CHAPTER-5

CONCLUSION

The Constitution of Kazakhstan describes it as a democratic, secular and unitary state. The Constitution proclaims that the state attaches higher values to the question of human rights and freedoms and have also been declared to be the objectives of the state. A number of amendments and additions were introduced in the Constitution in October 1998. In 2002, Kazakhstan introduced the Human Rights Ombudsman. The Ombudsman aims at promoting human rights and good governance; enhancing the capacity of democratic institutions to be effective, sufficient and responsive in protecting the rights of citizens; and empowering citizens to be active and effective participants in the democratic process. However, that did not happen and the real motive of Nazarbaev has been to show the outside world the facade reforms. He has been facing the international criticism for his undemocratic measures and therefore he wanted to establish the credibility of the state as a democratic one. Likewise, some amendments have been made in the electoral law on the persuasion of OSCE experts, which enabled to hold experimental elections of akims, and led to enhance involvement of non-governmental organizations into the state activity. But all the changes have not altered the image of the government. Similarly, in 2006, the President approved the changes aimed at wider role of civil society, and raising competitiveness of media. However, such changes have not been implemented.

In 2007, the Constitution underwent another round of reforms through the overwhelming votes in both houses of Parliament, further moving Kazakhstan along the path of creating a mixed Presidential-Parliamentary form of government. In addition to redistribution of certain prerogatives from the president to the Parliament, the amendments shortened the Presidential term of office from seven to five years. At the same, President Nursultan Nazarbayev was given an exemption from the two-term limit for a Presidential incumbent, in recognition of his role in the establishment of an independent Kazakhstan.
In compliance with the constitutional reforms of 2007, changes were made in the laws dealing with the highest state authorities, judicial system and status of judges, political parties and mass media. The same year, early elections to Majilis were held by means of proportional election system. Following the election results, additional guarantees were provided in 2009 to ensure representation of no less than two political parties in the Majilis of the country.

However, over the times the conditions of mass media and civil society have deteriorated. They have been working under the harsh laws of the government. There is a lack of congenial environment where they could work freely and without any fear of the government.

The Constitution of Kazakhstan forbids the establishment of any social organisation which seeks to forcibly change the constitutional order and undermine the state, security, violate territorial integrity or promote ‘social, racial, national, religious, class or tribal discord’. This provision of the Constitution has been used by Nazarbaev to settle scores with his political opponents. The new Constitution supplemented the legislation making provision for an absolute ban on any propaganda or campaign hostile to these objectives. The creation of political parties based on religion is also disallowed.

The Constitution defines the system of state power in such a way that the executive power is independent of legislative power. Instead it is not simply independent rather it has overshadowed the legislature branch. The provision for the consent of the President to the appointment of the head of the government curtails the jurisdiction of the Parliament. If the Parliament rejects the candidate proposed by the President, it does not make any difference, as after the rejection for the second time of the candidate proposed by the President, he can appoint a person of his choice as head of the government. The Parliament faces the risk of dissolution and new elections in case it tries to obstruct the President for the third time. Nazarbaev applied this provision of the Constitution frequently for consolidating his power vis-à-vis other organs of the government.

The Parliament can express its lack of confidence in the government through a no-confidence motion in two cases: When a draft law introduced by the government is
rejected, the Prime Minister has the right to raise the question of confidence in his
government by proposing it for the second time and; The rejection by the Parliament of
the programme of the government twice by 2/3 majority.In the event of a no-confidence
vote, the government places before the President its resignation and the head of the state
during a period of ten days either accepts the resignation of the government or dissolves
the Parliament. Thus Parliament decides the question of confidence in the government
that is de jure while the President is the defacto arbiter. If the Parliament expresses its
lack of confidence in the government, it hands over its fate to the President by doing so.
As such it is hardly expected to undertake such a risk.Similarly the Parliament decides
the question of its agreement or disagreement with the President over appointing the
Prime Minister. Parliamentary control appears in the Constitution indirectly. The
Parliament appoints an Accounts Committee with six members for the implementation
of the budget, confirm the budget and reports of the government and the Accounts
Committee; makes alternation and addition in the budget, and levies and changes the
state taxes and revenues. Although in accordance with the changes and additions in the
basic law of the state, the framing of the budget of the republic is not just the prerogative
of the government as it was earlier; nevertheless reporting on its implementation is, as
before, within the jurisdiction of the government alone. As such, notwithstanding the
changes in the Constitution in this regard, the above-mentioned function of the
Parliament is in the nature of a form of control over the activities of the government, as
it is the government which takes part in framing the budget and ensuring its
implementation as also placing a statement on it before the Parliament.The Parliament
has very limited powers on preparing the budget. All draft legislations concerning
reduction of state revenues or increase in government expenditure can be introduced in
the Parliament by the government alone.Infact the Parliament of the country has been
working as per the wishes of the President Nazarbaev. The notion of separation of power
is on paper, the real decision maker is the President.

The notion of democracy, delineated by Dahl mentioned in the preceding pages
of this study suggests that country provides citizens the freedom to form and join
organizations, the right to vote, the right of political leaders to compete for support and
votes, institutions for making government policies depend on votes and other
expressions or preference. Kazakhstan has failed in meeting the requirements. In particular, with regard to the two basic components, contestation and participation, Kazakhstan is nowhere near providing the uninhibited flow of citizen expression. Thus country is not polyarchy in Dahl’s sense and the conclusion that there is no democracy in Kazakhstan. Citizens in Kazakhstan do not have the right to formulate their own preferences; to signify their preferences to their fellow citizens and the government by individual and collective action; and to have their preferences weighed equally in the conduct of the government, that is, weighted with no discrimination because of the content or source of the preference. In the absence of the right to oppose, the right to participate loses much of its significance. Kazakhstan’s citizens do not enjoy freedom to form and join organizations; freedom of expression; and alternative sources of information which are essential requirements of democracy.

Though the Constitution of Kazakhstan explicitly declares that citizens have the right to free speech and the right to freedom of association, the government severely restricts freedom of speech and press. The Constitution prohibits censorship, newspapers, radio and television stations retain self-censorship and avoid covering sensitive issues such as corruption and human rights abuses because they fear persecution by the government. Journalists who dare to cover these subjects are subjected to severe hardships. The government restricts the access of citizens to foreign media outlets. Moreover, the government takes resort to various measures for restricting political parties to compete in elections. Kazakhstan’s Constitution has mentioned that describes the rights and duties of the citizen. Human rights and freedoms are provided for in Article 12; however, the article fails to define what those rights and freedoms are. The Constitution does not explicitly guarantee freedom of the press, but it does guarantee freedom of expression. Yet freedom of the press is still a major stumbling block in Kazakhstan. Reminiscent of Soviet days, Kazakhstan is often severely criticized by the international community for the way media rights are restricted.

The post-Soviet phase has not seen change from less (or no) competitive elections to more competitive ones, from less to more political participation, from severely restricted to better protected civil and political rights, from less to more accountable government and from weak (or non-existent) to a stronger civil society.
Having consolidated his power, Nazarbayev took steps to deny rather than facilitate the development of competition, participation, autonomous civil society, accountability and the exercise of civil and political rights. Nazarbayev has established an authoritarian regime in post-Soviet Kazakhstan. He took every necessary step to increase his authority. The access to power in Kazakhstan is dependent on loyalty or closeness to Nazarbayev. He appoints his loyal supporters to strategic positions. Thus, it can be argued that the regime in Kazakhstan has the characteristics dictatorships of an office that is President. By denying registration, the government robbed the genuine opposition parties of legal ground to exist, operate and compete in the elections. To give the appearance of multi-party democracy, a loyal opposition was created in the place of a real opposition. The loyal opposition has avoided criticizing the government and failed to provide an alternative to it. These parties also lack political support and have little credibility in the eyes of citizens. Thus, these parties have very limited—if any—chance of coming to power.

President Nazarbayev dominates the political sphere, fully backed by Nur-Otan party. Legislature and the judiciary are subservient to the executive and do not possess any autonomy in decision making, a fact once again confirmed by Parliament and Constitutional Court’s inability to uphold ideals of the Constitution and the principle of executive term-limits. Media has been brought under state control and a number of journalists have been either jailed or neutralized. Existing opposition parties only register marginal support of the population, while a relatively influential and powerful grassroots opposition party, Democratic Party of Kazakhstan, was disbanded in 2005 and its leaders has been jailed.

The government also limits the right of assembly and association. It continues to ban unauthorized public demonstrations and meetings. The Constitution mandates that all organizations must be registered formally with the government and this requirement gives immense power to the Ministry of Justice to limit the opposition activity. The government refuses to register political parties and civil society organizations that are critical of government. Also in violation of the freedom of association, the Law on political parties bans parties based on religion. The Constitution provides for the separation of power but in reality executive dominates over the
legislature and judiciary. Since the president has the power to appoint and dismiss judges, the judiciary cannot function independently of the executive branch. The dominance of executive over the legislative and judiciary, restrictions on media and silencing of the opposition decrease the chances that citizens make the government account for its policies and exacerbate the danger of abuse of power by the government.

The political life is dominated by groups having vast financial, media and administrative resources which are cornered by the President and people around him. The availability of natural resource wealth has made some of these groups very powerful. The process by which political leaders are elected and government policies are shaped and implemented is severely restricted. All citizens are entitled to vote and voter-turnouts are officially reported above 90 per cent. However, the genuineness of the electoral process is doubted.

In the repressive political atmosphere of Kazakhstan, people hesitate to join political organizations that are not controlled by the government because opposition activists are under close scrutiny of the government and they frequently face prison and torture.

Thus, an examination of different aspects of political life of Kazakhstan reveals that post-Soviet Kazakhstan has not moved in democratic direction. Kazakhstan in the late perestroika period and in the early independence period was even freer than Kazakhstan of today because there was more breathing space for opposition parties, civil society organizations and media. In the course of time, Nazarbayev’s policies to consolidate his authority resulted authoritarian and totalitarian tendencies.

Kazakhstan was exposed to undemocratic forms of governance in pre-Tsarist, Tsarist and Soviet periods. Therefore, for Kazakhs democracy is alien and they do not understand the importance and necessity of true democracy. The Kazakhs have been seen concerned with economic issues rather than democratic reforms. Thus, as far as their basic needs are met they do not tend to challenge the government. Although Nazarbayev has tried to justify his harsh measures in the name of stability, but
repressive policies of Nazarbaev aims at ensuring his political survival. More than stability, he is preoccupied with securing his position and eliminating his rivals.

It took centuries for the Western world to adopt democratic forms of government. It has been only slightly more than two decades that the totalitarian Soviet state, which controlled every aspect of life, collapsed and it is unrealistic to expect that newly independent state will be transformed into full-fledged democracies in a short time.