



Johns Hopkins University SAIS Europe

# **Constitutional Reset in Central Asia in the Context of the Eurasian Economic Union**

**Bill Bowring, Birkbeck College, University of London**



a GlassHouse book

## Law, Rights and Ideology in Russia

Landmarks in the Destiny of a Great Power

Bill Bowring



## **Credentials**

- I visited Kyrgyzstan, Bishkek and Osh, from 8 to 14 March 2015 on a mission for the British Embassy at a time when Kyrgystan had already concluded a Customs Union with Russia and was preparing for accession to the EEU. My fifth visit.
- I have also made several recent visits to Uzbekistan for ONODC and for the British Embassy
- I study Kazakhstan closely since 1994.
- I visited Tajikistan three times for OSCE-ODIHR
- I was the first foreign professor to teach in the university in Ashgabad, Tukmenistan



## Central Asia







## The borders of the Russian imperial territories of Khiva, Bukhara and Kokand during 1902–1903



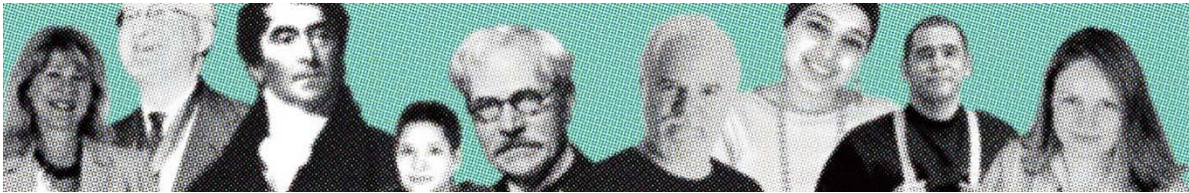




Caption from a 1911 English satirical magazine reads: "If we hadn't a thorough understanding, I (British lion) might almost be tempted to ask what you (Russian bear) are doing there with our little playfellow (Persian cat)."

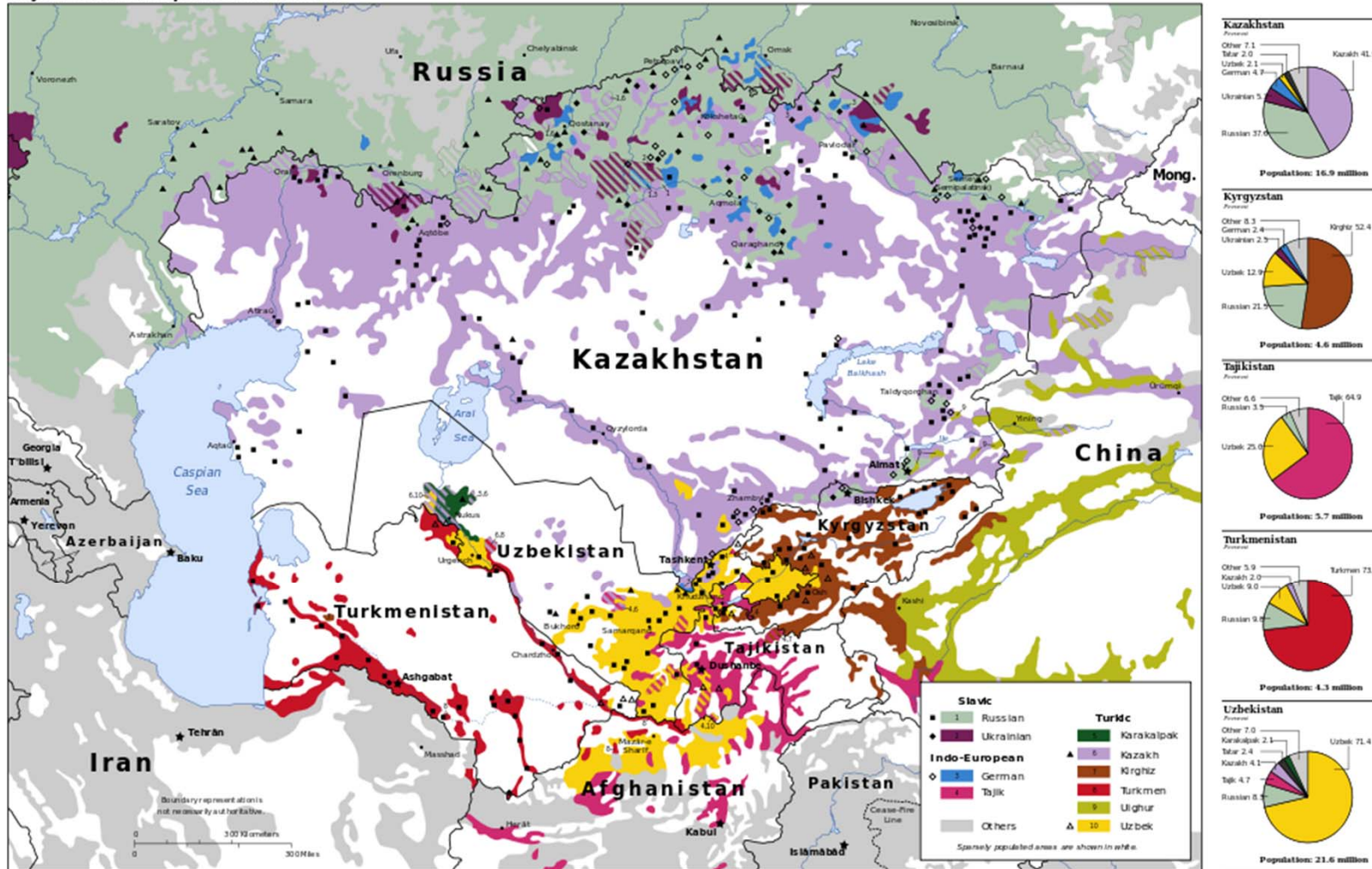






# Central Asia

Major Ethnic Groups In Central Asia







## DEMOGRAPHICS OF THE FERGANA VALLEY







## Central Asia

- The five states of Central Asia are very different in terms of geography, population, ethnicity, religion,
- **Kazakhstan** - 18,157,122; Kazakh (Qazaq) 63.1%, Russian 23.7%, Uzbek 2.9%, Ukrainian 2.1%, Uighur 1.4%, Tatar 1.3%, German 1.1% - Muslim 70.2%, Christian 26.2% (mainly Russian Orthodox)
- **Kyrgyzstan** - 5,664,939; Kyrgyz 70.9%, Uzbek 14.3%, Russian 7.7% - (Sunni) Muslim 75%, Russian Orthodox 20%,
- **Tajikistan** - 8,191,958; Tajik 84.3%, Uzbek 13.8% - Sunni Muslim 85%, Shia Muslim 5%, other 10%
- **Turkmenistan** - 5,231,422; Turkmen 85%, Uzbek 5%, Russian 4% - Muslim 89%, Eastern Orthodox 9%
- **Uzbekistan** - 29,199,942; Uzbek 80%, Russian 5.5%, Tajik 5%, Kazakh 3% - Muslim 88% (mostly Sunni), Eastern Orthodox 9%
- **Uzbekistan has by far the largest population, and significant minorities including in Afghanistan**



## The Russian Empire

- The slow Russian conquest of the heart of Central Asia began in the early 19th century
- By the 1800s, there was little resistance, although the Kazakhs of the Great Horde under Kenesary Kasimov rose in rebellion from 1837-46.
- With the conquest of Turkestan after 1865 and the consequent securing of the frontier, the Russians gradually expropriated large parts of the steppe
- The main opposition to Russian expansion into Turkestan came from the British - the Great Game. Afghanistan remained independent as a buffer state between the two Empires.
- After the fall of Tashkent to General Cherniaev in 1865, Khodjend, Djizak, and Samarkand fell to the Russians in quick succession over the next three years as the Khanate of Kokand and the Emirate of Bukhara were repeatedly defeated.





## The Russian Empire

- In 1867 the Governor-Generalship of Russian Turkestan was established under General Konstantin Petrovich Von Kaufman, with its headquarters at Tashkent.
- In 1881–85 the Transcaspian region was annexed in the course of a campaign led by Generals Mikhail Annenkov and Mikhail Skobelev, and Ashkhabad (from Persia), Merv and Pendjeh (from Afghanistan) all came under Russian control.
- Bukhara and the Khanate of Khiva remained quasi-independent, but were essentially protectorates along the lines of the Princely States of British India.
- Russian rule remained distant from the local population, who did not have the full privileges of Russians, but nor did they have the same obligations, such as military service.
- The Tsarist regime left substantial elements of the previous regimes (such as Muslim religious courts) intact, and local self-government at the village level was quite extensive.



## Central Asia today

- Thus present day Central Asia is characterised:
  - 1) By a common experience of the Russian Empire from the second half of the 19th century
  - 2) By a common Soviet past
  - 3) By the existence of authoritarian regimes, in the case of Kazakhstan and Uzbekistan dominated by ageing leaders who rose to power in the USSR, and also by various forms of neo-patrimonialism.



- In all five states the rule of law is precarious or non-existent, and constitutions and constitutional adjudication largely irrelevant to the real exercise of power.





## Constitutions

- **Kazakhstan** - 30 August 1995, abolished the Constitutional Court, introduced a Constitutional Council
- **Kyrgyzstan** - The constitution in force until 2010 was passed by referendum on 21 October 2007 and it is based on the first post-Soviet constitution originally adopted on 5 May 1993.
- The 1993 constitution had been amended several times: first on 10 February 1996, then on 2 February 2003, and finally twice in quick succession on 9 November 2006 and 15 January 2007 after the Tulip Revolution of March 2005.
- The last two amendments were adopted under pressure from protracted public protests in the capital Bishkek, but they were annulled in September 2007 by the Constitutional Court, which restored the 2003 constitution and paved the way for another constitutional referendum in October 2007.
- The current constitution of Kyrgyzstan was passed by referendum on June 27, 2010, after the overthrow of Bakiyev. It introduced a strong parliament, reducing the power of the historically strong president



## Constitutions

- **Tajikistan** - adopted on 6 November 1994 and amended by referendum on 26 September 1999 and 22 June 2003. Civil war 1992-1997. Amendments in 1999 - new bicameral parliament (Article 48) and extended the President's term of office from five to seven years (Article 65).
- **Turkmenistan** - adopted on 18 May 1992, amended in 1995, 1999, 2003 and 2006. Amended on 26 September 2008, abolishing the 2,500-member People's Council (Halk Maslahaty) and expanding the elected Assembly (Mejlis) from 65 to 125 members. Saparmurat Niyazov (Turkmenbashi) died in 2006.



- **Uzbekistan** - adopted on 8 December 1992 on the 11th session of the Supreme Council of Uzbekistan. It replaced the Constitution of the Republic of Uzbekistan of 1978





## Eurasian Economic Union

- The Eurasian Economic Union (EEU) is the most impressive integrationist project initiated by Russia since the collapse of the USSR.
- Intended to build a rival block against the US, the EU and China.
- It started in 2010 as a Customs Union bringing together Russia, Belarus and Kazakhstan.
- **Russia acceded to the World Trade Organisation in 2012**
- A treaty aiming for the establishment of the EEU was signed on 29 May 2014 by the leaders of Belarus, Kazakhstan and Russia, and came into force on 1 January 2015.
- Treaties providing for Armenia's and Kyrgyzstan's accession to the Eurasian Economic Union were signed on 9 October 2014 and 23 December, respectively.
- Armenia's accession treaty came into force on 2 January 2015.
- Kyrgyzstan's accession treaty came into effect on 6 August 2015.

On 29 May 2015, the countries of the Eurasian Economic Union (EEU) signed a free trade agreement with Viet Nam.







## Eurasian Economic Union

- The EEU has an integrated single market of 183 million people and a gross domestic product of over 4 trillion U.S. dollars.
- Modelled on the European Union, introduces the free movement of goods, capital, services and people and provides for common transport, agriculture and energy policies, with provisions for a single currency and greater integration in the future.
- The Supreme Eurasian Economic Council is the "Supreme Body" of the Union, consisting of the Heads of the Member States.
- The other supranational institutions are the Eurasian Commission (the executive body), located in Moscow, the Eurasian Intergovernmental Council (consisting of the Prime Ministers of member states) and the Court of the EEU (the judicial body).



## Eurasian Economic Union

- The Court of the Eurasian Economic Union replaced the Court of the Eurasian Economic Community (EurAsEC Court) in 2015.
- It is in charge of dispute resolution and the interpretation of the legal order within the Eurasian Economic Union.
- Its headquarters is in Minsk.
- The court is composed of two judges from each member state, appointed by the heads of government of the member states. Their term of office is nine years.





## Eurasian Economic Union

- Tajikistan's membership of the EEU has been stalled as a result of conflict between it and Kyrgyzstan in 2013.
- Uzbekistan and Turkmenistan strongly resist the growing Russian influence in the region, and are unlikely to accede while President Karimov remains in power in Tashkent.
- Turkmenistan has little economic interest in joining



## Comments

- **Nicu Popescu “Eurasian Union: the real, the imaginary and the likely” EU ISS (Institute for Security Studies) Chaillot Paper No.132, September 2014**
- Ukraine was supposed to be the crown jewel of a newly emerged, Russia-led Eurasia, but instead it turned to the graveyard of Moscow’s ambitions
- Russia and the EU’s far-reaching maximalist visions for their neighbourhood have been thwarted
- ... on quite a number of issues the EEU might be a more reasonable interlocutor for the EU than Russia. Other EEU states are not driven by illusions of grandeur
- **Aleksandra Jarosiewicz, Ewa Fischer “The EEU – more political, less economic” Centre for Eastern Studies OSW Commentary January 2015**
- Armenia and Kyrgyzstan are second-rank members who are not in a position to oppose Russia, and who treat their participation as a political necessity, but also as an opportunity to gain subsidies





## Comments

- **Anton Barbashin “The Myth of Russia’s Economic Union”**  
*Foreign Affairs January 2015*
- As long as Lukashenko, Nazarbaev and Putin remain in power, they will continue to pay lip service to the EEU vision.
- **Saodat Olimova “Tajikistan’s Prospects of Joining the EEU”**  
*Russian Analytical Digest No. 165, March 2015*
- The vast majority of the Tajik population supports joining the EEU. The key reason is that they hope that barriers and restrictions for Tajik labor migrants in Russia will be removed.
- **Roza Sarbaeva “On the way to EEU: Issues, opinions and prospects of its development” June 2105** *Eurasian Research Centre, Al-Farabi KazNU*
- A huge role in the development of integration processes belongs to Nazarbaev. 2014 was the 20<sup>th</sup> anniversary of his speech “The idea of Eurasianism”.
- What is unique is for the first time a supranational mechanism, the Eurasian Economic Commission, with three representatives from each country.



## Comments

- **David Tarr – former lead economist, the World Bank) “The EEU... Can it succeed where its predecessors failed?” (September 2015, *Eastern European Economics*)**
- Could succeed for two reasons
  - 1) Due to Russia’s accession to the WTO, the tariff of the Union will fall by 40-50%, thus reducing transfers from Armenia, Kazakhstan and Kyrgyzstan to Russia
  - 2) Unlike its predecessor, the Union includes a wide variety of “deep integration” measures and payments to poorer countries
- **Rilka Dragneva and Kataryna Wolczuk “Eurasian Economic Integration: Institutions, Promises and Faultlines” in *The Geopolitics of Eurasian Economic Integration* (LSE IDEAS December 2015)**
- This regime – and certainly the CU at its core – is not likely to disappear... yet it is also clear that the corpus of rule of the regime remains firmly embedded in and dependant upon the dominant political and economic systems of the member states.





## Comments

- **“Is Kazakhstan Getting Eurasian Union Blues?” *EurasiaNet.org*  
9 March 2016**
- The Kremlin has become embroiled in a series of diplomatic dust-ups, leaving its closest partners hostage to Moscow’s economic and geopolitical policies
- Kazakhstan has an economy one tenth the size of Russia’s but more than twice the size of Armenia, Belarus and Kyrgyzstan combined
- On 11 February 2016 Nazarbaev appealed to EEU heads of state for closer integration with China’s Silk Road Economic Belt concept and with the European Union
- In the last year intra-EEU trade fell by 26%
- Russia has resisted China’s call for a free trade area within the Shanghai Cooperation Organisation (SCO) and for a CSO development bank.
- Kazakhstan acceded to the WTO in November 2015.