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## PROSPECTS FOR GOVERNMENT REFORM IN UZBEKISTAN

**Abstract:** The author presents in this article the prospects for the formation of a multi-layered system of government in the Republic of Uzbekistan on the basis of public power. The concept of establishing a constitutional body performing the functions of the Constitutional Council of the Republic of Uzbekistan.

**Key words:** sovereignty, state governance, state sovereignty, state power, integration, lobby groups, constitutional control.

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### Introduction

*Prospects for the formation of a multi-layered system of government in the Republic of Uzbekistan on the basis of public power.* If we analyze the form of government of many countries in the world, the countries with the form of constitutional monarchy, including the United Kingdom, the Netherlands, Belgium, Spain, Sweden, Denmark, Norway in Europe; Japan and Thailand in Asia, monarchical power is officially nominal, but in fact monarchical power is dormant. When the political situation in the country is in jeopardy, when the territorial integrity and sovereignty of the state are threatened, the monarch's dormant powers come into play. In maintaining the sovereignty and independence of state power in the above countries, the power of the monarch emerges as a reserve political force. While the establishment of sovereignty in history has served the interests of the entire monarchy and ensured its independence from the holy church, the monarchy has not lost its potential in the past.

In modern monarchies, the real power of a monarch is determined not by his position in state power, but by the fact that his power has become a sacred value, interpreted as a symbol of the nation and state, and an expression of the solidarity of the people. In the United Kingdom, for example, the monarch's authority includes the Secret Council of the Queen

(King) and three other councils. They, in turn, play an important role in determining the country's policy.

Such a multi-layered form of government allows for the balance of political power in the country, greater protection from external aggression, and the realization of democratic values. Such states have maintained their independence and sovereignty for centuries.

In the United States, France, Germany, Brazil, Italy, and a number of other republics, parliamentary oversight mechanisms are widely used to balance the country's political forces. In particular, the US Congress has the power to impeach the President. An in-depth analysis of the scope of parliamentary powers reveals that one of the mechanisms for exercising these powers is the influence of formal "lobby groups". We know that such "lobby groups" are based on individuals and groups belonging to the largest property class in the country (for example, the Rockefellers, the Duponts and the Baruchs in the United States, the Rothschilds, the Barons and the Mochetti in Europe). There is no denying the place and role of such individuals and groups in the political life of the country and their influence in the policy-making of the state.

Based on the experience of foreign countries over the centuries, it is important to reconsider the means and methods of protecting Uzbekistan in order to build a strong state power. In particular, the

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introduction of multi-level state power in the country can play an important role in ensuring state sovereignty. Establishment of multi-level state power in Uzbekistan:

Firstly, it serves as an important factor in protecting the sovereignty of the state from external aggression;

Secondly, it provides for the restraint and co-operation of governments;

Thirdly, it does not allow for the maintenance of a democratic regime in the administration of the state and the establishment of a totalitarian or authoritarian regime based on individual power;

Fourthly, it ensures the sustainable economic and social development of the country.

What are the internal possibilities and characteristics of the organization of multi-level state power in Uzbekistan? This can be done in Uzbekistan by strengthening the horizontal relationship of state power, decentralization of public administration, radical reform of the system of local government, the transfer of functions of state power to citizens' self-government bodies.

The specifics of multi-level state power in Uzbekistan are:

1. That it is part of a single state government (not a parallel government).

2. Multi-level state power in Uzbekistan is organized at all levels of the administrative-territorial structure (regions, districts, villages and auls).

3. Drowsiness (passivity) of the powers of public power (second tier).

4. Include public authorities (public organizations).

5. Mutual restraint of power and balance of interests.

6. Priority of control activities in public administration.

7. Establishment of the Constitutional Council (on the basis of the Constitutional Court) in the system of public authorities.

"It should be noted that the multi-layered structure of the mechanisms for ensuring the interests of the state is reflected in the functioning of relatively independent organizational and legal mechanisms of each branch of government. These internal

mechanisms, which express their essence, social purpose and legal content, belong to the legislative, executive and judicial branches."<sup>1</sup>

*The concept of establishing a constitutional body performing the functions of the Constitutional Council of the Republic of Uzbekistan.* Since ancient times, states have undergone a great deal of experimentation and reform to ensure the continuity and permanence of power, and to preserve existing governing values (in modern parlance, sovereignty).

In ancient Athens in the V-IV centuries BC there was a procedure of appeal against the unjust law - grafe paranomon (from the Greek grapho - I write, paranomos - illegal, unjust). From the 1180s onwards, the Holy Roman Empire introduced mechanisms for the consideration of constitutional appeals by the German people, elements of constitutional control emerged in France in the mid-13th century<sup>2</sup>, and in Portugal in 1602 the Philipe Code introduced constitutional appeals.

The British Privy Council, acting as the last appellate court, argued that constitutional oversight dates back to the early 17th century, when the British Parliament had the right to repeal laws passed for the colonies or "inconsistent" norms that did not conform to British general law.<sup>3</sup>

Of course, the "graffiti paranomon" procedure in ancient Athens and the British "Secret Council" of the period of absolutism, which we have considered, do not fully and completely reflect the usual mechanisms of constitutional control of our time, but only show similarities. But it is not important for us, the important thing is that the above historical examples show that if a political system emerges in a country that gives fundamental and priority to some kind of legal norms, then the state and society need institutions and procedures to ensure the stability and priority of these norms."<sup>4</sup>

In the Russian Empire, Catherine I established the Secret Council on February 8, 1726.

The Secret Council was a body with general legislative and executive functions. Due to its small size, it is able to quickly resolve state affairs in relation to the Senate, and the activity of this body can only be positively assessed in the development of Russian statehood.<sup>5</sup>

<sup>1</sup> Иванов В.П. Институты государственной власти в юридическом механизме формирования и реализации государственных интересов// [https://superinf.ru/view\\_helpstud.php?id=5313](https://superinf.ru/view_helpstud.php?id=5313)

<sup>2</sup> Мавич А. Конституционные суды: модели работы в соответствии с федеральными государственными системами // Сб. материалов международной науч.-практ. конф. конституционных судов России, Германии, Словении. – Петрозаводск, 1998. – С. 6. 6. Меланченко И.В. Афинская демократия: устройство и политический режим классических Афин в правовых, исторических и социологических терминах. – М.: Крафт+, 2007. – С. 90-91.

<sup>3</sup> Петренко Д.С. Элементы конституционного контроля в «неписанных» конституциях государств

докапиталистического периода истории. [Вестник Международного института экономики и права](#), 2013. – №3 (12), – С.117.

<sup>4</sup> Петренко Д.С. Элементы конституционного контроля в «неписанных» конституциях государств докапиталистического периода истории. [Вестник Международного института экономики и права](#). – 2013. – №3 (12), – С.119-121.

<sup>5</sup> Рассказов Л.П., Жиленко А.С. Политико-правовая роль Верховного тайного совета в развитии российской государственности в годы правления Екатерины I и Петра II // Юристь-правоведь., 2014. – №1 (62), – С.16.

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Amir Temur wrote in his treatise: “Pirim (Zayniddin Tayabodiy) wrote to me: Abulmansur Temur, do four things in the affairs of the kingdom, namely: 1) the council (with you); 2) consult with (others); 3) make a firm decision with vigilance and prudence; 4) be careful. For without consultation and consultation the kingdom can be compared to an ignorant person whose actions and words are wrong; let his words and deeds bring remorse to his head. Therefore, in the management of the kingdom, follow the advice and measures so that you do not regret it in the end.”<sup>6</sup>

In modern republics, the Constitutional Councils act as the body performing the above functions. Constitutional councils differ from constitutional courts in the scope of their activities. The Constitutional Councils are characterized by an effective mechanism for balancing state power and preventing the usurpation of power by other subjects of state power.

I.Yu.Ostapovich from Kazakhstan also supported the opinion of B.Nurjanova and said that the Constitutional Council is the most optimal body in ensuring the constitutional legitimacy in the form of government of the presidential republic.<sup>7</sup> However, the Constitutional Council does not have full control over the government that established it.<sup>8</sup> Perhaps it will coordinate the authorities in the country.

The activities of such structures as the Constitutional Council can be considered in the case of France. The French Constitutional Council<sup>9</sup> oversees the fairness of the presidential election. Considers complaints about election results and announces voting results. In the event of a dispute over the election of deputies and senators, the Constitutional Council shall decide whether the election was fair or not. The Constitutional Council oversees all referendum activities. All organic laws are submitted to the Constitutional Council for verification of their constitutionality before they are promulgated, and initial constitutional review is carried out.

The Constitutional Council of the Republic of Kazakhstan<sup>10</sup> also reviews disputes over the election of the President, the election of deputies and the referendum, the constitutionality of international treaties adopted by the President before the signing of laws, decisions and ratification by parliament and its chambers. One of the important powers of the

Constitutional Council is to conclude that the Constitutional procedures have been followed until the Parliament makes a final decision on the early dismissal of the President of the Republic.

According to the world experience, the Constitutional Council should work in such a way that, as F.Lushar<sup>11</sup> acknowledges, the supremacy of constitutional values should be ensured in the relationship between constitutional values and constitutional principles.

In the future, the establishment of a body in the form of the Constitutional Council on the basis of the Constitutional Court of the Republic of Uzbekistan in Uzbekistan will be a big step in ensuring state sovereignty.

The functions of the Constitutional Council of the Republic of Uzbekistan should include:

Determining the constitutionality of draft laws of the Republic of Uzbekistan and draft resolutions of the chambers of the Oliy Majlis of the Republic of Uzbekistan;

To determine the constitutionality of decrees, resolutions and orders of the President of the Republic of Uzbekistan, decisions of the government, local authorities, interstate treaties and other obligations of the Republic of Uzbekistan and suspend their implementation in violation of the Constitution of the Republic of Uzbekistan;

To receive conclusions from the Public Chamber of the Republic of Uzbekistan on monitoring the results of public control in the Republic of Uzbekistan;

Interpretation of the Constitution and laws of the Republic of Uzbekistan;

The Constitutional Council of the Republic of Uzbekistan shall act as a temporary body to fill the gap in state power in the event of the simultaneous resignation of the President of the Republic of Uzbekistan and the dissolution of the chambers of the Oliy Majlis of the Republic of Uzbekistan (in which case the government resigns).

The Constitutional Council of the Republic of Uzbekistan should consist of at least nine members, but not more than fifteen. The following persons may be members of the Constitutional Council of the Republic of Uzbekistan:

State and public figures who have rendered great services to the people of the Republic of Uzbekistan and the country for many years;

<sup>6</sup> *Амир Темур тузуқлари* // <http://www.temurtuzuklari.uz/uz/clause/1>.

<sup>7</sup> *Остапович И. Ю. Образование Конституционного Совета Республики Казахстан, его конституционно-правовые основы* // Вестник Томского государственного университета, 2010. – С.122. *Нуржанова Б.* Источник правовой политики // Юридическая газета., 2005. 14 июня.

<sup>8</sup> *Camby J.-P.* Supra-constitutionnalité: la fin d'un mythe // *Revue du droit public et de la science politique en France et à l'étranger.* – P., 2003. – Vol. 119. – N 3. – P. 671–688.

<sup>9</sup> Конституция Республики Франции (статьи 59,60,61) / [https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank\\_mm/constitution/constitution\\_russe\\_version\\_aout2009.pdf](https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/constitution/constitution_russe_version_aout2009.pdf).

<sup>10</sup> Конституционный закон «О Конституционном Совете Республики Казахстан» от 29 декабря 1995 года – № 2737 // [https://online.zakon.kz/document/?doc\\_id=1004022#pos=2;-155](https://online.zakon.kz/document/?doc_id=1004022#pos=2;-155).

<sup>11</sup> *Luchaire F.* Brèves remarques sur une creation du Conseil constitutionnel: L'objectif de valeur constitutionnelle // *Rev. française de droit constitutionnel.* – P., 2005. – N 64. – P. 675–684.

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Ex-President of the Republic of Uzbekistan as a lifetime;

Chairman of the Supreme Council of Judges of the Republic of Uzbekistan;

Judges with at least three senior legal and political practices and experience;

On the position of the Chairman of the Central Election Commission of the Republic of Uzbekistan;

Chairman of the Public Chamber of the Republic of Uzbekistan.

The dissolution and dissolution of the Constitutional Council of the Republic of Uzbekistan shall be prohibited.

According to the French professor J.P. Cambi, any constitution should be free from the prohibition of amending it.<sup>12</sup>

The judiciary occupies a non-politicized, neutral position in the system of state power. The judiciary never claims to set public policy and govern the country. However, if we look at the history, it is an important body that temporarily fills the gaps in the power of the state during the socio-political crisis in the country and brings the country back from the brink. An example of this is the recent Arab Spring events in which the President of the Constitutional Court of the Arab Republic of Egypt temporarily ruled the country.

The legal literature also links the judiciary to the content of sovereignty. According to Rene David of France, a world-leading expert in the field of comparative law, the principle of electing judges was already enshrined in the Communist Party's program in 1903 because of its democratic nature. In practice, in countries where people's sovereignty is respected, the election of judges is considered natural. Democracy requires not only the rule of law, but also the entrustment of the rule of law to the people.<sup>13</sup> In our opinion, in the current market economy, it is not right to support the principle of popular election of judges. In a society based on different forms of ownership, the harmonization of the judiciary with the representative power and the performance of its representative function contradicts the essence of the principles of justice and impartiality.

The Uzbek legislation enshrines several forms of judicial power: the judiciary, in addition to administering justice, also deals with the constitutionality of acts of the legislature and the executive (the Constitutional Court of the Republic of Uzbekistan). The judiciary also plays a balancing role in the system of state power. According to Article 95

of the Constitution of the Republic of Uzbekistan: The Legislative Chamber and the Senate of the Oliy Majlis of the Republic of Uzbekistan may be dissolved on the basis of a decision of the President of the Republic of Uzbekistan in consultation with the Constitutional Court of the Republic of Uzbekistan in the event of unresolved disputes threatening its normal functioning.<sup>14</sup>

Article 4 of the Constitutional Law of the Republic of Uzbekistan "On the Constitutional Court of the Republic of Uzbekistan"<sup>15</sup> of May 31, 2017 adopted in the new edition includes the powers of the Constitutional Court: determination of the constitutionality of decisions of public authorities, interstate treaties and other obligations of the Republic of Uzbekistan in the Constitution of the Republic of Uzbekistan; It is also planned to determine the compliance of the constitutional laws of the Republic of Uzbekistan, the laws of the Republic of Uzbekistan on ratification of international treaties of the Republic of Uzbekistan with the Constitution of the Republic of Uzbekistan before signing by the President of the Republic of Uzbekistan.

According to the law, the Constitutional Court is empowered to simultaneously review the laws that have entered into force, as well as draft constitutional laws, in accordance with the Constitution of the Republic of Uzbekistan. In the above-mentioned and in many other countries (mainly in countries close to the French legal system: Algeria, Senegal, Morocco, Lebanon, Cambodia, Sri Lanka, Tunisia, Ethiopia) the constitutional review of bills is carried out by the Constitutional Council, not the Constitutional Court. Constitutional review of laws that have entered into force in most countries is exercised by the Constitutional Courts.

In order to further expand the powers of the Constitutional Court of the Republic of Uzbekistan and increase its role in ensuring state sovereignty, it is expedient to transform this body into the Constitutional Council by reforming the institution of constitutional control in the Republic of Uzbekistan as well.

Establishment of the Constitutional Council in Uzbekistan:

*Firstly*, it allows for the verification of draft laws in accordance with the Constitution in the legislative process. This will allow all adopted laws to be subject to constitutional review at the draft stage;

*Secondly*, there are some powers that balance the power of the state, and there is a need to verify the

<sup>12</sup> Camby J.-P. Supra-constitutionnalité: la fin d'un mythe // Revue du droit public et de la science politique en France et à l'étranger. – P., 2003. – Vol. 119. – N 3. – P. 671–688.

<sup>13</sup> Давид Р., Жоффре-Спинози К. Основные правовые системы современности: Пер. с фр. В.А.Туманов. – М.: Междунар. отношения, 1997. – С.172.

<sup>14</sup> Ўзбекистон Республикаси Конституцияси. – Т.: Ўзбекистон, 2018. – Б. 50.

<sup>15</sup> Ўзбекистон Республикасининг "Ўзбекистон Республикасининг Конституциявий суди тўғрисида"ги Конституциявий қонун // Ўзбекистон Республикаси қонун ҳужжатлари тўплами, 2017. – №22. – 407-модда, – №37. – 978-модда.

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validity of the results of the Oliy Majlis and presidential elections;

*Thirdly*, not only judges, but also prominent statesmen and public figures of the country will be elected to the Constitutional Council;

*Fourthly*, it would be appropriate for ex-presidents to be members of the Council for life;

*Fifthly*, we will create another democratic institution of communication with the people by establishing a Public Chamber under the Council, which will ensure the rights and freedoms and other interests of citizens.

## References:

1. Ivanov, V.P. (n.d.). *Instituty gosudarstvennoj vlasti v uridicheskom mehanizme formirovaniya i realizacii gosudarstvennyh interesov*. Retrieved from [https://superinf.ru/view\\_helpstud.php?id=5313](https://superinf.ru/view_helpstud.php?id=5313).
2. Mavchich, A. (1998). *Konstitucionnye sudy: modeli raboty v sootvetstvii s federal'nymi gosudarstvennymi sistemami*. Sb. materialov mezhdunarodnoj nauchn.-prakt. konf. konstitucionnyh sudov Rossii, Germanii, Slovenii, (p.6). Petrozavodsk.
3. Melanchenko, I.V. (2007). *Afinskaja demokratija: ustrojstvo i politicheskij rezhim klassicheskikh Afin v pravovyh, istoricheskikh i sociologicheskikh terminah*. (pp.90-91). Moscow: Kraft+.
4. Petrenko, D.S. (2013). Jelementy konstitucionnogo kontrolja v «nepisannyh» konstitucijah gosudarstv dokapitalisticheskogo perioda istorii. *Vestnik Mezhdunarodnogo instituta jekonomiki i prava*, №3 (12), p.117.
5. Petrenko, D.S. (2013). Jelementy konstitucionnogo kontrolja v «nepisannyh» konstitucijah gosudarstv dokapitalisticheskogo perioda istorii. *Vestnik Mezhdunarodnogo instituta jekonomiki i prava*, №3 (12), pp.119-121.
6. Rasskazov, L.P., & Zhilenko, A.S. (2014). Politiko-pravovaja rol' Verhovnogo tajnogo soveta v razvitii rossijskoj gosudarstvennosti v gody pravlenija *Ekateriny I i Petra II*. *Jyrist'-pravoved`.*, №1 (62), p.16.
7. (n.d.). *Amir Temur tuzuklari*. Retrieved from <http://www.temurtuzuklari.uz/uz/clause/1>.
8. Ostapovich, I. Jy. (2010). *Obrazovanie Konstitucionnogo Soveta Respubliki Kazahstan*, ego konstitucionno-pravovye osnovy / *Vestnik Tomskogo gosudarstvennogo universite*, p.122.
9. Nurzhanova, B. (2005). Istochnik pravovoj politiki. *Jyridicheskaja gazeta*, 14 iunja.
10. Camby, J.-P. (2003). *Supra-constitutionnalité: la fin d'un mythe*. *Revue du droit public et de la science politique en France et à l'étranger*, P., Vol. 119, N 3, pp. 671-688.
11. (n.d.). *Konstitucija Respubliki Francii* (stat'i 59,60,61) / Retrieved from [https://www.conseil-constitutionnel.fr/sites/default/files/as/root/ban\\_k\\_mm/constitution/constitution\\_russe\\_version\\_aout2009.pdf](https://www.conseil-constitutionnel.fr/sites/default/files/as/root/ban_k_mm/constitution/constitution_russe_version_aout2009.pdf).
12. (1995). *Konstitucionnyj zakon «O Konstitucionnom Sovete Respubliki Kazahstan» ot 29 dekabrja goda - № 2737*. Retrieved from [https://online.zakon.kz/document/?doc\\_id=1004022#pos=2;-155](https://online.zakon.kz/document/?doc_id=1004022#pos=2;-155).
13. Luchaire, F. (2005). Brèves remarques sur une creation du Conseil constitutionnel: L'objectif de valeur constitutionnelle // *Rev. française de droit constitutionnel*. – P., N 64, pp. 675–684.
14. Camby, J.-P. (2003). *Supra-constitutionnalité: la fin d'un mythe // Revue du droit public et de la science politique en France et à l'étranger*. – P., Vol. 119. – N 3. – P. 671–688.
15. David, R., & Zhoffre-Spinozi, K. (1997). *Osnovnye pravovye sistemy sovremennosti*: Per. s fr. V.A.Tumanov. (p.172). Moscow: Mezhdunar.otnoshenija.
16. (2018). *Ўzbekiston Respublikasi Konstitucijasi*. (p.50). Tashkent:Ўzbekiston.
17. (2017). *Ўzbekiston Respublikasining "Ўzbekiston Respublikasining Konstitucijaviy sudi tјzerisida"gi Konstitucijaviy konuni. Ўzbekiston Respublikasi konun xuzhhatlari tјplami*, №22, 407-modda, - №37, 978-modda.