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М.ӘУЕЗОВ АТЫНДАҒЫ ОҢТҮСТІК ҚАЗАҚСТАН УНИВЕРСИТЕТІ

МИНИСТЕРСТВО НАУКИ И ВЫСШЕГО ОБРАЗОВАНИЯ РЕСПУБЛИКИ КАЗАХСТАН
ЮЖНО-КАЗАХСТАНСКИЙ УНИВЕРСИТЕТ ИМЕНИ М.АУЭЗОВА

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**«ӘУЕЗОВ ОҚУЛАРЫ-21: ЖАҢА ҚАЗАҚСТАН-ЕЛІМІЗДІҢ БОЛАШАҒЫ»
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CHINESE DIPLOMACY TOWARDS KAZAKHSTAN IN THE FIELD OF SECURITY AND THE NEW SILK ROAD ECONOMIC BELT

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Abstract

Today the established cooperation between China and Kazakhstan reached the strategic partnership level. Also, the two neighboring countries are partners in the international large-scale projects as the Shanghai Cooperation Organization (SCO) and the New Silk Road Initiative. This paper claims that these projects are mostly lead by China. Moreover, it is established in the paper that the SCO is aimed to solve the security issues and the New Silk Road Initiative embodies the economic agenda of the bilateral relations. Thus, these institutions are devoted by China not only for Kazakhstan, but also for the other Eurasian countries. However, Kazakhstan's role and position is significant due to different reasons, while the Kazakhstani public remains cautious about the Chinese activity in Kazakhstan. The two named mechanisms are eventually focused on economical and cultural leadership of China among the secured multilateral cooperation in the continent. In this light, analyzing of the implementation of the strategic partnership process is important. Therefore, since China is a great power, leading the process, understanding of its views on the future of the Chinese-Kazakh cooperation and the institutional diplomacy through the security(SCO) and the New Silk Road Economic Belt (NSREB) is needed.

Keywords: Security, SCO, New Silk Road Economic Belt, China, Kazakhstan, Strategic Partnership.

The paper content: part 1 will cover China's policy on strengthening the stability and security at the neighbouring Central Asian region through the SCO; part 2 will discuss the attempts of economic cooperation within the SCO and newly introduced economic projects within the NSREB as another away for substantive regional integration.

In more than thirty years of reform and implementation of open economy policies, great changes have taken place in China. With the country's high engagement with the world, it became obvious that China did not isolate itself from the global developments. The rapid growth of China's economy and the country's growing ties with the rest of the world necessitates the development of new concepts and approaches in the Chinese diplomacy. On January 3, 1992, the Republic of Kazakhstan set diplomatic relations with the People's Republic of China (PRC). The two countries share a border of 1700 km. The relationship of the two countries has developed rapidly since 1997, in connection with the growing of the economic ties. According to the Treaty on Good-Neighborliness, Friendship and Cooperation signed on December 23, 2002, the states develop the longterm peaceful and beneficial "win-win" cooperation. Most of the routes from China to Europe pass through Kazakhstan's broad territory, located strategically on the crossroads between Europe and Asia. As China is expanding its economic outreach to Europe, Kazakhstan wants to benefit beyond transit fees as it is trying to break away from oil dependence.

Background Information and Literature Review

China is focused on how the Belt and Road Initiative (BRI) was perceived in Kazakhstan and other countries directly involved in the project and how these perceptions shaped responses to the initiative. It is obvious that China is aware of, the spread in the whole world, the "China threat" thesis, which became visible after growth of China's economic power and military capabilities. Currently, China set the task to neutralize the negative reaction abroad to the grand integrative initiative – the BRI, through formation of a positive international image of the country. One of the areas of impact of the "soft power" of China in the region is the education system. Chinese investments into the education sector (including scholarships) increase the student acceptance rate into the Chinese colleges and universities, as well as the rate of sending students to study in universities of Kazakhstan, opening of the Confucius Institutes and active promotion of the study of the Chinese language. As a result, over the past 10 years the number of students from the Central Asian countries in China increased dramatically, and Kazakhstan is the leader among them.

It is both necessary and worth examining a public perception of the BRI project in Kazakhstan. Kazakhstan is the country where alarmist and sinophobic sentiments in regards of the issues of migration and bilateral trade are present. Moreover, China continues to purchase the shares of major Western companies operating in Kazakhstan. Kazakhs' fear of the invasion of China may be called traditional. There is a Kazakh proverb (Altyn-orda.kz, 2016): "Kara kytaiaptasa - akyr zaman boladi" (If the invasion of the Chinese begins, we will come to the end of the world).

According to the sociological surveys in 2007 and 2012 (Number of surveyed respondents in 2007 is 588, Number of surveyed respondents in 2012 is 544) Kazakhstanis' attitude towards Chinese immigrants had worsened over 5 years. 31 percent of respondents believe that the Chinese pose a serious competition in the labor market of Kazakhstan. Kazakhstanis' public awareness of China, according to the surveys of 2007 and 2012 increased from 21 to 23 percent. Several labor conflicts of a local character between Kazakh and Chinese workers occurred in Atyrau and Aktoke regions in 2010, 2013, 2015 – the conflicts have not been analyzed by experts and were sparingly reported in the media, which may cause repetition of the conflict and an escalation of tension (Sadovskaya, 2012).

Several labor conflicts of a local character between Kazakh and Chinese workers occurred in Atyrau and Aktoke regions in 2010, 2013, 2015 – the conflicts have not been analyzed by experts and were sparingly reported in the media, which may cause repetition of the conflict and an escalation of tension (Tengrinews.kz, 2017). Large numbers of people protested in Kazakhstan over proposed land reforms on April 2016. The protests against changes to the country's Land Code have spread across the country. The changes in the law that allow foreigners to rent agricultural land in Kazakhstan for 25 years. First, people in the city of Atyrau in western Kazakhstan took to the streets. Then, demonstrations occurred in Aktoke in the north and in Semey in the east. Some observers estimated that between 1,000 and 2,000 people gathered in each city, which is quite serious for Kazakhstan. The law fuels one of the protesters' biggest fears - that Chinese investors will come and buy out their land. Many fear that Kazakhstan, with a population of 19 million, will lose out to its bigger neighbour. The government created the special Committee on the Land Code changes, the Commission didn't approved the law that allow foreigners to rent agricultural land in Kazakhstan (BBC.com, 2016).

Security A Top Priority: the SCO

Founded in 2001, the SCO now has China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan, India and Pakistan as its full members, with Afghanistan, Belarus, Iran, Mongolia and as observers, and Armenia, Azerbaijan, Cambodia, Nepal, Sri Lanka and Turkey as dialogue partners. Nowadays, the SCO brings together 18 states, which are inhabited by over 3 billion people or over 45 percent of the world population (RIA.ru, 2016). In 2015, the GDP of the SCO member states amounted to over \$21 trillion, accounting for 27.1 percent of the world's total (News.cgtn.com, 2017). The official founding declaration asserted that the main objective of the organization was to combat the so-called three evil forces: international terrorism, ethnic separatism and religious extremism. The organization has been interpreted in a variety of ways since its inception. One group of analysts agree with the views of the governments of the SCO member states that the organization is primarily focused on regional security problems (Aris, 2009). Many Chinese analysts as Yu Jianhua Director of the Institute of Eurasian Studies of the Shanghai Academy of Social Sciences (SASS) express the same view: the SCO is a regional organization of non-traditional security (Jianhua, 2009). Western interpretations are quite different, as they argue that the SCO constituted a joint effort by a group of authoritarian states to defend themselves against regime change in the face of a regional democratic trend (Foreignpolicy.com, 2013). The most approaches explain the SCO geopolitical activities in terms of balance of powers. The SCO was called as "NATO of the East" (Cohen, 2006) and "New Warsaw Pact" (Americanthinker.com, 2005), this military approach concerned with geopolitical balancing issues in Central Asia. The SCO enables its member states to pursue diplomatic, security, economic, and soft power goals but remains primarily an institution focused on security. However, although SCO leaders agree that the organization should defend its member governments against terrorist or separatist threats, they have deadlocked over whether to respond collectively to serious but nonviolent domestic challenges such as mass protests. With only two standing organs (the RATS and Secretariat), the SCO is much less developed than other regional security organizations. It could profitably develop its crisis management capabilities, whose weakness perhaps accounted for the organization's paralysis during the July 2010 crisis in Kyrgyzstan (Theasanforum.org, 2016). Richard Weitz and Daniel Miller based on the theory of integration and regional cooperation considers that the SCO has actually failed to realize security goals, dismissing the SCO as a "security failure" and a "fading star" (Theasanforum.org, 2018).

Most Chinese experts as Chien Chung, Pan Guang and Jing-Dong Yuan agree that this regional organization is largely a Chinese initiative and that China plays a leading role in the SCO process (Yuan, 2010). China attempted to enter and to manage this region via a multilateral approach. China is using the SCO for implementation of the "Beijing Consensus" in Central Asia. The SCO has gradually become the main mechanism or guide for China's policy in Central Asia. Along with the Central Asian countries the organization includes Russia, which allows to significantly mitigate the perception of China in the Central Asian region as a threat. Also, the SCO provides a good framework for China to cooperate closely in combating terrorism, extremism, separatism and various other cross-border criminal forces. The primary target of the Chinese anti-terrorism campaign is the East Turkestan Islamic Movement (ETIM), which advocates for the independence of Xinjiang. From the Chinese perspective, in the framework of the SCO it is of particular importance for China to be able to count on the support of the other nine member and observer states in its campaign against the ETIM. Moreover, China has also been able

to draw support from the SCO partners in its efforts to frustrate other conventional or non-conventional security threats and to eliminate or to ease the external factors of disruption to China's stability and development (Bailes, Dunay, Guang, Troitskiy, 2007). By 2001, when the Shanghai Cooperation Organisation was formed, Chinese leaders were fully convinced that multilateral regional organisations were significant mechanisms for China to articulate its interests, strengthen its influence, cultivate its soft power, and promote multipolarity. In less than a decade, China was transformed from a passive, defensive participant to an active organizer with a well-defined agenda and strategy (Cheng, 2013). Through the SCO China is keeping geopolitical balance in the "strategic hinterland" region as well as playing a key role in the establishment of new structure of regional security process legally. The program of cooperation on security issues began shortly after establishing of the SCO. At that period it was very important for China to prevent the foreign intervention into the Central Asian states policy and security, as well to avoid supporting of ETIM by the other newly independent Central Asian Turk countries. In this light, following documents were signed in the SCO framework: The Shanghai Convention on combating terrorism, extremism and separatism (2001); SCO Regional anti-terroristic structure (2002); Agreement on combating drug trafficking (2004); Agreement on joint anti-terrorist activities (2006); Treaty of the long-term good neighborly and friendly cooperation among member states of the SCO (2007); Agreement on combating trafficking in firearms, ammunition (2008); Agreement on cooperation in the field of ensuring international information security (2009); Joint declaration on cooperation between the SCO and UN secretariats (2010); Provision on the political, diplomatic measures and mechanisms for regulating the situations that endanger security and stability of the region (2012). Also, the Peaceful Mission – joint anti-terroristic military exercises were first time kicked off within the SCO framework in 2002. The member-state military units practiced a joint anti-terrorist operation in the SCO territory annually. Combat units have worked out actions to confront terrorists on land, at sea and in the air. All these agreements provided legislative base for the SCO common security space and adopted political and military measures, building an unpredictable cooperative and stronger relationships within the regional community. Also, through the security cooperation the SCO passed the institutionalization process.

Economy is Significant: the NSREB

China employs the SCO as a vehicle to expand its influence in its immediate neighborhood where it does not have any solid historical and cultural foundation, as opposed to Russia, which long had Central Asia as a part of Tsarist Russia and later as a part of the Soviet Union for about two hundred years. The economic and humanitarian cooperation within the SCO was evaluated by China along with the security issues. However, Beijing started to seek economic collaboration within the SCO after the main border, defense and security questions were solved among the member-states. China held great hopes for the ability of the SCO to organize multilateral economic cooperation. Beijing wanted to use the SCO in order to export its products, labour and capital to the neighbouring countries. Thus, Beijing several times proposed the idea of establishing the SCO Free Trade Area (FTA). Following agreements on economic and humanitarian cooperation were signed within the SCO: The Program of long-term multilateral economic cooperation (2003); Action plan of the Program of long-term multilateral economic cooperation (2004); SCO Interbank Consortium (2005); SCO Business Council (2006); New action plan on multilateral economic and trade cooperation (2008); Emergency assistance agreement (2005); Agreement between governments on cooperation in education (2006); Agreement between governments on cultural cooperation (2007); Agreement between governments on scientific cooperation (2007). Moreover, in order to promote the economic development of the SCO member-states and deepen their economic cooperation, China represented by the President Hu Jintao at the 2005 Astana Summit offered \$900 million preferential buyer's credit loans to the other SCO members. In 2006, the China Import and Export Bank signed preferential buyer's credit with Kazakhstan, Kyrgyzstan and Tajikistan providing \$1.2 billion of preferential buyer's credit in 2007. A decision on allocating another \$10 billion governmental loans was announced by the President Hu Jintao at the 2012 Shanghai Summit. According to the Chinese customs statistics, the trade turnover between China and the SCO member-states increased from \$12.15 billion in 2001 to \$67.47 billion in 2015 showing 6.6-fold increase. According to the Ministry of Commerce of China, in 2003, the amount of the Chinese foreign direct investments (FDI) to the SCO member-states amounted to \$59 million reaching \$534 million in 2015. Therefore, it could be stated that since the establishing of the SCO, its member-states have become China's main partners in foreign investment. However, despite these positive developments serious obstacles to further progress in strengthening economic cooperation still remain. To date, high customs tariffs are the main barriers for deepening trade relations among the SCO states. Therefore, in order to minimize the tariff and non-tariff barriers, as well as to facilitate trade and investment in the region, the SCO members put the creation of the FTA on the agenda. Beijing was equally interested in the development of security aspect as well as economic ties. China held great hopes for the ability of the SCO to organize multilateral economic cooperation. Beijing wanted to use the SCO in order to export its products, labor and capital to the neighboring countries. For this purpose China offered a variety of projects: from an introduction of a free trade zone to the establishment of the SCO Development Bank (Hongwei, 2013). Nevertheless, to date these initiatives have not been fully welcomed by the SCO member states. In 2011 the Eurasian Economic Union (EEU) was created by Russia, Belarus and Kazakhstan. China put great attention to the process, since the organization limited the access to the markets of these countries creating new tariffs and taxes. Thus, the main Chinese partner in the SCO framework – Russia has chosen its own way of economic integration with the Central Asian states, reestablishing this type of economic cooperation first time from the Soviet Union collapse. The implementation of the EEU project made

China develop an effective and beneficial strategy of interaction with a new Eurasian integration association. Thus, Beijing has offered a number of programs on investments into the SCO states from the assets of the organization on a bilateral basis (Haiyan, 2008). Other economic projects were not carried out within the framework of the SCO. The crisis of 2014, and the sanctions against Russia considerably damaged the economic situation in Russia and the entire Central Asian region prompting the need for investments. In this light, China immediately suggested the establishment of the Silk Road Fund. All these factors have a positive impact on the fact that China, relying on the SCO as a base platform, put forward a new initiative, the creation of the New Silk Road Economic Belt (NSREB) and the 21st century Marine Silk Road in 2013. At the moment, the initiative is called "Belt and Road Initiative" (BRI). Consequently, the EEU, a regional organization, initially created with the aim to protect itself from excessive economic influence of China, has changed its direction toward the interface with the Chinese initiative (Eurasiancommission.org, 2017). The Eurasian Economic Commission has formed a list of priority projects that will be implemented by the EEU countries and will support the formation of the NSREB. The projects concern the construction and modernization of roads, the creation of transport and logistics centers, the development of key transport hubs (Song, 2016).

The SCO approved two documents relating the procedure of admitting new members at the Tashkent summit in June 2010: the Rules of Procedure and the Statute on the Order of Admission of New Members to the SCO. The stance reflected in these two documents mainly represents a passive Chinese response to the enthusiastic membership requests expressed by some states. It, by no means, implies that the SCO members have a specific enlargement plan in mind, let alone a consensus. A combination of new members and a determination to make the organization a genuinely important and influential bloc is likely to ensure further development and expansion of the SCO. The ambition to create a truly dominant organization free of any Western influence may become a reality in the near future. It is quite easy to set up formal multilateral organization. However, whether this organization can or cannot have a real effect on international relations is another matter. In this institutional dimension, China has more freedom to play, since its partners do not treat the issue as a priority. Russia and the Central Asian states understand the utility that the SCO provides to them. This multilateral institution is also helping China and Russia to regulate their interactions in Central Asia. China will not give up its attempt to play the leading role because it has huge stakes riding on it, including its international reputation and credibility.

Thus, China and Kazakhstan share common interests in the economics and politics field. Kazakhstan supplies hydrocarbons so necessary for China and it is ready to become the trade bridge between China and the Western Europe. China's elite have determined Kazakhstan as an ultimate bridge linking the mainland with the main BRI land points, thus, positioning it as one of Eurasia's most promising centers and making it a prime location for observers. It is clear that a key goal for Chinese investors in Kazakhstan is to secure overland deliveries of energy resources to China by inland routes alternate to maritime shipments, which means that Beijing also has a geopolitical interest in strengthening energy cooperation with Kazakhstan. It is necessary to note, that in the context of the global financial crisis, China has become the largest creditor and the investor for Kazakhstan, bypassing both Russia and the countries of the West. Despite the creation of the EEU, China remains the major trade partner of Kazakhstan. Within the BRI Initiative, the two countries are developing infrastructure facilities for bilateral trade. At the same time, part of Kazakhstan's elite, which is not related to the oil-and-gas sector, suspect the PRC in latent intentions towards Kazakhstan's resources (including land). The Chinese migration to Kazakhstan is a subject of special concern for Kazakhstan's experts. Moreover, Beijing is concerning that public opinion in Kazakhstan perceives China as a source of threat to its national security. According to estimates of the two leaders, almost complete understanding was reached in ensuring regional security.

In conclusion, China now urges greater geopolitical role in the world. Currently China presents SCO as an active and dynamic alliance that primarily seeks to promote itself to the world as a guardian of global and regional security. For China the SCO and NSREB provide a useful multilateral platform for the implementation of its economic initiatives. Now the SCO area of responsibility covers an area inhabited by over 3 billion people – about 1/3 of the world's GDP. Thus, the organization entered a new stage of its institutional development as the "Shanghai Eight". In this institutional dimension, China has more freedom to play, since it has economic power, international reputation and credibility. China is still in the process of developing the comprehensive and multidimensional approaches of its New Diplomacy through the SCO and NSREB. However, there is no doubt that with its New Diplomacy, China will aim to guide the SCO member states and NSREB countries in their political and economic activities. It is clear that Chinese foreign diplomacy will become more active and such institutions as the SCO and NSREB mechanism will provide important support to international problems in the near future, representing the one center of the multi-polar world and the non-Western values and principles.

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НАКАЗАНИЕ В ВИДЕ ОГРАНИЧЕНИЯ СВОБОДЫ: ТЕОРЕТИЧЕСКИЕ И ПРАВОВЫЕ АСПЕКТЫ

PUNISHMENT IN THE FORM OF RESTRICTION OF FREEDOM : THEORETICAL AND LEGAL ASPECTS

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Түйін

Еліміздің қылмыстық заңнамасына сәйкес бұл жазаларға бас бостандығынан айыру және бас бостандығын шектеу жатады. Осы санкциялардың барлығы Қазақстан Конституциясының 1-бабының 16-тармағында көзделген әрбір адамның жеке бас бостандығына құқығына қандай да бір шамада әсер етеді. Біздің ойымызша, бас бостандығын шектеу сияқты жаза түрі ерекше назар аударуға лайық, өйткені бүгінгі күні қарастырылып отырған жаза шарасы қылмыстық процесте кеңінен қолданылады, кінәлі адамға қатысты ерекше жазалаушы сипатқа ие және оның өмірін түбегейлі бұзбайды. Бостандықты шектеуді орындау барысында қылмыстық құқық қолданудың негізгі мақсаттарына қол жеткізіледі деп айтуға болады: әлеуметтік әділеттілікті қалпына келтіру, сотталғанды түзету және қоғамға да, мемлекетке де зиян келтіретін жаңа құқыққа қайшы әрекеттің жасалуына жол бермеу. Мысалы, "Бостандық" ұғымы туралы айтатын болсақ, оның бірнеше анықтамалары бар екенін атап өткен жөн, өйткені ол бірнеше семантикалық мағыналарды қамтитын күрделі және көп қырлы категория. Философия тұрғысынан "еркіндік-бұл сыртқы мақсат қояудың болмауы жағдайында іс-әрекет пен мінез-құлық мүмкіндігін белгілейтін пәндік қатар мәдениетінің амбебаттығы" деп айтуға болады.

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