representation of interests of people of the regions plus strengthening the principle of the separation of powers and, consequently, the mechanism of “checks and balances” during the five past years achieved its goals a little. As a result, it scarcely contributed to democracy.

As a constitutional arrangement, the legislative power is almost totally separated from both judicial and the executive powers, as well as the authority and responsibilities of the lower house being separated from the authority and power of the upper chamber. In addition, the Constitution regulates the relationships between the different powers, so that they could check and balance each other. The only point that creates perplexity is article 80 of the Constitution, according to which the second chamber in the case of systematic non-fulfillment of the constitutional laws by madjlises of local deputies (popularly elected bodies) has the right to dissolve them. The latter means that article 80 of the Constitution legitimizes the right of the indirectly elected body to abolish the directly elected one, as well as to judge, the systematic non-fulfillment of the Constitution and laws, which in itself creates confusion in the separation of powers (between judicial and legislative powers) and is democratically illegitimate. I hold that if people created the body and delegated to it the right to represent their interests, only people can dissolve it, by the same procedural rules as it was created.

Despite almost perfect constitutional arrangements, in practice, however, we have totally the opposite situation. Instead of the separation of powers, there are all the signs of merging powers, with the executive power, strengthening its control over the other branches of power (due to the strong presidential power). The majority of the second chamber is comprised by the people initially appointed by the president, dependent and loyal to him (30 from 34). Additionally, the presidential party, PDPT, occupies currently around 76 percent of seats in the lower chamber, which means that first, the majority of the parliament is loyal to the president. Therefore, it does not check (or put barriers on the way of approval of his initiatives) and balance him (his power). Second, the second chamber does not check and balance the lower one as the greatest part of deputies of Madjlisi Namoyandagon and members of Madjlisi Milli are from the same political camp.

As a result, there are no principal conflicts between the houses in the legislative process. I highlight that what Madjlisi Milli does is fulfill the role of correctors, checking grammatical and stylistic mistakes of the lower chamber. Additionally, they double the work of the acting Constitutional Court, checking the laws, adopted by Madjlisi Namoyandagon, in compliance with the Constitution and other laws, instead of assigned to them the role of “checking” the work of the lower chamber and, as a whole, the executive.

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<sup>130</sup> *The Legal Acts Adopted by Madjlisi Oli of the Republic of Tajikistan (2000-2005) (Report)*. Dushanbe: Sharq, 56

The above-discussed situation mirrored the representational function of Madjlisi Milli as well: representation of population of regions and, additionally, minority representation. The chairmen of the oblast, regions and cities (18 members of Madjlisi Milli) are appointed by the president, consequently, dependent on him and take care about standing for his interests and not the concerns of the common people of the regions. Plus there is no minority representation quota in the second chamber, despite the multi-ethnic composition of Tajikistan.

My first suggestion here would be to make the members of the second chamber be elected not only *by* the local representative bodies, but also from *among* their number. First, this would stop comprising the second chamber by the executives, appointed by the president (not independent in practice) and, consequently, strengthen the principle of the separation of powers and "checks and balances". Second, people, elected from among the local deputies would be real representatives of the population of the regions, as they would be elected by them. Consequently, they would be interested for standing for the rights of the common people, at least, for the pragmatic reasons of the next re-elections. The second suggestion is to make the minority represented in the second chamber. This would guarantee the principle of inclusiveness and strengthen the representative democracy.

### *Conclusion*

Analysis of the first five-year term of the functioning of the bicameral parliament in Tajikistan showed that the introduction of the second chamber of the parliament made its contribution to the stabilization of the political situation in the country. Contrary to the situation during the times of the Soviet Union, all five administrative regions (disregarding the number of the population and the territory) received the right to be *equally* represented in the legislative body (the second chamber) in order to have *equal* opportunities to stand for the interests of their regions. The regional political elite was satisfied with such sharing power.

However, despite formal equal representation of the regions and almost perfect constitutional arrangements bicameralism did not contribute to democracy. As a constitutional arrangement, the point that creates confusion is the provisions of art. 80 of the Constitution, which grant the second chamber with the judicial functions and legitimize the right of the indirectly elected body, Madjlisi Milli, to dissolve the directly elected one, madjlises of local deputies.

Practically, instead of strengthening the separation of powers, there are all the signs of merging powers, with the executive power, strengthening its control over the other branches of power (due to the strong presidential power). The majority of the second chamber is comprised of the people initially appointed by the president, and therefore dependent and loyal to him. Additionally, the presidential party, PDPT, occupies currently around 76 percent of the seats in the lower chamber, which means that first the majority of the parliament is loyal to the president. That is why, it does not check (or put barriers in the way of approval of his initiatives) and balance him (his power). Second, the second chamber does not check and balance the lower one as the greatest part of the deputies of Madjlisi Namoyandagon and members of Madjlisi Milli are from the same political camp.

As a result, what Madjlisi Milli does is fulfill the role of correctors, checking grammatical and stylistic mistakes of the lower chamber. Additionally, they double the work of the acting Constitutional Court, checking the laws adopted by Madjlisi Namoyandagon, in compliance with the Constitution and other legal acts, instead of their assigned role of "checking" the work of the lower chamber and, as a whole, the executive.

Instead of representing the interests of the population of the regions and minorities, the members of the second chamber represent the interests of the regional political elite. The chairmen of the oblast, regions and cities (18 members of Madjlisi Milli) are appointed by the president, consequently, dependent on him and take care to stand for his interests, not the concerns of the common people of the regions. Plus there is no minority representation quota in the second chamber, despite the multi-ethnic composition of Tajikistan.

The current analysis showed that the introduction of one of the democratic institutions in the conditions of all the "non-democratic" would scarcely lead to democracy; introduction of one democratic institution should be balanced as regards the existing institutions. My first suggestion here would be to make the members of the second chamber be elected not only *by* the local representative bodies, but also from *among* their number. First, this would stop the second chamber being comprised of the executives, appointed by the president (not independent in practice) and, consequently, strengthen the principle of the separation of powers and "checks and balances". Second, people, elected from among the local deputies would be real representatives of the population of the regions, as they would be elected by them. Consequently, they would be interested in standing for the rights of the common people, at least, for the pragmatic reasons of winning the next re-elections. The second suggestion is to make the minorities represented in the second chamber. This would guarantee the principle of inclusiveness and strengthen representative democracy.

I have analyzed the bicameral system of parliament in Tajikistan as a constitutional arrangement and its work in practice in terms of the separation of powers and minority protection via minority representation. However, it would be interesting to evaluate

bicameralism in Tajikistan, additionally, in terms of its contribution to the civil rights and observance of the rule of law, as the essential elements of democracy. It would be also important to make a comparative case-study of bicameral parliaments in Kazakhstan, Tajikistan and Uzbekistan in terms of their contributions to democracy. Such analysis would be important in order to conclude whether the main findings of the present study are the exceptions of the Tajik case or the determinate characteristics of the Central Asian context. It would be the prominent research, as its findings will show to what extent one can foster democracy by introducing the democratic institutions in Central Asia.



## Bibliography

- Akiner, Shirin. *Tajikistan. Disintegration or Reconciliation?* Great Britain: The Royal Institute of International affairs, 2001.
- Aliev, Z.M. "Nekotorie Voprosi Stanovleniya Parlamentarizma v Respublike Tajikistan" (Some questions of establishment of parliamentarism in the Republic of Tajikistan), *Vestnik Mejparlamentskoi Assamblei SNG (Manual of the Inter-parliamentary Assemble of the CIS)*, Vol. 33, Issue 2, 213-220
- Allworth, Edward. *Central Asia. 120 years of Russian rule.* Durham, N.C.: Duke University Press, 1989
- Allworth, Edward. "Commensals or Parasites? Russians, Kazakhs, Uzbeks, and Others in Central Asia". In Manz F. Beatrice. *Central Asia in Historical Perspective.* United Kingdom: Westview, 1994, 185-202
- Bogdanor, Vernon. *Representatives of the People? Parliamentarians and Constituents in Western Democracies.* Cambridge: Policy Studies Institute, 1985.
- Bulakov, O. *Factors Influencing on the Structure of Parliament*, [www.law-n-life](http://www.law-n-life.com/26/11/2004), /26/11/2004
- Bushkov, V.I./Mikul'skii D.V. *Anatomiya Grajdanskoi Voini v Tajikistane (Ethno-social'nie Processi ii Politicheskaya Bor'ba (Anatomy of the Civil war in Tajikistan (Ethno-social Processes and Political Struggle))*, 1992-1995. Moscow: In-t Ethnologii ii antropologii RAN, 1996.
- Carey, George W., "The separation of Powers and the Madisonian Model: A Reply to the Critics", *The American Political Science Review*, 1978, Vol. 72 (1): 151-164.
- Constitution of the Republic of Tajikistan*, 1994
- Constitutional law of the Republic of Tajikistan "Of elections of deputies to the local madjlises of popular deputies"*, 1999
- Constitutional law of the Republic of Tajikistan "Of Madjlisi Oli of the Republic of Tajikistan ", 2004
- Constitutional law of the Republic of Tajikistan "Of elections to Madjlisi Oli of the Republic of Tajikistan "*, 2004
- Djalili, Mohammed-Reza / Grare Frederic / Akiner, Shirin *Tajikistan: the trials of independence.* New York: State Martin's Press, 1998
- Dodhudoeva, Lola "O Nekotorih Osobennostyah Social'noi ii Politicheskoi Istorii Predindustrial'noi Central'noi Azii" (About Some Peculiarities of the Social and Political History of the Pre-industrial Central Asia). In Shozimov, P. *Gosudarstvo ii Religiya: Poisk Putei Prodoljeniya Dialoga (State and Religion: Search for the Ways of Proceeding Dialogue).* Dushanbe: Irfon, 2005, 133-141
- Gleason, Gregory *The Central Asian States, Discovering Independence.* United Kingdom: Westview, 1997.
- Gretsky, Sergei "Civil War in Tajikistan: Causes, Developments, and Prospects for Peace". In Sagdeev, Z. Roald/ Eisenhower, Susan *Central Asia: Conflict, Resolution, and Change.* New York: Associate editors Douglas Goudie and Heather Parrish, 1995, 217-249
- Grugel, Jean *Democratization: a Critical Introduction.* New York: Palgrave, 2002.
- Hurst, Paul *Associative Democracy. New Forms of Economic and Social Governance.* Polity press, 194.
- Ismailov, Sh.M. Stanovlenie Parlamentarizma v Respublike Tajikistan (Establishment of parliamentarism in the Republic of Tajikistan). *Vestnik Mejparlamentskoi Assamblei SNG (Manual of the Inter-parliamentary Assembly of the CIS)*, Vol. 32, Issue 1, pp. 234-244
- Ivanov, I.S. *Strani Mira.* Manual. Moscow: Republic, 1999
- Jacob, E. Cooke ed. *The Federalist.* New York: Meridian, 1961.
- Khazanov, A.M. Underdevelopment and Ethnic Relations in Central Asia In Manz F. Beatrice *Central Asia in Historical perspective.* United Kingdom: Westview, 1994
- Khudonazar, Davlat "The Conflict in Tajikistan: Questions of Regionalism". In Sagdeev Z. Roald/ Eisenhower Susan *Central Asia: Conflict, Resolution, and Change.* New York: Associate Editors Douglas Goudie and Heather Parrish, 1995, 249-265
- Kosimov, K. "The Tenth Session of Madjlisi Milli Madjlisi Oli". *Sadoi Mardum* Vol. 1661-1661, Issue 16-17, 5
- Kristan, Ivan *Bicameralism and Democracy*, [www.sigov.si/15/12/2004](http://www.sigov.si/15/12/2004)
- Legal Acts, Adopted by Madjlisi Oli of the Republic of Tajikistan (2000-2005) (Report).* Dushanbe: Sharq, 2005

- Lijphart, Arend *Democracies: Patterns of Majoritarian and Consensus Government of Twenty-one Countries*, New Haven and London: Yale University, 1984.
- Madjlisi Oli – parliament of the Republic of Tajikistan (Directory)*. Dushanbe: Sharq, 2002.
- Mahmudov, A. "The Ninth Session of Madjlisi Milli Madjlisi Oli", *Sadoi Mardum*, July 19, 2003, 5
- Mahmudov A. "The eleventh Session of Madjlisi Milli Madjlisi Oli", *Sadoi Mardum*, November 27, 2003, 5
- Manz, F. Beatrice "Historical Background". In Manz F. Beatrice *Central Asia in Historical Perspective*. United Kingdom: Westview, 1994, 4-27
- Muhtorov, Mavlon/Toirov, Abuali *The Political parties of the Republic of Tajikistan*. Dushanbe: Status, 2004.
- Nurjanov, Kirill *Strategic Review of the Parliamentary Structure and Organization. Component 1: Reform of the System of State Government*, Dushanbe: SMEC, 2001, 414-164
- Patterson, Samuel / Mughan, Anthony *Senates: Bicameralism in the Contemporary World*. USA: Ohio State University Press, 2003
- Pocklington, T.C. *Representative Democracy. An Introduction to Politics and Government*. Canada: Harcourt Brace, 1994
- Pryahin, V.F. *Regional'nie Konflikti na Post-sovetskom Prostranstve: Abkhaziya, Yujnaya Osetiya, Nagornii Karabah, Tajikistan (Regional conflicts on the Post-Soviet space: Abkhaziya, the Southern Osetia, Nagorni-Karabakh, Tajikistan)*. Moscow: Gnom, 2002, 312
- Rakhimkulov, R. Edward *The Relative Pros and Cons of the Second Chamber in the Ukrainian Context/* [www.spea.indiana.edu](http://www.spea.indiana.edu) , 29/03/2005

*Reglament of Madjlisi Milli Madjlisi Oli of the Republic of Tajikistan*

*Reglament of Madjlisi Namoyandagon Madjlisi Oli of the Republic of Tajikistan*

- Review of the current regime of licensing in Tajikistan, by PRAGMA/USAID, August 2003.
- Reynolds, Andrew *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. Oxford: Oxford University Press, 2002
- Safarov, Saifullo "National state and religion in the modern Tajikistan". In Shozimov P. *State and religion: search for the ways of proceeding dialogue*. Dushanbe: Irfon, 2005, 72-84
- Sajo, Andras *Limiting Government. An Introduction to Constitutionalism*, Budapest: CEU Press, 1999.
- Shabdolov, Shodi "Formation of the Tajiks Secular State: Lessons of the History". In Shozimov P. *State and Religion: Search for the Ways of Proceeding Dialogue*. Dushanbe: Irfon, 2005, 67-72
- Shoismatulloev, Sh. "Uchastie v Viborah v Parliament" (Participation in the Elections to Parliament ). In G.G. Kaharov *Vibori glazami Tajikistancev (Elections in the View of the Population of Tajikistan)*. *Monitoring of the Public Opinion*. Dushanbe: Evraziya, 2005, 39-46
- Tsebelis, George / Money, Jeannette *Bicameralism*, Cambridge: Cambridge University Press, 1997.
- Ubaidulloev, M., Hairulloev, S., Dostiev, A. *The foundation of the Newest Statehood*. Moscow: Radunica, 2002.
- Usmon, Davlat "Tajik Conflict and Measures of Trust". In Arne Seifert *Trust building between Islamists and secularists – Tajik experiment*. Dushanbe: Devashtich, 2003, 240-256
- Vile, M.J.C. *Constitutionalism and the Separation of Powers – 2<sup>nd</sup> edition*, Indianapolis: Liberty Fund, Inc., 1998

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