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Central Asian legal system and civil society: implications of governance, social transformation, and reform

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Abstract: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are Central Asian nations that went through a crucial period of social, political, and legal change following the fall of the Soviet Union. Due to the legacy of Soviet legal systems and initiatives to fortify the legal system and foster civil society, many nations have encountered difficulties. Being an organization apart from the government, civil society has been instrumental in advancing accountability, openness, and public knowledge. Despite reform efforts, the legal system is still vulnerable to political interference and corruption. This article explores the relationship between civil society and the judicial system in Central Asia. It looks at how these components promote social justice, democracy, and the rule of law. The results indicate that although obstacles like governmental restrictions, judicial independencies, and strict regulation of non-governmental organizations still impede the advancement of this relationship, chances like global collaboration and legislative reform can open the door to change. This study uses a descriptive-analytical methodology to analyze the intricate connections between the legal system and civil society and to provide recommendations for enhancing their engagement. The study concludes that Central Asia can achieve sustainable development and rule of law by finding a balance between governmental supervision and assistance and bolstering independent, rule-of-law institutions.

Keywords: legal transformation, corruption, civil society, legal system.

Introduction

Kazakhstan, Kyrgyzstan, Turkmenistan, Uzbekistan, and Tajikistan are among the nations that became independent after the former Soviet Union fell apart. Soviet rule had kept these nations isolated from the rest of the world, particularly from Western nations, for decades. For most Western countries, these states were transitional countries, that is, from state centralization to a free economy, in the focus of their attention. In order for the new political societies of Central Asia to become familiar with civil society, the role of some organizations cannot be denied. Such as the INTRAC organization. Before comprehensively addressing the research topic, it is necessary to define some concepts such as: civil society and legal system. A community service organization (CSO) is a collection of individuals that does business in the community in a manner different from that of the government.

Civil society generally refers to organizations, associations, and groups operating independently of the state and pursuing public interests and needs. This concept has been explored in detail in classical works such as Tocqueville and Habermas [1]. Regarding the legal system, it can also be said that the legal system or "Rechtsstaat" means a state based on the rule of law, in which clear laws and an independent judiciary guarantee the rights and freedoms of citizens. This concept has been discussed in the works of philosophers such as Immanuel Kant and Montesquieu. In addition, the characteristics of civil society are that civil society organizations are financially and functionally independent of state institutions and also include different organizations with diverse goals and missions. Another is the ability to respond quickly to social changes and the needs of society, and finally, civil society acts as a monitor and controller of state activities [2].

Civil society and the legal system are in a dynamic, two-way interaction, each influencing the other—non-governmental organizations and the media help to promote transparency by exposing corruption and abuse of power. Many civil society organizations educate citizens about their rights and raise public awareness. By giving the underprivileged access to legal services, civil society enhances access to justice. Social justice, openness, and democratic governance can all be advanced through the relationship between the legal system and civil society. While both face challenges such as legal constraints and financial barriers, opportunities such as new technologies and international cooperation can play an important role in strengthening this interaction [3]. Striking a balance between support and control can help to ensure sustainable development and the rule of law.

With a long and complicated history, Central Asia has always been in the forefront of global affairs. With its wealth of natural resources, particularly oil and gas, the region—which consists of Kazakhstan, Uzbekistan, Turkmenistan, Tajikistan, and Kyrgyzstan—plays a significant role in maintaining the world's geopolitical balance. Social changes, political reforms, and autonomous legal systems were among the opportunities and problems Central Asia faced following the fall of the Soviet Union in 1991. Rapid urbanization, growing economic strength, and the region's shift from a state-owned to a market economy are notable characteristics. Politically, Central Asia, under the supervision of autocratic or semi-autocratic governments, has made limited efforts for reform. Due to violations, restrictions on civil and legal freedoms, and weak judicial institutions,

they are the main solution to the rule of law and democratic development [4]. In the meantime, civil society, one of the key pillars of contemporary governance, is crucial in encouraging active engagement, accountability, openness, and keeping an eye on how well governments perform. There are also several difficulties facing the Central Asian judicial system. Creating independent judicial institutions, drafting new legislation, and guaranteeing that laws are applied fairly are a few of the difficulties that demand constant focus and work. By offering training, financial and technical support, and facilitating communication between civil society and legal authorities, non-governmental organizations like INTRAC have strengthened the system in this area. The purpose of this article, "Civil Society and the Legal System of Central Asia: The Intersection of Social Transformations, Reforms, and Governance," is to offer a thorough and critical analysis of the function and influence of the legal system and civil society on political reforms and social changes in Asia. An accurate picture of this region's current state and possibilities for the future can be obtained through systematic studies that look at the opportunities and challenges ahead and offer solutions for enhancing collaboration and bolstering the rule of law.

Research Methodology

An analytical-descriptive research methodology was employed in this investigation. This method allowed me to describe the current state of civil society and legal systems in Central Asia accurately and objectively and then, using logical analysis, examine their relationships, impacts, and consequences.

Literature review

Many studies have examined the role of civil society and legal systems in Central Asia. Charles E. Ziegler (2015), in his book "Authoritarianism and Civil Society in Central Asia," acknowledges that authoritarian states' limited and controlled interactions with civil society have strengthened state power. Sabine Freizer (2005) also examined the fragmented and weak state of civil society in Tajikistan and Uzbekistan in her research and emphasized the limited role of these societies in reforms. The gap in these studies lies in the lack of practical solutions to strengthen the independence of civil society and benefit from international cooperation.

In the area of legal systems, Aziz Rasulov (2014) examined the impact of globalization on the legal systems of the region and pointed out the challenges arising from the conflict between customary law and the Soviet legacy with global standards. Also, Viktor Golovko (2010) shows that legal reforms in Central Asia are often carried out under international pressure and do not bring about real changes.

Christian Schuck and Adrian Vasilache (2021) have examined the limited engagement of civil society with legal systems in the context of security and have shown that these limitations lead to political tensions. In addition, a report by the UCA Institute for Public Policy (2019) has identified restrictive government policies as an obstacle to the development of civil society. Previous studies have focused on the challenges of the interaction between civil society, the legal system, and governance but have been less focused on providing practical solutions,

comparative studies, and examining the role of international actors. The present study aims to fill these gaps by analyzing these interactions in more depth in Central Asia and offering suggestions for strengthening civil society.

Findings/Discussion

Civil society generally refers to the space between the state and the individual through which independent institutions and non-governmental organizations can act to represent citizens' social, cultural, and economic interests. By promoting democratic values, representing a range of interests, and encouraging voluntary involvement, these institutions are essential to political and social progress. But there are nuances and difficulties with the idea of civil society in Central Asia, which are connected to the history, politics, and culture of the area [5].

Like elsewhere, civil society in Central Asia includes non-governmental organizations, community groups, labor unions, professional associations, and human rights groups. Key characteristics of civil society in the region include independence from the state, voluntary participation, and representation of citizens' interests. However, authoritarian political structures and the legacy of the former Soviet Union have prevented civil society in the region from fully playing its role [6].

In Central Asia, civil society activities are often limited to frameworks defined by governments, and many independent organizations are subject to intense surveillance. Particularly in countries such as Turkmenistan and Tajikistan, civil society faces severe legal and political restrictions that limit the ability to operate freely [7].

Civil society in Central Asia has historically been shaped by three key periods:

1. Pre-Soviet period: Tribes, extended families, and religious organizations were among the traditional organizations that served as the foundation for many social systems during this time. As a type of conventional civil society, these organizations served as a go-between for the people and the government;

2. Soviet period: Throughout the Soviet Union, all social institutions were under state control, and their autonomy was destroyed. There was no separate civil society, and social organisations were primarily instruments for promoting communist doctrine. This period significantly influenced the political culture and social structure of Central Asian nations;

3. Post-independence period: The fall of the Soviet Union in the early 1990s created a chance for the region's civil society to flourish again. Nonetheless, the new administrations strictly regulated civil society activities, frequently modeled after Soviet totalitarian systems. The activities of NGOs were particularly restricted in nations like Turkmenistan and Uzbekistan.

The current state of civil society in Central Asia varies from country to country:

– Kyrgyzstan: Compared to other Central Asian nations, this one has more room for civic engagement. Several NGOs are working in the environmental, social development, and human rights fields. However, issues like economic pressures and political unpredictability still exist;

– Kazakhstan: Although civil society is active in Kazakhstan, it is closely monitored. The government has passed laws that restrict NGOs. Nonetheless, several segments of civil society have exerted influence in fields like education and the environment;

- Uzbekistan: Although some modest reforms have been in recent years to increase civic space, civil society is still subject to legal and political constraints;
- Tajikistan and Turkmenistan: Civil society can hardly function in these nations. Stringent regulations and government control have successfully limited civic space, and international organizations are subject to numerous limitations as well [8].

Civil society in Central Asia faces challenges such as a lack of financial resources, political pressure, and government oversight. However, efforts are underway to strengthen these institutions through international cooperation and support for local organizations.

The legal systems of the Central Asian countries, including Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan, reflect the complexities inherited from the Soviet era while attempting to reform and adapt to new post-independence conditions. After the collapse of the Soviet Union in 1991, these countries faced a major challenge: rebuilding legal systems that could respond to the new era's specific political, social, and economic needs. During the Soviet era, these countries' legal systems were designed on socialist principles emphasizing state control over all social and economic life aspects. Laws and regulations of this era were mainly designed to support the state and strengthen its control over society, with a lesser role given to individual rights. Courts also functioned more as executive instruments of the state and lacked independence. With these countries' independence, the need arose to develop new laws and redefine the role of judicial institutions. They aimed to establish new legal frameworks that would uphold the rule of law, defend the rights of citizens, and offer a foundation for economic growth. However, because of the strong influence of Soviet political and judicial systems, these reforms encountered numerous obstacles. These effects are still visible in many aspects of the legal systems of these countries, especially in the way laws are implemented, judicial independence, and the transparency of legal processes. In many of these countries, the law is still influenced by centralized and authoritarian approaches inherited from the Soviet era. Despite their seeming independence, the government frequently influences judicial institutions in real life. As a result, issues like corruption, a lack of transparency, and public mistrust of the legal system continue to exist, and legal changes are moving slowly. However, there are initiatives to update legal frameworks and bring them into compliance with global norms. These initiatives include enhancing legal systems' accountability and openness, fortifying judicial institutions, and updating the criminal, civil, and business codes. While some nations, including Kyrgyzstan and Kazakhstan, have made considerable strides in this direction, Tajikistan and Turkmenistan continue to confront significant obstacles in pursuing these objectives. All things considered, Central Asian legal systems are undergoing a difficult period of change where the influence of international modernization demands, national reforms, and the Soviet heritage combine. Both significant obstacles and chances to develop legal frameworks that may address the needs of their people and government are presented by this circumstance.

These nations functioned under a socialist legal system during the Soviet era, which prioritized community rights more than individual rights and stressed state control over resources. Courts lacked judicial independence and were used as tools to carry out official goals. The courts were reorganized, new laws were passed, and initiatives to uphold the rule of law were among the post-independence reforms. However, challenges such as corruption, political influence over

the legal system, and the lack of full judicial independence continue to hinder the full progress of these reforms [9].

Kazakhstan and Uzbekistan have attempted to retain some elements of the Soviet system while introducing reforms to attract foreign investment and economic development. These reforms have included the adoption of new commercial and civil laws. In contrast, Tajikistan and Turkmenistan have moved forward with legal reforms at a slower pace and continue to face problems such as weak judicial institutions and human rights restrictions. Kyrgyzstan, despite relative progress, continues to struggle with political instability and corruption [10].

In general, the legal systems of Central Asian countries are transitioning from socialist structures to modern legal models. However, this transition is accompanied by numerous challenges and requires strengthening the rule of law, judicial independence, and compliance with international standards [11].

The interaction between civil society and the legal system is a key axis of democratic development and the rule of law. Civil society is essential to enhancing the legal system as a collection of grassroots institutions, groups, and non-governmental organizations. By offering supervision and input, these organizations improve the efficacy and accountability of laws. However, by ensuring fundamental rights and freedoms, the legal system gives civil society a platform to function freely.

The rule of law and transparency have improved as a result of this interaction on a global scale. Civil society contributes to lowering corruption and boosting public trust by participating in legislative and reform processes. However, the legal system promotes the growth and viability of civil society organizations through open and equitable legal frameworks.

The particular conditions in Central Asia have an impact on this relationship. The nations in the region made an effort to create autonomous legal systems following the fall of the Soviet Union in 1991. However, civil society's growth and its ability to effectively engage with the legal system were hampered by the legacy of Soviet authoritarian systems and strict state control. Restrictive regulations and severe control over civil society are observed in Tajikistan and Turkmenistan. For instance, NGOs need to get a lot of permissions, which are frequently refused for political reasons. This has limited the space for civil society to operate freely and weakened its connection with the legal system.

In contrast, Kyrgyzstan is an example of a country that has created a more open space for interaction between civil society and the legal system. NGOs in this country play an active role in monitoring legal reforms and promoting human rights. However, corruption and political instability remain major obstacles even in this country [11]. Overall, the interaction between civil society and the legal system in Central Asia continues to face challenges such as political constraints, lack of judicial independence, and state control over NGOs. Nonetheless, initiatives are being made to improve this relationship through foreign assistance and legislative reforms, which can help the region's democratic growth and the rule of law.

Conclusion

Central Asian nations now face various opportunities and difficulties due to the social and political changes that followed the fall of the Soviet Union. In their quest to restore their legal

systems and advance civil society, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan – all recently independent nations – have set out on a difficult and demanding path. Throughout this process, the relationship between the legal system and civil society has been crucial to the growth of democracy, openness, and the rule of law. Civil society, an organization apart from the government, has been crucial in encouraging openness, increasing public knowledge, and monitoring how well the government is performing. Nongovernmental organizations in the region have contributed to strengthening social justice by striving to educate citizens about their rights and provide legal services to the disadvantaged. However, political constraints, restrictive laws, and a lack of financial resources have prevented civil society from playing its full role. In contrast, these countries' legal systems, inherited from the Soviet era, are slowly transitioning to more modern models. Legal reforms have included revising civil and commercial laws, strengthening judicial institutions, and striving for judicial independence. But these reforms have often been hampered by corruption and political influence, and progress has been slow. While facing many challenges, interaction between civil society and the legal system can act as an engine for development. Examples such as Kyrgyzstan show that providing a more open space for civic activity and strengthening interaction with legal institutions can improve transparency and governance accountability. On the other hand, due to tight state control and legal constraints, countries such as Turkmenistan and Tajikistan are still far from harnessing the potential of civil society for legal reform. The future of civil society-legal interaction in Central Asia depends on legal reforms, strengthening judicial institutions, and reducing state restrictions. International support and the use of new technologies can help accelerate this process. Striking a balance between supporting civil society activities and exercising appropriate legal control can ensure sustainable development, the rule of law, and democracy in the region.

The contribution of the authors:

A. Smanova, as the corresponding author, was responsible for formulating the research framework, structuring the study design, and analyzing the obtained findings, prepared the introduction and methodology of the article, translated the references.

E. Saparbekova contributed by developing the core content of the paper, conducting a comprehensive literature review, and synthesizing previous research on the subject, abstract, and information about the authors, and assisted in finalizing the conclusion of the research.

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Орталық азияның құқықтық жүйесі және азаматтық қоғам: басқарудың, әлеуметтік қайта құрулардың және реформалардың салдары

Андатпа: Қазақстан, Қырғызстан, Тәжікстан, Түркіменстан және Өзбекстан-Кеңес Одағы ыдырағаннан кейін әлеуметтік, саяси және құқықтық өзгерістердің шешуші кезеңін бастан өткерген Орталық Азия елдері. Кеңестік құқықтық жүйелердің мұрасы мен құқықтық жүйені нығайту және азаматтық қоғамды тәрбиелеу жөніндегі бастамалардың арқасында көптеген халықтар қиындықтарға тап болды. Азаматтық қоғам үкіметтен бөлек ұйым бола отырып, есеп беруді, ашықтықты және қоғамдық білімді ілгерілетуде маңызды рөл атқарды. Реформалардың күш-жігеріне қарамастан, құқықтық жүйе әлі де саяси араласу мен сыбайлас жемқорлыққа осал. Бұл мақалада орталық Азиядағы азаматтық қоғам мен сот жүйесінің өзара байланысы қарастырылған. Бұл компоненттердің әлеуметтік әділеттілікке, демократияға және заңның үстемдігіне қалай ықпал ететіні қарастырылады. Нәтижелер үкіметтік шектеулер, сот билігінің тәуелсіздігі және үкіметтік емес ұйымдарды қатаң реттеу сияқты кедергілер әлі де осы қатынастардың дамуына кедергі келтірсе де, жаһандық ынтымақтастық және заңнамалық реформа сияқты мүмкіндіктер өзгерістерге жол ашуы мүмкін екенін көрсетеді. Бұл зерттеу

құқықтық жүйе мен азаматтық қоғам арасындағы күрделі байланыстарды талдау және олардың өзара әрекеттесуін кеңейту бойынша ұсыныстар беру үшін сипаттамалық-аналитикалық әдістемені пайдаланады. Зерттеу нәтижесінде орталық Азия мемлекеттік қадағалау мен көмек көрсету арасындағы тепе-теңдікті табу және тәуелсіз құқықтық институттарды нығайту арқылы тұрақты даму мен заңның үстемдігіне қол жеткізе алады деген қорытындыға келді.

Түйінді сөздер: құқықтық трансформация, сыбайлас жемқорлық, азаматтық қоғам, құқықтық жүйе.

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Правовая система и гражданское общество Центральной Азии: последствия государственного управления, социальных преобразований и реформ

Аннотация: Казахстан, Кыргызстан, Таджикистан, Туркменистан и Узбекистан – это страны Центральной Азии, которые пережили решающий период социальных, политических и правовых изменений после распада Советского Союза. Из-за наследия советских правовых систем и инициатив по укреплению правовой системы и развитию гражданского общества многие страны столкнулись с трудностями. Являясь организацией, независимой от правительства, гражданское общество играет важную роль в повышении подотчетности, открытости и информированности общественности. Несмотря на усилия по реформированию, правовая система по-прежнему уязвима для политического вмешательства и коррупции. В этой статье исследуются взаимоотношения между гражданским обществом и судебной системой в Центральной Азии. В ней рассматривается, как эти компоненты способствуют социальной справедливости, демократии и верховенству закона. Результаты показывают, что, хотя такие препятствия, как правительственные ограничения, независимость судебной системы и строгое регулирование деятельности неправительственных организаций, по-прежнему препятствуют развитию этих отношений, такие возможности, как глобальное сотрудничество и законодательная реформа, могут открыть путь к переменам. В этом исследовании используется описательно-аналитическая методология для анализа сложных связей между правовой системой и гражданским обществом и выработки рекомендаций по повышению их вовлеченности. В исследовании делается вывод о том, что Центральная Азия может достичь устойчивого развития и верховенства закона, найдя баланс между государственным надзором и помощью и укрепив независимые институты верховенства закона.

Ключевые слова: правовая трансформация, коррупция, гражданское общество, правовая система.

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