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Organizational And Legal Basis Of The Participation Of Political Parties In The Activities Of The Legislative Chamber Of Oliy Majlis

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ABSTRACT

The most important purpose of the activities of political parties is to ensure interaction between the representative bodies of state power and the electorate. This cooperation is reflected in the election programs aimed at identifying and addressing the problems and shortcomings that plague the electorate, and its implementation through the deputies in the representative bodies. Unlike other public associations, political parties directly participate in the activities of representative bodies and they are the subject of law-making and controlling functions.

KEYWORDS

Public Chamber, European Parliament, Oliy Majlis, Law on Political Parties.

INTRODUCTION

At present, the general trends of development of representative bodies of power in our country are reflected in the following:

Expansion of the range of tasks, powers and functions;

The complexity of law-making as a result of the general complexity of management tasks;

Strengthening the influence of civil society on their activities, expanding forms of public control;

Expansion of communication channels of representative bodies with voters, transition to widespread use of information and communication technologies;

Strengthening the political aspect in the formation of representative bodies;

Informing the processes of representative bodies;

Strengthening the role of assisting staff of representative bodies and optimizing the number of staff and so on.

In recent years, the issue of participation of political parties in parliamentary activities has been widely studied by representatives of various spheres. The main reason for this is that the participation of political parties in the activities of the highest representative body is considered an important sign of the exercise of public power. In particular, D. Ernazarov[1], G.Rahat, R.Xazan, R.Katz[2], A.Kynev[3], C.Schäfer, M.Debus[4], Sh.Zulfikorov[5] and other scholars have studied the participation of political parties in parliamentary activities.

According to the analysis of foreign experience, in some countries, even parties that are not represented in parliament are legally allowed to participate in parliamentary sessions. For instance, in the Russian Federation, political parties that are not represented in the State Duma have right to participate in the plenary

session of the State Duma at least once a year[8]. In our opinion, this contradicts the representative nature of the parliament, because if a representative of a political party is not elected to this body of state power, he has neither the moral nor the legal right to represent anyone in parliament. However, on the other hand, participation in parliamentary sessions does not necessarily mean that it interferes with the activities of the session or has an impact on the issue under consideration.

It should be noted that today there is a growing trend of forms of cooperation between civil society institutions and representative bodies of government. This is reflected in the formation of the Public Chamber, the institution of parliamentary inquiry, the growing role of political parties in the electoral process and the emergence of new forms of public participation.

Given that the essence of real people's representation, in particular, is guaranteed by the organizational structure and procedures of the representative body, it is important to analyze the content and forms of participation of party structures in the representative bodies, processes of optimizing their working procedures.

Unlike in the former Soviet era, the composition of deputies of the Legislative Chamber of Oliy Majlis elected in single-member constituencies is determined entirely by the will of the electorate. From this point of view, it can be said that the deputies elected from single-member

constituencies literally represent the people.

At the same time, since candidates are nominated by political parties and their election campaigns are conducted within the framework of inter-party competition, it is appropriate to recognize candidates who have received the required number of votes in the elections as representatives of political parties in parliament.

As noted above, the factions of political parties established in the lower house provide an opportunity to directly represent the interests of the party in this representative body. It is known that electorate vote not only for the candidates for a mandate, but also for the political parties that nominated the candidate.

The legal basis for the activities of political parties in the parliament strengthened by laws and other legislation: first of all, the Constitution of the Republic of Uzbekistan, the Constitutional laws “On the Legislative Chamber of Oliy Majlis of the Republic of Uzbekistan”, “On modernization and further democratization of public administration and strengthening the role of political parties in the modernization of the country”, laws “On political parties”, as well as the Regulation of the Legislative Chamber of Oliy Majlis of the Republic of Uzbekistan.

International practice shows that the real and effective functioning of the parliamentary mechanism is based on the

activity of political parties. Parties form their own associations in parliament, often referred to as factions. Although the concept of factions, their formation and principles of operation differ significantly from each other, they essentially emphasize the place and role of parties.

Parliamentary factions are an extremely important component of a multiparty system. In fact, they play the role of institutions (structures) that perform the function of protecting the interests of the electorate. Just as the country’s political infrastructure is made up of different parties, parliamentary factions also make up the “political space” of parliament.

In assessing the activities of deputy associations of the Legislative Chamber of Oliy Majlis, it is necessary to take into account not only national but also foreign experience. It should be noted that the fundamental work by “Parliaments of the World”, dedicated to the activities of the parliaments of the United States, Canada, Great Britain, France, Austria, Switzerland, Sweden, Finland, Portugal, Japan, as well as the European Parliament, focuses on the factional structure of these parliaments[8].

In order to understand the definition of the term “parliamentary faction”, we consider it necessary to consider approaches to this concept. For example, an encyclopedic dictionary defines a faction as a group of deputies in a parliament or other representative body, which includes deputies elected from a particular party[8].

S. Berdikulov describes the faction as follows: “a faction is an association of at least nine deputies elected to the Legislative Chamber of Oliy Majlis in order to incorporate the ideas and election program of a political party into the law[9]”. In our opinion, this definition does not fully reveal the essence of the faction. The main purpose of the faction is not only to implement the election program, but also to represent all the interests of the party in parliament. We also consider it inappropriate to specify a definite number in relation to faction formation in the definition. Because this number (at least 9 deputies) and demand are relative and may increase or decrease over time.

The faction is an important, relatively independent component of parliament. In parliaments, the faction is usually divided into a number of opportunities for the representative (participation in committees and other parliamentary bodies), procedural (participation in the discussion of bills and other issues), as well as organizational and technical content (ownership of premises, staffing, in some parliaments – have access to financial resources). In the modern world, the activities of most parliaments are built on a factional basis.

In the Legislative Chamber, the main purpose of forming a faction is to implement the policies set out in the Charter and Programs of a particular party on an organized basis. The faction is

formed at the meetings of deputies elected from a particular political party on the basis of their decision. Mandatory condition for the start of activities of factions is their registration in the Legislative Chamber.

The practice of foreign parliamentarism shows that party associations of deputies are often referred to as party factions, but sometimes they are also renamed. If in Germany the classic name is faction, in France, Italy and other countries party factions are called “parliamentary groups”. In the UK, they are officially called parliamentary parties. In Austria, Poland and Croatia they are called party clubs.

Naturally, factions have the powers, opportunities and advantages established by law over deputies who do not join a faction[10]. This advantage can be seen in the process of legislative and parliamentary oversight, from the formation of the parliamentary chamber and its governing bodies (chairman and deputy of the chamber, chairman of the committee and other positions).

It is possible to observe differences in the minimum number and requirements of deputies for the formation of factions in world parliaments. In the Netherlands, for example, a single MP representing any party can also declare himself or herself a faction. According to the regulations of the Bundestag of the Federal Republic of Germany, the faction must include deputies who are members of only one party, the faction must be at least 5% of the

total composition of the Bundestag. That means at least 25 members of the Bundestag. The regulations of many parliaments around the world also reinforce these issues. For example, the rules of the Austrian parliament stipulate that a faction (called a “club”) may consist of at least five members.

Another example is the formation of a faction (parliamentary group) in the French Senate, which requires 14 senators, and in the French National Assembly, 30 deputies. French law prohibits the formation of factions to represent private, local and professional interests. The formation of a faction in the Italian Senate requires 10 senators, and in the Chamber of Deputies 20 deputies. According to the rules of the Italian Senate, even those who do not want to join a faction of any political party can join a “mixed faction” from among the representatives of different parties.

It should be noted that the requirement of the status of the faction in relation to the number of deputies has been the subject of controversy by various scholars. According to A. Orazbaeva, it is expedient to establish a faction based on the specifics of each state parliament, to establish a number of 6-7 deputies[11]. In particular, it is impossible to agree with the opinion of Sh.Zulfikarov that “it is expedient to determine that not at least 9 deputies of the Legislative Chamber, but 12 deputies have the right to form a faction[12]”.

The issue raised above, we are in favor of further liberalization of the formation of political party factions. In our opinion, setting requirements that aggravate the formation of a faction can lead to “monopolization in parliament”. It is known that the multiplicity of political party factions contributes to the diversity of views and positions in parliamentary activities.

In carrying out the activities of the Parliament of the Republic of Uzbekistan, in accordance with the law, the faction of political parties has the following rights:

- a) Participation in the formation of the agenda of the meeting of the Chamber;
- b) Appeal to the head of state with the initiative to dismiss the Prime Minister;
- c) Guarantees that the representative of the faction will speak on each issue on the agenda of the session of the Chamber;
- d) Send inquiries to the Speaker of the Chamber of the Oliy Majlis, the Government, ministers, as well as heads of other state bodies;
- e) Nomination of candidates for the positions of deputy speakers, heads of chamber structures;
- f) Distribution of the faction’s opinion on the issue discussed at the sittings of the chamber among the deputies, etc.

In addition, the faction may perform other functions stipulated in the legislation related to the deputies of the Legislative Chamber.

In our opinion, the most important guarantee of the activity of the party faction in parliament is the existence of a norm that the leader of the faction automatically takes a seat in the Council of the Legislative Chamber. Hence, the faction leader has the right to participate in the meetings of the Council of the Chamber, which is the permanent governing body of the chamber, and in other matters from the point of view of the position of the party faction. It is noteworthy that for any parliamentary structure it is important to ensure its organizational, technical and other activities. Therefore, the rule of providing factions by the apparatus of the Legislative Chamber is of particular importance.

In parliamentary elections, each political party seeks to get more votes for its candidates and, accordingly, more seats. If a faction has a majority in the Legislative Chamber, it will gain the status of an influential party that forms a parliamentary majority. According to Article 131 of the Law on Political Parties, several factions may form a bloc on the basis of their common program goals, they are the parliamentary majority that has the right to call itself in that way. According to the law, the presence of factions of political parties in such a bloc does not limit their independence in the exercise of their rights provided by law.

However, this article of the law does not clearly define the level of the parliamentary

majority, in other words, the amount of votes received by the party, which allows it to claim the status of “majority”. If we explain this with the following example, party A won 40 per cent, party B 35 per cent and party C 25 per cent. Indeed, party A has a majority in the chamber, but if parties B and C form a bloc, they will together have 60 percent of the seats. So, this bloc has a majority in parliament.

The analysis of the norms of this law shows that there is a gap, more precisely – uncertainty, which reflects the contradiction between the content of the first and second parts of the above article of the law. This uncertainty creates the conditions for the formation of a parliamentary “majority” by a bloc of parties that did not get a lot of votes individually, but together – more than the winner of the election. Unfortunately, our legislation has neglected this issue, resulting in the above gap, which can lead to conflicts in parliamentary activities.

Foreign experience shows that in such cases, when several political parties unite and form a parliamentary majority, they are called party coalitions. While W.Riker was the first in political science to substantiate the issue of “coalition” in his monograph called “Theory of Political Coalitions”[13], participation of political parties in the coalition was scientifically researched in the works by R.Axelrod[14]. The essence of W.Riker’s scientific view was that a minimum of participants in a political game

based on the principle of “optimal value” would form a rational coalition. This means the formation of a “minimum winning coalition”[15]. Enriching this view, R. Axelrod argues that the core of a coalition of political parties is characterized by the fact that the parties are linked on the basis of ideological continuum.

In the literature on coalition theories, most researchers believe that the most important source for party coalitions is the number of seats in parliament. After all, this is exactly the amount that will make the coalition the winner by a majority vote in parliament[16]. As B.Powell points out, the coalition strategy of political parties is extremely important in terms of the nature of parliament, which is a truly representative body of democratic power. At the same time, it distinguishes two types of democracy, depending on the electoral system used: majoritarian and proportional. In a majoritarian democracy, the party that gets the most votes in the election will rule until the next election, so voters know exactly which vote will directly affect which party will be in power and what policy will be pursued in the country[18].

On the other hand, the law allows factions of political parties that do not approve the course and program of the newly formed government or its specific directions to declare themselves in opposition. The status of the opposition party in parliament

entitles it to a number of guaranteed powers[19].

Thus, the faction of a political party declaring itself a parliamentary opposition, in addition to the powers provided by law for ordinary (non-opposition) factions, shall have the following rights:

- 1) Simultaneous submission of an alternative version of the draft law to the responsible committee of the Legislative Chamber with information on the relevant issue;
- 2) Demand that his dissenting opinion on the issues under discussion be recorded in the minutes of the plenary session of Oliy Majlis;
- 3) To send its representatives to the conciliation commission on the laws rejected by the Senate of Oliy Majlis.

Regardless of their number, factions should have equal rights and obligations in parliamentary activities. At the same time, in our opinion, given the growing role of political parties in parliamentary activities, it is expedient to strengthen in our legislation the provisions on the proportional representation of parliamentary factions in the election of committee chairmen.

Modern parliamentary law recognizes party factions as the most important structural unit of parliament. Factions are given a number of rights and privileges, the implementation of which ensures the active participation of factions in the

formation and activities of the parliamentary chamber, and the work of factions regulates the activities of the Legislative Chamber.

A faction is an association of deputies in parliament formed to express a single position on issues under consideration by the chamber, which must be officially registered, act as an organizational unit of the Legislative Chamber, and carry out joint activities to achieve the goals and interests of parties.

The parliaments of many countries have legally strengthened the independent status of political party factions. In particular, Article 160 (Part 1) of the Swiss Constitution states: “Every member of the Federal Assembly, every parliamentary faction ... may submit their legislative initiatives to the Federal Assembly”.

According to the French Constitution, the initiators of the adoption of a new federal law may be deputies of both houses of the Federal Assembly, parliamentary factions, as well as executive bodies represented by the Federal Council[20].

Kazakh scholar S.Shakirbaev rightly points out that today the development of parliamentarism continues in the following areas: strengthening the role of parliamentary factions and other parliamentary associations as representing the will of politically oriented groups of voters; to ensure broader and more effective oversight functions of the

parliament within the framework of the current Constitution, etc.[21].

As can be seen, similar processes are taking place in our country. One of the contentious issues in parliamentary law is the question of the deputy’s responsibility and accountability to the party and the electorate. Is the deputy primarily responsible to the political party that nominated him or her, or to the voters who elected him or her?

An interesting position on this issue is stated by Russian professor V.V.Lapaeva. She believes that deputies should represent the interests of the people as a whole, not individual political parties[22]. In our opinion, the deputy is equally responsible and accountable to both entities. This is because if a political party nominated a deputy, the electorate voted in favor of his or her candidacy.

Another issue is that, for a number of objective and subjective reasons, we believe that the reduction in the number of deputies who are members of a faction should not affect the status of a political party in parliament[23]. The practice of dissolving a political party faction can be a serious obstacle to ensuring the principle of pluralism in parliament when a political party has met the criteria for forming a faction based on the election results and the number of deputies in the faction is declining.

However, it should be noted that in 2019 the situation arose as a result of amendments to the Law of the Republic of Uzbekistan “On recalling a deputy of the local Council of People’s Deputies, a deputy of the Legislative Chamber and a member of the Senate”. According to Article 1 of the law, one of the grounds for recalling a deputy is that the deputy has not fulfilled his obligations to the political party that nominated him as a candidate. An official proposal of a political party is required to consider recalling a deputy.

However, such a proposal of the party does not mean that a decision on the recall of a deputy shall be made automatically in advance. This issue is first studied by the Legislative Chamber, and only then according to the results of voting, a deputy can lose or retain his deputy status. The Legislative Chamber must notify in writing of the acceptance of the proposal to recall the deputy. At the same time, when considering the issue of recalling a deputy, he has the right to meet with voters, to participate in voter meetings, sessions and meetings of the representative body, and to speak in his defense. The recall of a deputy shall be carried out by the voters of the constituency where he was elected by voting in accordance with the procedure established for the election of a deputy[24].

Thus, on the basis of the party’s proposal, a vote can be taken to recall the deputy, in fact, to deprive him of his deputy status.

The scientific literature is based on the idea that the recall of a deputy is a set of legal norms governing the relations of citizens with the adoption of public policy decisions on the early termination of deputy activity. Voting on this issue is a form of direct self-government of citizens, which exists both as an element of the imperative mandate and as a form of legal responsibility[25].

In our opinion, the institution of recalling a deputy (senator) should be amended for the following reasons. First, since we became an independent state, this institution has never been used in our country, which indicates that it does not have enough mechanisms. Second, the recall of a deputy in many ways limits the independence and initiative of the deputy, making him dependent on the party leadership and the party faction. Therefore, it is important here, on the one hand, to preserve the independence of the deputy, on the other hand, to ensure party discipline.

Naturally, we are not in favor of abandoning this institution, as there is strong evidence of its usefulness. The very existence of this institution serves as a “prevention” for deputies, preventing them from forgetting their responsibility to the political party and the electorate.

A number of foreign experts criticize this institute. In their opinion, recall is an unacceptable situation for a deputy, it loses its attractiveness in the representative body, and the exercise of

the right to recall a deputy means a review of the election results[26].

We consider this view to be unapproved. First, in most countries, parliament is multi-party in structure. Modern parliaments either do not have the institution of independent candidates for deputy at all (especially in countries where, under electoral law, political parties have a monopoly on nominating candidates) or their numbers are extremely low. The popular position that “there can be no parliamentarism without political parties”[27] applies both to the method of forming the parliament and to the formation and functioning of the parliament, which has a decisive advantage over party factions.

On the other hand, renewing parliament in this way is a good tool for maintaining parliamentary efficiency, allowing electorate to directly monitor the work of the candidate of their choice. The exercise of the right to recall a deputy of a representative body of state power can lead to parliamentary instability, as this institution is used in exceptional cases and has the property of individual application. The experience of a number of foreign countries shows that this institution is characterized by recall without undermining democracy.

The existence of the institution of recalling a deputy who has not justified the trust is an important guarantee for the electorate, as it regulates the relationship between

the electorate and the deputy. Electorate may deprive a deputy of the mandate entrusted to him, in which case the deputy shall be recalled by the voters of the constituency in which he was elected.

Thus, the faction of a political party is the most important organizational form of the party’s activities aimed at achieving the goals and objectives set for it through the parliamentary structure. The nature of the faction based on the universality of this institution should be considered first, together with the concept and characteristics of the political party, whose main mission is important in the participation of parties in decision-making and control over the activities of state bodies. The activity of deputies in factions is directly related to the political party and is based on the status of their parliamentary mandate.

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