KAZAKHSTAN’S CONSTITUTIONAL REFERENDUM

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On 5 June a package of constitutional amendments is expected to be approved by referendum in Kazakhstan. The proposed constitutional changes, following five months after the greatest unrest in the country's modern history, accelerate the efforts by the country's president to push for controlled political reforms.
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Kazakhstan’s constitutional referendum explained

By Georgi Gotev reporting from Nur-Sultan | EURACTIV.com

On Friday (3 June), Kazakhstan’s President Kassym-Jomart Tokayev gave the shortest speech of his career – only three minutes, expressing the ambition “to make New Kazakhstan a reality” in which social justice would be the principal value.

On the same day in Nur-Sultan, EURACTIV gathered the views of politicians, parliamentarians, diplomats and citizens ahead of the constitutional referendum.

When Tokayev announced the national referendum on his proposed amendments to the country’s constitution a month ago, he warned against what he described as “provocateurs who are trying to undermine the unity in the country”.

Tokayev’s move was seen in the context of the reforms he proposed after the January unrest, which revealed that the Central Asian country was more fragile, socially and politically, than generally thought.

The 56 amendments include limiting presidential powers, giving more power to the Parliament and making it more representative by replacing the proportional system of elections with a mixed majoritarian-proportional one. It also includes a significant decentralisation of power with more competences given to regional and local authorities.

“New Kazakhstan” - a billboard for the 5 June constitutional referendum photographed in Nur-Sultan on 3 June 2022. [Georgi Gotev]

"The Constitutional referendum is not a direct response to the January events. Reforms were ongoing already. But “some people, certain forces, certain groups didn’t like those reforms”, Secretary of State of Kazakhstan Erlan Karin explained on Friday, speaking to a group of visiting foreign journalists.

Karin, who occupies the fifth most important post in the country, functions as the president’s representative dealing with domestic policy and interaction with civil society.

He did not name the people and forces who fought against Tokayev’s reforms but said they were those who profited from the monopolistic position in politics and economics which they enjoyed under the former president Nursultan Nazarbayev.

In his words, the January events were an attempt by those forces to end the reforms “by using the reforms
against us”. He gave the example of the political meetings which Tokayev authorised but were used by those forces, as he said, to provoke mass disturbances.

One of the narratives of those opposed to reforms, as Karin explained, was that under Tokayev, there were too many political meetings which led to destabilisation.

“This is why we took, after the January events, the most correct decision: not to stop the reforms, but to accelerate them”, he said. However, he insisted that the referendum was not a direct answer to the January events, although he admitted that these events greatly influenced Tokayev’s decision to change the constitution.

A TEST OF CONFIDENCE

Diplomats see the constitutional referendum as a test of the confidence of Kazakhs in their new president. For the referendum to be successful, it should be passed by a majority of 50% +1 of all registered voters, and that no less than two thirds (12) of country’s 17 regions would support the constitutional changes.

The ballot offers the choice to the voter to indicate if they support or do not support the constitutional changes in their totality. There is no option for supporting certain changes and rejecting others.

Kazakhs told EURACTIV that there had been lively discussions on social media regarding the referendum, some citizens questioning the timing, considering that consultations and discussions could have lasted longer.

One of the constitutional changes bans the death penalty. Reportedly, this was one of the topics that prompted many discussions on social media, with some people maintaining that capital punishment should be enforced for certain crimes.

GEOPOLITICAL CHALLENGES

The referendum will be taking place in the midst of a challenging geopolitical situation, one that has evolved drastically since the January unrest.

In his speech on Friday, Tokayev said that “in the face of unprecedented geostrategic uncertainty and the need to address the complex challenges facing our country”, Kazakhs must be strong in their unity and solidarity.

Aigul Kuspan, Chairwoman of the Committee on Foreign Affairs, Defense and Security of Mazhilis of Parliament of the Republic of Kazakhstan, offered comments on the geopolitical situation of Kazakhstan and the war in Ukraine.

Kuspan, previously Kazakhstan's ambassador to the EU, said that Kazakhs felt the conflict between “fraternal Slav peoples” in Ukraine “as their own tragedy”. She added that Kazakhstan has big Russian and Ukrainian diasporas and that the relations between those countries and Kazakhstan has traditionally been very good.

In her analysis of the war, Kuspan spoke of “danger for peace is radical nationalism”, saying that “nationalism and Nazism can appear in any country”.

Both Russia and Ukraine accuse each other of Nazism. Russia accuses Kyiv of harbouring dangerous Nazis and has said one of the goals of its “military operation” is to de-Nazify Ukraine. Ukrainian speakers flag that Russia's society resembles Germany in the early years of Hitler and that the letter “Z” symbolising the “special military operation” is similar to the swastika.

Kuspan mentioned big concerns in Kazakhstan that the Western sanctions against Russia could indirectly hurt the country. Some eighty per cent of Kazakhstan's oil trade transits via Russia, and logistics are complicated for the landlocked country, she said.

A project to export oil West while circumventing Russia would take time to build, and the cost would be to the tune of $3-4 billion, she said. Also, she mentioned the difficulties of a pipeline project under the Caspian Sea, primarily due to ecological considerations.

Kazakhstan’s crude oil exports were reported at 1.4 million barrels per day (bpd) in 2020. In comparison, the EU imported 2.2 million bpd of crude from Russia in 2021.

She insisted that Kazakhstan would stay neutral in the Ukraine war while calling for stopping the violence and for dialogue, including by inviting Moscow and Kyiv to use Kazakhstan as a platform for talks.

Some 100,000 Russians have come to Kazakhstan since the beginning of the war, adding that the figure was not official. Reportedly, among them are people who want to continue to do business despite the sanctions. Kuspan said that Kazakhstan was very business-friendly to investors and that opening a company was straightforward.

In Nur-Sultan, there are no visible signs of supporters of either side in the war in Ukraine. Reportedly, there is a ban on both the display of Ukrainian flags and the pro-Russian “Z” sign.
Kazakhstan voters open way for political reform

By Georgi Gotev reporting from Nur-Sultan | EURACTIV.com

Over 76% of Kazakh voters approved on Sunday (5 June) the constitutional changes aimed at political reform put to a referendum by President Kassym-Jomart Tokayev, with 68.44% or 8 million citizens turning out to vote, according to exit polls.

The first referendum in Kazakhstan in 27 years was seen by foreign observers as a test of Tokayev’s popularity after the January unrest, which shook up the Central Asian country in the first days of 2022.

The referendum will give Tokayev a mandate for reform, with a series of laws to be adopted to flesh out the proposals he initiated.

However, a turnout of just 33% in the region of Almaty could be a cause for concern as the former capital city suffered the most during the January unrest.

The 56 amendments include limiting presidential powers, giving more power to parliament and making it more representative by replacing the proportional system of elections with a mixed majoritarian-proportional one. It also includes a significant decentralisation of power with more competences given to regional and local authorities.

Tokayev cast his vote at the polling station located in the building of the Al-Farabi Schoolchildren Palace in Nur-Sultan.

“Today is an important historical day for our country. People are taking a fateful decision. There is no compulsion. The referendum has been organised at a high level,” Tokayev said.

He added that the paradigm of relations between the state and the society was changing, and human rights were coming to the forefront.

‘CHALLENGES ON MULTIPLE FRONTS’

Answering questions from journalists, Tokayev said that the nation’s security was facing challenges “on multiple fronts”. He stopped short of mentioning the hotbeds of tension such as the Russian invasion of Ukraine,
the tensions between the US and China, or the looming humanitarian disaster in Afghanistan unfolding on Kazakhstan’s doorstep.

“There are many threats to the security of our country. So we must be vigilant in this direction,” said Tokayev, as quoted by the Astana Times.

The January unrest was a well-planned operation against statehood, Tokayev said. Asked about the investigation, he said that the process continues and all involved would be brought to justice.

Later the same day, Tokayev signed a decree creating a commission for the return to the state budget of funds unlawfully taken abroad. According to experts, such funds are estimated at $140-170 billion.

Since the morning on Sunday, a group of foreign journalists visited several voting sections, witnessing what appeared to be a smooth electoral exercise. There were no queues, as the voting takes little time, with a simple question to answer, “Do you accept the constitutional changes” and two options – “Yes, I accept” and “No, I don’t accept”.

Several voters interviewed made no secret that they supported the constitutional changes, considering that the country needed reform.

Askar, 40, a health coach, explained that he had studied the constitutional amendments and “decided to be involved”. As he wore a Muslim cap, he was asked whether he thought religion needed a bigger place in society. He said that religion made him feel better as a person, that religion required him to be active, and that there were no problems in Kazakhstan as far as religion was concerned.

**FESTIVE MOOD**

Nurgani, an 80-year old woman dressed in festive clothes, was delighted by the journalists’ attention and raised her fist, clamouring “Forward, Kazakhstan!”

In Akmol, 20 kilometres from Nur-Sultan, a chairwoman of the electoral commission said that by 11 a.m., 460 people had voted, which represented 33% of the total electorate of 1337 people.

Asked to compare this with previous elections, she explained that the turnout depended on the type of elections. For the local Akim (mayor), she said the turnout had been 97%, as in her words, “we voted for one of us”. For the presidential elections, the turnout in her section had been 67%. She said she expected a turnout of 60% for the referendum.

Elvira Azimova, the country’s ombudswoman, whose post will be strengthened by one of the constitutional amendments, told journalists that there had been malign calls on social media for citizens to write down on the ballot with which amendments they disagree. This, however, renders the ballot invalid, she said.

Banu Nurgaziyeva, president of the Civil Alliance of Kazakhstan, an umbrella organisation of NGOs, said the constitutional changes could increase the quality of elected local representatives and increase the trust in society.

Speaking to journalists, representatives of Uzbekistan, Turkey, Russia, the Organisation for Islamic Cooperation and the Shanghai Cooperation Organisation, who acted as observers to the referendum, gave a high assessment of the organisation of the referendum.

Askar Nursha, representing the Kazakhstan Institute for Strategic Studies (KAZISS), said that some of the proposals made during the debates ahead of the referendum contained calls for even more decentralisation of power and bolder democratisation. He argued, however, that Kazakhstan needed an effective but strong power because of the difficult circumstances in which it may need to intervene.

The national television of Kazakhstan ran an attractive program throughout the entire day until past midnight called ‘Referendum – Online marathon’, in the format of infotainment, mixing talk shows with political scientists and celebrities with popular music, which reportedly got a huge audience.
Too many ‘Black Swans’ have appeared globally, many in the vicinity of Kazakhstan. Still, the country will continue its multivector policy to ensure stability in contact with the world’s major players, Askar Nursha, an independent political analyst, told EURACTIV in an interview.

EURACTIV spoke to Nursha on 6 June in Nur-Sultan, on the day of the constitutional referendum, which gave a mandate to the authorities for significant democratisation of the country.

Nursha said he was speaking as an independent expert because his comments did not necessarily reflect the view of the institutes he is collaborating with.

Asked about the war in Ukraine, Nursha said that this was only one of the ‘Black Swans’ gathering around Kazakhstan. In political science, a Black Swan is an unpredictable event beyond what is typically expected of a situation and has potentially severe consequences.

New geopolitical blocks are under formation, Nursha said, adding that this process was not simply the West versus Russia. In his words, shifts are underway in the Asian-Pacific, worsening relations between the West and China.

Both Russia and China are neighbours of Kazakhstan, with whom the landlocked country has made tremendous efforts over decades to maintain good relations.

In this context, Nursha said that logistics were becoming an increasing issue. Not only did Kazakhstan find it difficult to export its products, such as oil, because the border with Russia...
was blocked by the sanctions, China has the same problem as well.

**TRANS-CASPIAN ROUTE**

This is why he stressed that both Kazakhstan and China were more interested than ever in the trans-Caspian route. The idea, he said, was not new, but what had changed was the urgency.

Asked about the policy of neutrality in Kazakhstan vis-à-vis the conflict in Ukraine, his country is a member of the Russia-led CSTO (Collective Security Treaty Organisation) and the Eurasian Economic Union, Nursha said that not only Kazakhstan but a lot of countries in Asia, Africa, Latin America, in the Middle East, had decided to be neutral in the Ukraine conflict.

However, he added that this doesn’t mean that its consequences will not affect them.

Nursha insisted that what was even more important was how the conflict would impact Russia, its power structures, economic and military potential, and how Russia would look after the conflict.

“There is a risk for Russia to have its second Afghanistan”, said Nursha. The Soviet-Afghan war (1979–1989) has largely contributed for the collapse of the USSR.

Kazakhstan should be ready to face the changing situation and realise that it needs to boost cooperation links in Central Asia, said Nursha. But he warned of risk in the region, namely what he called the “Somalisation” of the Afghan conflict, of civil war between a country divided under various warlords fighting for its resources and between themselves.

Faced with so many challenges, Nursha said the traditional multi-vector policy of Kazakhstan would be maintained, its aim being to ensure stability in contact with the world’s major players.

Asked about the importance of the Kazakhstan referendum in this geopolitical context, Nursha said that its goal was to achieve a new quality of the contract with society.

In his words, the former construction of the country showed its vulnerabilities its ineffectiveness in risky situations, while the new structure would need to give space to the participation of the people, the aim being to restore the confidence of the population in power.

As important steps in this direction, he mentioned the election of village mayors (Akims) as a first step, then the election of Akims at the regional level, the introduction of the majoritarian system, the representation of Maslihats (local representative body elected by a population, district or city) in Parliament, which will give the opportunity via single-member districts for new active people to enter politics, in contrast with the old system when they entered via party lists.

In this way, he explained, politics would be healed, thanks to the competition, which in his view, would play a positive role even for the old-style politicians.

Nursha said during the debates ahead of the referendum, some considered that the proposed changes were not bold enough. Still, in his opinion, the realities in Kazakhstan required a more step-by-step approach to preserve the stability of the power.

If the power is weakened, this will bring oligarchisation or okhlos-isation (mob rule) of politics, he said.

“A weak power cannot implement reform. With a weak power, everything could end in a very sad way”, he said.

The political scientist said that it was also very important what kind of Ukraine would emerge from the war. He reminded that this country has expressed the wish to become a EU and NATO member for many years, but even in the new context, such a process was likely to be bogged down.

Nursha said that this created the potential for creating a new power centre in Eastern Europe, a Polish-Ukrainian alliance. Given the demographic factor, the economic one, and the agricultural potential, this would be a power centre of great importance. While it may not be exactly a counter-balance for Germany and France, it would be a game-changer.

Similar ideas have been shared in European diplomatic circles.
While the EU and US are preoccupied with the Ukraine war, they should pay attention to events in Central Asia as well, where on Sunday (5 June) a package of constitutional amendments is expected to be approved by referendum in Kazakhstan, write Svante E. Cornell and Albert Barro.

Svante E. Cornell is Director, and Albert Barro a Project Associate, with the Central Asia-Caucasus Institute & Silk Road Studies Program, a Joint Center affiliated with the American Foreign Policy Council and the Stockholm-based Institute for Security and Development Policy.

The proposed constitutional changes, following five months after the greatest unrest in the country’s modern history, accelerate the efforts by the country’s president to push for controlled political reforms. The EU, while focusing on Ukraine, should continue to engage with strategically important Central Asia.

In January this year, protests over energy price hikes spread in Kazakhstan and turned violent in the country’s largest city of Almaty. This crisis displayed the growing restlessness of the Kazakh population, but also the in-fighting among the country’s elites.

It seems clear that the violence was triggered by elites that resisted President Kassym-Jomart Tokayev’s political reforms to safeguard their privileges.
However, President Tokayev emerged from the crisis with greater authority over the country’s governing institutions. The price to pay was calling on peacekeepers from the Russia-led Collective Security Treaty Organisation.

But while many believed this would leave Tokayev indebted to Russia, events since January have proven otherwise. President Tokayev has refused to endorse Russia’s war in Ukraine. At home, far from halting his reform efforts, he doubled down: On 6 March he presented a fast-tracked package of political reforms to the nation and promptly submitted it to a constitutional referendum scheduled for 5 June.

The constitutional amendments, approved on Sunday, are closely consistent with the reform initiatives promised by Tokayev in his 16 March address to the nation.

Key themes from his address that are reflected in the amendments include revisions to the president’s powers, reformating of the representative branch of government, improvements to the electoral system, and strengthening of human rights institutions.

Recognising that much of January’s unrest arose in protest against the government’s “super-presidential” structure, Tokayev’s reforms aim to reduce the power of the presidency. The president will no longer be permitted to be connected to a political party during his tenure, and his close relatives will be forbidden from serving as senior public servants or as heads of public sector institutions. Furthermore, the president forfeits the right to cancel actions by regional mayors.

Reducing presidential power is matched with the strengthening of parliament. Presidential appointments will now require Senate approval, and the Supreme Audit Chamber, which will oversee the national budget, is to report biannually to the lower house of parliament.

Furthermore, while in the past, the upper house adopted laws, this is now shifted to the more representative lower house, reducing the senate’s role in approving laws passed in the lower chamber.

This shift is magnified by introducing a mixed electoral system for the lower house, with 30% elected in single-member districts and 70% by party lists. Steps are also being taken to lower the obstacles to forming new political parties.

The amendments address several human rights issues too. A key amendment is the establishment of a Constitutional Court to which citizens, along with the Prosecutor General and Human Rights Commissioner, can appeal directly to challenge violations of constitutional rights. The Prosecutor General and Human Rights Commissioner also receive greater independence from other state bodies or officials.

Some initiatives that President Tokayev promised in his March address to the nation are not included in the amendments. A key area is the clarification of the rights and responsibilities of the media.

One of the most pernicious criticisms of Kazakhstan’s record concerns the rights of journalists, who are often persecuted under defamation laws. Tokayev promised a draft law on the media, which will be met with great anticipation.

The changes to Kazakhstan’s political system will not turn the country into a parliamentary democracy anytime soon. They remain within the fundamental paradigm that has been President Tokayev’s intention since his election in 2019: top-led gradual change to the existing system to make government more effective and provide greater openness without losing control.

Still, compared to Tokayev’s earlier reform packages, these reforms represent a shift: earlier reforms sought mainly to make the state deliver better services to the people and shore up its legitimacy that way.

They only aimed to build participatory and competitive politics very slowly at the local level. By contrast, the current reform package indicates that President Tokayev now sees a gradual liberalisation of the political system at all levels as necessary for the system to maintain its legitimacy.

While the EU and US are preoccupied with the Ukraine war, they should pay attention to events in Central Asia. Following the chaotic US withdrawal from Afghanistan, the region has largely disappeared from the sights of Western policymakers.

This is a mistake, as the region will be crucial to the long-term containment of both Russia and China. Supporting reform processes in Kazakhstan and its neighbour Uzbekistan, particularly the difficult implementation of reforms that are now on the books, would go a long way to helping stability and progress in the region.

A longer analysis of Kazakhstan’s reforms can be found here.
The Kazakh authorities at first tried to stigmatise as terrorists and outcasts those who had taken to the streets in January, but they are very aware of the scale of public discontent and are trying to respond to them, political analyst Anastassiya Reshetnyak said in an interview.

She said Kazakhstan respects the territorial integrity of Ukraine and is ready to act as a mediator between Kyiv and Moscow, but it also sees an opportunity to attract companies previously based in Belarus and Russia.

Anastassiya Reshetnyak is a political scientist working for PaperLab, an independent think tank. She spoke to EURACTIV’s Senior Editor Georgi Gotev.

How does the war in Ukraine affect Kazakhstan? Is there a fear (like in Moldova) that Kazakhstan could be next, in this apparent Russian strategy to restore as much as possible of the USSR?

Of course, there are concerns also in Kazakhstan about Russian expansionist policies. They are fueled by the manifestation of hate speech on the part of Russian politicians and public figures: many Kazakhs react quite painfully to such rhetoric.

At the same time, it does not seem to me that there are serious
President Tokayev spoke on the day of the referendum (5 June) of “challenges on multiple fronts” for the country’s national security. What do you think he had in mind? The war in Ukraine, the US-China tensions, Afghanistan? Possibly the food crisis, which is going to affect a great part of the world?

I think that all of the above can be seen as challenges for Kazakhstan. A new round of transformation of the international system is taking place when the previously used methods and tools cannot effectively resolve emerging conflicts. As a landlocked state bordering two great powers, Kazakhstan reacts sharply to changes in the system: a multi-vector policy is forcing Akorda (the office of the President) to take more and more efforts to balance.

Kazakhstan’s position vis-a-vis the war in Ukraine is neutrality. Do you think such a policy is sustainable?

Unfortunately, in the current situation, it is extremely difficult to talk about any kind of sustainability. Kazakhstan is under pressure both from the West, where they want to isolate Russia by all means, and from the Kremlin, which urgently needs the support of its allies at all levels, from overcoming the effect of sanctions to voting in the UN.

For its part, Kazakhstan at all venues emphasises adherence to international law, as well as respect for the territorial integrity of Ukraine – this is a principled position that is unlikely to change.

In the situation we are seeing today, which, despite some opinions, is formed from the consensus of the entire Russian political establishment, there is no need to talk about the possibility of any “peaceful divorce” with Russia for Kazakhstan. In addition, due to the interconnectedness of the economies of the two countries, this would be extremely painful for the Republic of Kazakhstan.

Akorda (the office of the President) understands all the political costs emanating from such a position and is trying to continue balancing by negotiating with Western partners and trying to get guarantees from them for the Kazakhstani economy. On the other hand, Astana continues to position itself as a negotiating platform, and its neutral status in this conflict will also allow it to offer its services as a mediator if the parties are ready for this.

The Western sanctions against Russia are hurting Kazakhstan, in particular the sanctions on Russian oil. What solutions could be found to avoid this unfair effect?

The imposition of sanctions against Russia has once again demonstrated how our country needs to diversify the transit routes for its goods. Moscow, in turn, well aware of the situation, uses this as an instrument of pressure. An example is the situation with the accident in the port of Novorossyisk, when the transit of Kazakh oil was suspended for several days. It can also be expected that pressure on partners within the Eurasian Economic Union (EAEU) will continue and increase.

Under these conditions, of course, it is necessary to intensify ties with partners outside the EAEU in order to diversify export and transport flows. Work in this direction is already underway by the government.

In addition, Kazakhstan has the potential to become a centre for the relocation of foreign production facilities that, before the start of the war in Ukraine, worked in Russia and Belarus. Our country is also attractive to citizens of the above countries who leave their homeland for various reasons: among them, there are many specialists and representatives of small businesses who can successfully integrate into the Kazakhstani economy. Work in this direction can help offset the negative effect of sanctions against Russia on Kazakhstan.

It seems that Belt-and-Road is largely blocked due to geopolitical tensions. How do you see the future of this initiative, given the fact that Kazakhstan was considered to be the buckle of Belt-and-Road?

This is an interesting question. Considering that for Beijing, the Belt-and-Road is a political rather than an economic project, I think that in the conditions of the polarisation of the international system, China will still be interested in maintaining and expanding its influence. Yes, most likely, the project will not exist in its original version, but it is highly likely that the southern Belt-and-Road routes will be activated, as well as China’s ties with Russia will be intensified, including within the transport corridor passing through Kazakhstan.

The January unrest was a wake-up call signalling that Kazakhstan wasn’t as stable as many thought, that it has
its own internal vulnerabilities. How would you describe them?

The January events showed how great the protest potential is in the country: the discontent that had accumulated in recent years broke through: both the protracted political transition (perceived by citizens as dual power), the socio-economic situation that has been deteriorating since the beginning of the pandemic, and such long-standing problems as corruption and increasing inequality.

There is a growing demand for citizen participation in political processes, a fair distribution of resources, and access to social elevators.

The authorities, who at first tried to stigmatize those who took to the streets as terrorists and outcasts, are nevertheless aware of the scale of public discontent, and, to the extent of the possibilities that the current system has, they are trying to respond to them.

Was the referendum a good move by Tokayev? How do you assess its result? Why was the turnout in Almaty so low? Is it linked to the January events?

The referendum was used by the authorities in order to obtain a mandate from society for further changes in the country. This decision was made because the political leadership felt they needed legitimization for their actions after the January events.

The amendments proposed for voting were developed in such a way that it was difficult for any citizen to be against their implementation. However, even according to official figures, 18.7% voted “no”; more than 4% of the ballots were declared invalid (perhaps some of them were deliberately spoiled). This, combined with a low turnout in Almaty and the western regions of the country, suggests that trust in the authorities has not been fully restored.

Thus, according to the head of Yerkindik Qanaty public foundation, the voter turnout at 31 voting stations was below 37%, while the Central Election Commission shows 57%.

Another important point is that despite the statements about the construction of a “new Kazakhstan”, old “technologies” were used during the referendum: ballot stuffing, obstacles to independent observers, and so on.

This demands more serious changes in the country’s politics, the need for which was expressed by citizens across the country who came out to rallies in January. In absence of adequate answers to this request, if the reforms are only cosmetic, the protest potential in society will not be defused.