CHAPTER: VI

CONCLUSION
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Development of a Constitution reflects the commitment of a political society for certain values. These values are such objectives that a society tries to achieve via the political system or political institutions. Development or evolution of any Constitution is an expression of seriousness of political elites and political system to triumph these values. With the rise of modernity in the Western-liberal sense, the Constitution has become a synonym of liberalism and Constitutionalism is another symbol of liberal values, such as liberty, equality and social justice.

Constitutional development in the post-Soviet countries also indicates the emerging awareness and seriousness for the liberal values amongst the new leadership. The present study has made an attempt to explain the trends in the development of the Constitution in Uzbekistan. This research deals with the features of the new Uzbek Constitution on the one hand and the institution building on the other. In this study an attempt has been made to find whether there is conformity in the Constitution as a theory and emerging politics as its practice.

On the basis of analysis of various political institutions, the study argues that the present political developments in the country are the country’s movement towards transition of Uzbek political society: from a close, undemocratic society into a liberal and politically active society. It is also an attempt to understand and analyse the transform a single-ideologically closed society into multi-party, pluralist thought based society.

However, such a transition is not an easy task. The established Western countries took many centuries to evolve the values which are today recognised as the universal values. Evolving such values and enrooting them in a new society will naturally take its own course and its own pace. The developments in the Uzbek Constitution also demonstrate such time taking and slow moving trends.

Nevertheless, what is worrisome are the emerging trends in the Constitution-making. The political developments in the post-Soviet Uzbekistan are more like replaying the Soviet tendencies rather than development towards formation of a modern democratic society. Amongst such tendencies the next important question
arises—what is the future of the existing Constitution? Will it lead to evolution of Constitutionalism? Can it bring more transparency, accountability and fairness in the present political system of the country? Or the Constitution will continue to remain a tool in the hands of ruling elite for achieving their personal goals.

An analysis of the political developments in the last two decades reveal that the state is yet not free from the sense of instability for the existing Constitution. The extreme control of the Islam Karimov regime over the civil society and other political institutions shows the lack of confidence amongst the top leadership in its own people’s ability to govern the society.

Any study of Constitutional development needs to take into account the historical reasons behind selection of certain types of institutions and values. A historical account of Uzbek Constitution making demonstrates that the most accepted and legitimate process of the Constitution making and institution building was not fully followed in the post-Soviet Uzbekistan. A comparative study of the Constitution making in Uzbekistan with the established democracies or countries undergoing transition such as European Union or India shows they adopted their Constitution after formal debates and deliberations in a public forum such as the Constituent assemblies. The advantage of a Constituent Assembly is that it provides an open space for discussion on the subject pertaining to Constitution. In the Constituent Assembly political parties, pressure group, different organizations can openly discuss things and can reflect on various provisions of Constitution and its articles. A well discussed Constitution leave fewer scopes for confrontation and conflict after it introduced in the nation. The Constitution of America, India etc., have evolved after lengthy process of debate and discussion in the Constituent Assemblies their respective country.

However, this is not in the case of Uzbekistan. This process of debate and discussion ignored in the making of Constitution in Uzbekistan since there was no such Constituent Assembly. A commission under the leadership of President was constituted to formulate Constitution. There is a problem in this process as democratic view is generally ignored and with President as the head of the commission, scope of independent debate has limits. The members of the commission itself were the hand picked of President, thus, the unbiased functioning of the commission comes under scanner. The commission formed for the Constitution-making, although ignored the
public view. Besides, it took help from the Constitutional experts of foreign countries. These experts were called from Germany, France and Britain. Probably this was the reason why Western democratic values got prominence in the Uzbek Constitution. Further, the present Uzbek political system is influenced from the French presidential system. However, in the name of developing an indigenous model of democracy many provisions were made to ensure grip of Islam Karimov over the political system.

Constitutions are made in order to keep a check on the misuse of power by the ruling authorities and prevent emergence of arbitrary use of political power. The Uzbek Constitution has failed to play such role and Karimov regime has not only misusing political power and state machinery for its personal gains but also suppressing popular demands with brutal means.

Initially Constitution made a provision that no individual would hold the presidential post for more than two terms and the one tenure will be for five years. This provision has been amended for three times and every time it was done to ensure that the Uzbek president Islam Karimov’s, rule remains intact. Two referendums, first in 1995 and second in 2002, extended the tenure of the president. In 2007, the provision of two terms for a person on the presidential post was altered in favour of the present President Islam Karimov and the tenure of the president was extended from five to seven years. Several academicians criticized the change in the Constitutional provision for retaining the presidential post and called it as the main hurdle in the democratisation of Uzbekistan. Uzbek Constitution provides for the Presidential form of government and on the lines of American Constitution. Direct voting through secret ballot system is used to elect the President in Uzbekistan. The President is a powerful institution in Uzbekistan, the commission formed for the making of Constitution showed unbalanced tilt towards the supreme post. The president was the head of the commission entrusted with the job of forming the Constitution and this biased towards a particular post is well understandable. It is to be noted that still Mr. Islam Karimov is the President of the country and the present Constitution provides him enormous politico-legal strength.

The control of president over the nations is so much that even in the opposition political parties, pro-President lobby is visible. The President has even closed doors
for any Constitutional provision, which can go against him. In other Constitution, there is a provision of impeachment for the President. The French, American and Canadian Constitution has the provision of impeachment thus; there is a check on President. The Constitution of Uzbekistan has taken many provisions from these countries but those pertaining to control on President are missing. The Uzbek Constitution does not put any limit on the President’s authority and even the acts to put control on the President are avoided. There is just one provision in the Uzbek Constitution, which talks about the replacement of the President, but even this is vague and has many riders. Article 96, of the Constitution talk about the replacement of the President but only on the health ground and the health condition of the President has to be certified by the State Medical Commission. The certificate of the State Medical Commission has to be approved by the Oliy Majlis.

The President of Uzbekistan has insulated the post from any outside problem, which is not a general democratic practice. The Constitution also gives power to the President to intervene in all the major decisions of the government. Foreign policy, national budget, Higher Arbitration Court of the republic, etc. require approval of the President. Like any democratic country, there is fixed responsibility of the Parliament and it has to look after the governance of the country. Still there are many problems and the old legacy of bureaucracy-controlled system is prevalent. There is a poor coordination between Oliy Majlis, and the country has to cover a long distance before it gain expertise in running and maintaining democratic institution.

The president controls the system to such an extent that even the opposition political parties are nothing but an extension of the pro-President lobby. The President has even closed doors for any Constitutional provision, which would go against him. In other Constitution, there is a provision of impeachment for the president. The French, American and Canadian Constitution have the provision of impeachment. Thus, there is a check on President. The Constitution of Uzbekistan has taken many provisions from these countries but those pertaining to control on president are missing. The Uzbek Constitution does not put any limit on the presidential authority and even the acts to put control on the president are missing. There is just one provision in the Uzbek Constitution, which talks about the replacement of the
president. Article 96 of the Constitution talks about the replacement of the president only on the health grounds.

Coming to the political parties and their role in Uzbekistan there is a multiparty system and at present five political parties are active in the republic. People Democratic Party of Uzbekistan (Uzbekistan Xalq Demokratik Partiyasi) is the main party Uzbekistan. It is the old communist party in a new set up. The major opposition parties of Uzbekistan are the Birlik (Unity) Peoples Movement, the associated Birlik Party, and the Erk (Freedom) Democratic Party. The presence of opposition parties cannot be ignored in Uzbekistan but the space given for there functioning is not vast and very open. The role of President is important who keeps an indirect control on all the political formations of Uzbekistan as discussed above. There are lobbies inside every political party who supports the role of President and this gives him more power.

The media, consider, as the watchdog in democratic society was not free until 2000 in Uzbekistan. From 1995 to 2000, strict control kept on media and majority of media agencies in Uzbekistan is state owned. The free criticism of government by media is not a feature of Uzbek republic. There is some independence provided to the media agencies after the year 2000 but it needs more reforms. State censorship has been formally eliminated, but the government retains control over the content of media. State do as this through registration, the requirement for state-registered media to file annual broadcast and publications plans, and by how they release news. Journalists who violate the unwritten codes are either beaten or arrested for "defaming the image of Uzbekistan abroad," a threat to which those working for Western NGOs are particularly vulnerable. The role of media needs to be strengthened and concrete achievement of free press is proportional to the freedom provided.

The role of media in the promotion and formation of civil society is highlighted by many theoreticians. Civil society keeps check on the functioning on the government but in Uzbekistan the formation of civil society is controlled by the government. The functioning of civil society is based on the freedom provided to the press and when strict control in maintained on the it little can be thought about the civil society. One can say that Karimov regime did not encourage the emergence or development of the civil society in Uzbekistan. The civil society cannot work
properly until or unless state guarantees the freedom of press. Opponents cannot express their views freely. The government maintains restriction on civil society in Uzbekistan by repressive means.

Judiciary the other important pillar of democracy and guarantee the Constitutional rights of citizens. The Uzbekistan Judiciary is divided into four layers. It is expected that the court and parliament will function independently from each other. The independent the relation between judiciary and bureaucracy in Uzbekistan is a continuation of the old Soviet System. In the Soviet time, CPSU plays a big role in the appointment of judges and at ever steps, there was intervention. The President Influences contemporary functioning of judiciary in Uzbekistan, hence, the independent role of judiciary is absent in Uzbekistan. The independent functioning of judiciary in Uzbekistan will only be ensured by curtailing the intervention of Parliament and especially of President.

If this is true that certain amendments have been made for providing enough power to the President than at the same time various amendments are introduced for the freedom of press and also for the broader functioning of political parties and developing multiparty system in Uzbekistan. The rights to the civil society in Uzbekistan increased after 2000 and more such things are expected to come in the future. In 2002, second chamber in the Parliament is created to make the people’s representation, and in 2004 the elections for this chamber are held. Similarly, in 2005 new media law were introduced for liberal censorship. The 2005 law for media has also allowed private media to operate in Uzbekistan. These are some steps in the direction of strengthening democracy in the country. In 2006, many reforms were introduced in the political system where old law pertaining to the political parties underwent a change. More freedom and space have been given to the opposition parties by giving relaxation in registration and in functioning.

Evolution of Constitution has ramifications on other aspects of life in any country. It is not only the command or control of the president which has hampered the democratisation process in Uzbekistan, tendencies of nepotism and extreme rent seeking behaviour are other impacts of such polity. The ruling elite are confined to a section of society whose roots lie in the clan system of traditional Uzbek society.
Apart from political differences, what makes Uzbek future more challenging is the growing economic inequality in various regions. Focus of the state development schemes is confined to certain areas especially rural areas and the areas surrounding the capital. Besides, the economy is almost controlled by the state controlled economic giants. On the other hand, for necessary goods the country depends on the imported goods.

The state units are also controlled by the president’s favourite officials or his own family members. This has further strengthened the concentration of wealth in the hands of few. These sections are opposed to any democratization wave as it may affect their economic interests. In other words, in Uzbekistan political interests of the elites are strongly intertwined with the economic interests. As a result, neither politics nor economy is being reformed. Rather there are attempts to reform it as far as it does not destroy the status-quo.

The Constitutional provisions have been amended time to time and again keeping in mind the needs of these power equations. There had not been a single honest attempt to allow any opposition voices to take roots in the country. Moreover, the Karimov regime has been trying to gain legitimacy with the help of all means. Various historical features are being projected as the heroes of the country. Similarly language issues are being used to mobilize people in the name of building a new Uzbek society.

In addition to remaining committed to the values of Constitution, a liberal democratic welfare state is also expected to work for the empowerment of people. It is ought to build a society which is based on reason, a political system which strengthens people’s ability to judge right and wrong in the public life. Such an attitude cannot be developed unless the state provides an environment in which people receives all necessary information, get opportunities to participate in the public affairs without any discrimination and have freedom of expression. True spirit of Constitution lies in the emergence of such a citizenry.

In post-Soviet Uzbekistan these factors do not figure in the priority list of the elites or the state. The elites are still obsessed with the slogans of democracy building and making money. This is also an expression of immaturity of these elite as various
comparative politics research has shown that such tendencies are the biggest threat for the economic development as well as the political stability. Democracy and decentralization of power strengthens the state in stead of threatening it, as perhaps the Uzbek leadership thinks.

In other words Constitutional development is still in a nascent phase in Uzbekistan. Repeated amendments and reforms are the sign of lack of adequate understanding of democracy building amongst the political elite. The political culture which is a prerequisite for the development of various democratic institutions in the country is yet to develop. Though it is true that such developments demand time but yet there need to some support from the state and elite. However, so far such support base has been missing in Uzbekistan. Scholars to international politics need to very cautious before giving any judgment statement about these developments as a new culture is developing and the old one is diminishing.

After the survey of scholarly writings on the subject, the researcher developed five hypotheses as the basis of the research. The first hypothesis is “the overall development of Constitution and political institutions shows the impacts of history i.e. of Soviet political culture of the nomenclatura.

Uzbek political system seems to inherit political structure from USSR with some changes. The power concentration has shifted from the Communist Party to the institution of President of the republic. Islam Karimov, former secretary of Uzbek Communist Party has been remaining in power since the dissolution of USSR. Other party members, holding the key positions during USSR era, continued to hold their positions. Thus, it is not the real regime change in the country. Just like Soviet System, political opposition does not exist in the real sense. There are five political parties in Uzbekistan which contest elections but their political agenda is not effectual. As discussed they exists with the pro-Karimov lobby.

In the case of parliamentary functions, Oliy Majlis seems to play the role of the Supreme Soviet of USSR. Appartas, the office of the president, has been playing a significant role in decision making and policy formulation and the whole procedure is
influenced by the president as General Secretary of the CPSU used to influence during USSR era.

The bureaucratic system of Uzbekistan seems to follow the same line as the bureaucratic system of USSR was following. The selection procedure and training system is like the USSR system. The nepotism is still prevailing in Uzbekistan.

The second hypothesis is, “A democratic procedure was not followed in the making of constitution, therefore, the further development has been undemocratic i. e. Constitution is a document reflecting the wishes of President and not of the people.

Such lacunae of the Constitution are due to the absence of popular representation in the Constitution making process. Like USA, France and Indian Constitution were drafted by a Constituent Assembly. Constituent Assemblies' members were elected by the people of the respective countries. But in case of Uzbekistan Constitution was made not by an elected Constituent assembly but by a Constitution commission appointed by the president himself. As like other post-Soviet states, Uzbekistan also did not follow a democratic method for Constitution making. The Constitution of the republic had been drafted by the president and his supporters. So all this has hampered the development of constitutionalism in the country.

Third hypothesis stands “the inherent authoritarian regime and the excessive centralisation of powers in the president of the republic have weakened the process of institution building in Uzbekistan.”

As has been discussed in previous chapters, During Soviet period, there was the monopoly of one party i. e. CPSU and the General Secretary of the same was the most powerful institution. This was the same situation for the Secretary of Communist Party of Uzbekistan at the state unit level. And it is well known that Islam Karimov as the Secretary of Communist Party of Uzbekistan during the Soviet period. And other institutions were overshadowed by the CPSU consequently, democratic institutions could not evolve during Soviet era. Uzbekistan had remained the Nationality of USSR for 70 year therefore, after independence the Soviet institutions' influence could not be avoided in Uzbek Political System. For example, Communist Party of Uzbekistan
renamed as Peoples’ Democratic Party of Uzbekistan and the powers of Secretary shifted to the President of Uzbekistan.

The president has the power to appoint and dismiss the entire key authorities in the state, including, Prime Minister, hokims of the oblast (Province), local authorities, judges, administrative heads of all levels. He has the power to dissolve the Oliy Majlis. In this way he controls the whole system of the country.

Fourth hypothesis deals with “The Constitution has failed in establishing democratic institutions and structure in the country”.

As has been discussed above, the 1992 Constitution could not play a vital role in the development of the democratic institutions. It is true that there are provisions for the creation of the democratic environment in the country but they all have been overruled by the office of the president. As has been discussed in Chapter four, President has been playing with the provisions, in the Constitution for creating a democratic system in the country. For instance, He has the involvement-in the decisions of the Judiciary, Parliamentary policy making procedure which has hampered the development of all democratic institutions in the country. For instance, there is provision for two terms of an individual for the post of the president (article 90) but Islam Karimov has been holding the post of the president since last 18 years.

Fifth hypothesis is related to the “external actors have influenced the process of Constitutional development and institution building in the republic.

Although at the outset it seems that Constitution is greatly affected from the West European democracies but the real practices of the Constitution are different. The Constitution takes the section of fundamental rights from the United Nations Declaration of Human Rights. So far as presidential system is concerned, it has adopted a hybrid version of the French and US presidency in order to avoid problem of both. But it ends up with the emergence of a despotic regime in the name of strong presidency. The Uzbek parliamentary system seems to be influenced by the British Parliamentary System. Constitutional Court of Uzbekistan follows the German model. The provision of Ombudsman is influenced by the Sweden model. In this way the
Uzbek Constitution and institutions are seemed to be influenced by the external factors.

Given the above analysis, all hypotheses stand verified. Though other factors might have also contributed to the Constitutional development and institution building in Uzbekistan, the stand of the hypotheses to be vindicated.

After going through the study one can conclude that Constitutional development and institution building process in Uzbekistan is in a nascent stage. In other words we can say that the old Soviet legacy is prevalent and has acceptance in the society. There are written Constitution which speaks about the liberal democracy but in the practice there are many contradictions. The President of the republic is in the centre of the power and things revolve around him. There is controlled system of administration, and clans are still promoted and this is done on the behest of the present President in Uzbekistan.

Constitution of Uzbekistan framed in 1992 and seventeen years have gone by now. But, this is not enough time to evaluate a democratic system. It is important to note that The Constitution of Uzbekistan advocate all the liberal democratic values and expect for the part of President where some issues are critical rest are not hampered.

It is true that certain amendments are providing enough power to the President then at the same time various amendments are introduced for the freedom of press and also for the broader functioning of political parties and developing multiparty system in Uzbekistan. The rights to the civil society in Uzbekistan have increased after 2000 and more such things are expected to come in the future. In the 2002, second chamber in the Parliament was created to make the people’s representation, and in 2004 the elections for upper chamber of the parliament were held. Similarly, in 2005 new media law has been introduced for so that freedom of the media could be ensured. The 2005 law for media has also allowed private media to operate in Uzbekistan. These are some steps in the direction for strengthening democracy in the country. In 2006, many reforms are introduced in the political system where old law pertaining to the
political parties underwent a change. More freedom and space is given to the opposition parties by giving relaxation in registration and functioning.

At the end, one can say that Constitutional development is still going on in Uzbekistan. Repeated amendments and reforms are the sign of this change and development. Still enough has to be done. The political culture of the country needs to be changed. The Constitutionalism is lacking in that country. It is significant to understand that Uzbekistan is passing through transition period. One can tool forward to deepening of reforms in the country.