

The Failure of Settlement on Kyrgyz-Uzbek Border Issues: a Lack of Diplomacy?*

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Beishenbek TOKTOGULOV**

Abstract

For almost two decades, Kyrgyzstan and Uzbekistan have experienced a number of border disputes due to the unresolved issues of demarcation and delimitation of borders. However, recent escalations of tension over the disputed areas have shown that unresolved border issues can deeply affect Kyrgyz-Uzbek relations. About 36 sections with about 200 kilometers of the 1378 kilometers of common border have not been delimited yet. The number and distance of unresolved sections were relatively high before the parties reached agreement on certain sections in September 2017. This paper examines Kyrgyzstan and Uzbekistan's efforts for the settlement of their border issues in the post-Soviet era. The study argues that there had been a lack of dialogue and diplomacy between two countries in resolving border disputes and concludes that there is a need for new approaches to speed up this process.

Keywords: *Kyrgyzstan, Uzbekistan, the Kyrgyz-Uzbek border, border disputes, demarcation and delimitation process*

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** Asst. Prof. Dr. of International Relations, Kastamonu University

Kırgız-Özbek Sınır Konuları Üzerine Uzlaşmada Başarısızlık: Diplomasi Eksikliği midir?*

Beishenbek TOKTOGULOV**

Öz

Kırgızistan ve Özbekistan, neredeyse yirmi yıldır çözümlenmemiş sınır belirleme konuları nedeniyle bir dizi sınır anlaşmazlığı yaşamıştır. Ancak son zamanlarda tartışılmalı alanlar üzerine gerginliğin tırmanması sınır sorunlarının Kırgız-Özbek ilişkilerini derinden etkileyebileceğini göstermiştir. 1378 kilometrelik ortak sınırın yaklaşık 200 kilometreyi oluşturan 36 kesimi henüz çözümlenmemiştir. Çözümlenmemiş kesimlerin sayısı ve uzunluğu taraflar, Eylül 2017’de belli kesimler üzerine anlaşmaya varmadan önce nispeten fazlaydı. Bu çalışma, Sovyetler Birliği sonrası dönemde Kırgızistan ve Özbekistan’ın sınır sorunlarının çözümüne yönelik çabalarını incelemektedir. Çalışma iki ülke arasındaki sınır sorunlarının çözümünde diyalog ve diplomasi eksikliği olduğunu savunur ve süreci hızlandırmak için yeni yaklaşımlara ihtiyaç duyulduğu sonucuna varmaktadır.

Anahtar Kelimeler: *Kırgızistan, Özbekistan, Kırgız-Özbek sınırı, sınır anlaşmazlıkları, sınır belirleme süreci*

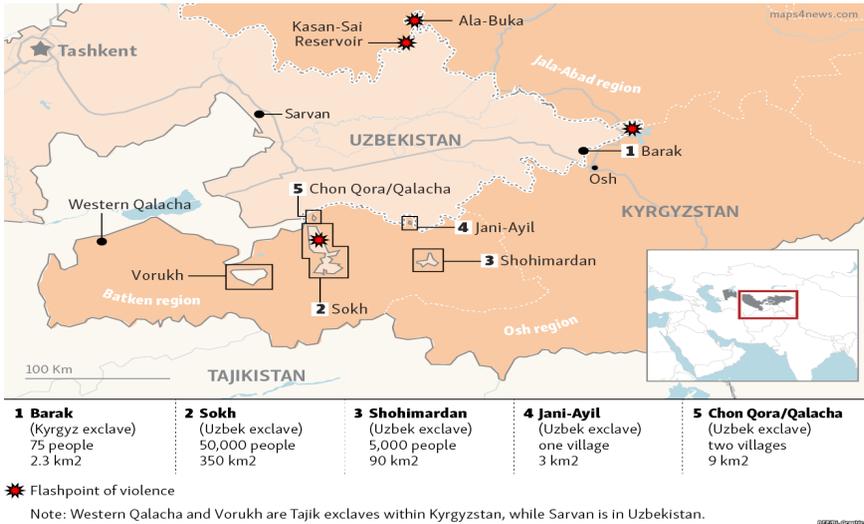
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** Asst. Prof. Dr. of International Relations, Kastamonu University

Introduction

The unresolved segments of the border territories between Kyrgyzstan and Uzbekistan have become a source of standoffs for almost two decades. Although we have not witnessed any direct clashes between two Central Asian countries about border issues, there have been several incidents that involved security forces on one side or the other, and the situation remains tense. This tension escalated twice in 2016 when Kyrgyzstan and Uzbekistan embroiled in standoffs over the disputed areas. In March 2016, Uzbekistan deployed troops and military equipment, including armored vehicle and trucks, to the unmarked area on the Kyrgyz-Uzbek border in retaliation for Kyrgyzstan's attempt to reclaim a disputed water reservoir called in Kyrgyz Orto Tokoi and in Uzbek Kasan Sai.¹ Kyrgyz side immediately responded in the same manner and also sent a diplomatic note to Tashkent. Until the agreement signed in October 2017, the reservoir had long been a source of contention between Kyrgyzstan and Uzbekistan. While Uzbekistan had believed it should own the reservoir because it was built with the Uzbek SSR's resources during the Soviet times, Kyrgyzstan had insisted that it had the ownership rights since the reservoir is located several kilometers inside its territory.

Recent disputed area map²



¹ "Border Dispute Riles Kyrgyzstan, Uzbekistan", *DW*, 24 April 2016, <http://www.dw.com/en/border-dispute-riles-kyrgyzstan-uzbekistan/a-19140776>, (Accessed: 15.05.2017)

² Pete Baumgartner, "Tug-of-War: Uzbekistan, Kyrgyzstan Look to Finally Settle Decades-Old Border Dispute", Center for Eurasian Studies, 14 December 2017, <http://avim.org.tr/en/Bulten/TUG-OF-WAR-UZBEKISTAN-KYRGYZSTAN-LOOK-TO-FINALLY-SETTLE-DECADES-OLD-BORDER-DISPUTE>, (Accessed: 30.12.2017)

Kyrgyz authorities claimed that Uzbekistan's military actions were not agreed upon in advance by both governments meaning these actions violated international law that prohibits the deployment of any troops to disputed areas.³ Even, Kyrgyzstan requested the Collective Security Treaty Organization (CSTO) member states to gather to discuss this issue and the CSTO convened session at its headquarters in Moscow, where its secretariat expressed its concern over the crisis and agreed to dispatch its senior envoy to study the circumstances on the ground. The CSTO members confined themselves to issuing a statement that they were concerned and would continue monitor the situation, and taking account of international relations, the organization was unlikely to take action to protect Kyrgyzstan's interest. In an environment in which Kyrgyzstan is member of the Russian-led CSTO and Uzbekistan is the ally of the Russia, the question is how this organization will act if such a crisis reoccurs anytime soon. For one of the Kyrgyz political scientists, "the only thing CSTO can do in this situation is to serve as a mediator".⁴

Although Uzbekistan withdrew its troops after day long talks between Uzbek and Kyrgyz border authorities, there was no clear indication that as to whether a long-term understanding had been achieved. This suggested that the problem was not resolved and it was likely then that the standoff would continue. This proved to be true when in August 2016 Uzbek police officers detained four citizens of Kyrgyzstan who were working at the large TV and radio transmitter located at the disputed mountain Unkur Too in Kyrgyz and Ungar Tepa in Uzbek. Officials at the prime ministerial level met to discuss the border issue initially and then after two weeks of negotiations at the lower levels Uzbek police released the detainees. Reportedly, several Uzbek police officers remained deployed at the disputed border area and Uzbekistan demanded access to the Orto Tokoi-Kasan Sai reservoir and to resume electricity shipments that were cut off by Kyrgyz side during the previous standoff.⁵

The Kyrgyz-Uzbek border is totally 1,378 kilometers long but until 2016, 58 sections with 324 kilometers length had remained unresolved.⁶ For some scholars, as of 2008, out of 1378 kilometers of the Kyrgyz-Uzbek border, 993 kilometers had been agreed upon by the commission authorized to conduct delimitation of borders: for the Department of Delimitation of Borders and Development of Bordering Territories of Kyrgyzstan, by 2013, 1,007 kilometers

3 Fozil Mashrab, "Kyrgyzstan Targets Wrong Enemy in Its Latest Border Crisis with Uzbekistan", *Eurasia Daily Monitor*, Vol. 13, No. 63, March 2016, <https://jamestown.org/program/kyrgyzstan-targets-wrong-enemy-in-its-latest-border-crisis-with-uzbekistan/>, (Accessed: 15.05.2017)

4 Cited in Timur Toktonaliev, "Uzbek-Kyrgyz Border Spat Highlights Tensions", *Institute for War and Peace Reporting*, 24 March 2016, <https://iwpr.net/global-voices/uzbek-kyrgyz-border-spat-highlights-tensions>, (Accessed: 15.05.2017)

5 Cited in Cholpon Orozobekova, "New Standoff Between Kyrgyzstan and Uzbekistan", *Eurasia Daily Monitor*, Vol. 13, Issue 146, September 2016, <https://jamestown.org/program/new-standoff-between-kyrgyzstan-and-uzbekistan/>, (Accessed: 16.05.2017)

6 "Uzbekistan, Kyrgyzstan Reach Provisional Border Agreements", 1 November 2016, <http://www.eurasia.org/node/81116>, (Accessed: 15.05.2017)

of common border with Uzbekistan had been agreed upon.⁷ Statistics show that in almost 10 years Kyrgyzstan and Uzbekistan have made little progress in resolving border disputes. Tensions continue until 2016 over contentious areas and these unresolved sections have become a source of violent incidents and several flare-ups in recent years ending in fatal shootings. According to the Kyrgyzstan's Ministry for Internal Affairs, law enforcement agencies detected 53 incidents in 2012 of which 39 were on the border with Uzbekistan.⁸

The border between these two countries has rarely been tranquil since the end of the 1990s but the latest escalation is significant in terms of bilateral relations. The situation reached a dangerous level especially during the first case when both sides deployed troops and military equipment to the disputed area. These events sparked a new wave of escalation in Kyrgyz-Uzbek relations. In this sense, the incidents once more showed that parties need to reach settlement as soon as possible to prevent the occurrence of similar events that would harm bilateral relations.

This paper seeks to find out why Kyrgyzstan and Uzbekistan so far have failed to reach settlement on border issues. The paper offers diachronic approach which deals with the evolution of both countries' efforts for the settlement of their border issues in the post-Soviet era. The first part of the paper analyzes the origins of the border disputes which goes back to the National-Territorial Delimitation (NTD) policy of the Soviet regime. The second part discusses the legal basis for the post-Soviet border settlement and tries to reveal why current border issues have become hot issue which has affected bilateral relations. The last part examines border issues focusing on both sides' past efforts and recent initiatives and discusses the ways to resolve disputes around them. Considering paper's contribution to literature, while most of the works studied border issues and their current state in general and from regional level, this paper studies specifically Kyrgyz-Uzbek border issues from international relations perspective comparing two countries' past and recent attempts. Moreover, it touches upon the most-up-to-date developments about the Kyrgyz-Uzbek border issues and discusses the ways to resolve disputes around them. The paper develops the argument that over the years, there had been a lack of dialogue and diplomacy over the settlement of border issues and as a result tensions had become routine between the neighbors. It concludes there is a need for rapid and radical efforts to reach agreement on the remaining border disputes and complete the process of demarcation and delimitation. The successful completion of the process not only leads to the bilateral relations to the upper level, but also the whole region will benefit in social, economic and political terms.

7 Timur Dadabayev, "'We Want a State of Our Own!' Reconstructing Community Space in Bordering Areas of Central Asia", *The Journal of Territorial and Maritime Studies* 2, No.2 (July 2015), 29.

8 Yury Daneykin, Elisey Andreevsky, Mikhail Rogozhin and Oleg Sernetsky, "Threats and Challenges to the Regional Security in Central Asian Region (the Example of the Republic of Kyrgyzstan)", *Procedia-Social and Behavioral Sciences*, No.166 (2015), 87.

1. Origins of Border Disputes

Analysis of the origins of continuing border disputes is very important in order to understand the complexity of border issues and the difficulty of resolving them. The origins and sources of the border and territorial disputes between Kyrgyzstan and Uzbekistan and in general between Central Asian states goes back to the NTD policy of the Soviet regime. The NTD project had been processed in 1924 with the approval of the Central Executive Committee of the Communist Party of the USSR and the year 1936 marked the final arrangement of the political map of Soviet Central Asia when five national republics were established in the region, each with its own state-recognized titular nationality: the Uzbek, the Kazakh, the Turkmen, the Tajik and the Kyrgyz SSRs.⁹ Regional republics' political status and their external boundaries created during the NTD policy had largely been intact until the demise of the Soviet Union in 1991. However, from time to time, the Soviets revised the borders and made successive changes even the NTD policy was over. The current border disputes are the outcome and the legacy of the Soviet NTD policy and successive changes and they have proven to be headache for independent regional states, especially for Kyrgyzstan and Uzbekistan.

A number of criteria were used during the NTD policy and the major ones were that the new republics should have geographical unity, an economic rationale and be ethnically homogenous. It was impossible to satisfy these requirements due to region's complex nature and in this sense NTD policy led to the political battles between the elites for control of disputed areas. According to a leading expert, Timur Dadabayev, "the debates over the disputed territorial claims of republican elites of that time were the outcome of this policy which in many cases ignored the historic, cultural and ethnic particularities of the region." In this respect, both Kyrgyz and Uzbek officials presented an entire list of new territorial claims using certain arguments.¹⁰ Moreover, objections and petitions were sent by groups of certain local people to the authorities for reevaluation both in 1924 and during the discussions of 1925-1927. All these claims were considered by a series of special commissions but their decisions were subject to a barrage of claims, counterclaims, and outright rejection, a pattern repeated over and over. This led to an uncertainty causing a recurring escalation of claims and fresh demands for Moscow to reconsider the issue. With Stalin's orders in 1927, the Parity Commission was established in 1927 but it did not complete its work. In the same year, the decision was taken not to consider any petitions relating to delineation of borders for a period of three years. Later, two additional commissions on border demarcation were established in 1939

9 Grigol Ubiria, *Soviet Nation-Building in Central Asia: The Making of the Kazakhs and Uzbek Nations*, (London: Routledge, 2016), 124-125.

10 The author explained both sides' arguments giving specific examples. See for detailed explanations Sergey Abashin, Kamoludin Abdullaev, Ravshan Abdullaev and Arslan Koichiev, "Soviet Rule and the Delineation of Borders in the Ferghana Valley", *Ferghana Valley: the Heart of Central Asia*, (ed.) S. Frederich Starr, (New York: M. E. Sharpe, 2011), 94-118.

and 1955 but they did not produce sensible outcomes. As an example, a joint Uzbek-Kyrgyz SSR border demarcation commission that was established in 1955 to resolve outstanding inter-republican disputes made some progress but never completed its work.¹¹

In general, the population in the Ferghana valley calmly responded to the delineation of borders. Land transfers among administrative units neither produced immediate changes in local people's everyday lives nor did they seriously affect their interests. As the borders remained open and local institutions were weak, the changes in the borders had little or no immediate effect on people's economic practices, personal relations or transport routes. Over the next decades, territorial demarcation held less meaning and importance for the regional republics of that time and their people due to the similar reasons. The population in the Ferghana valley still could freely move among the regional republics as there were no checkpoints. The perfectly integrated territory allowed children to attend the nearest schools located in another republic while some Tajik SRR's *sovkhoses* could extend into Kyrgyz SRR's territories. Here, it can be argued that the people's calm response could be one of the reasons why the border issues were not permanently resolved during the Soviet era and represent great difficulties for the post-Soviet Kyrgyzstan and Uzbekistan. However, during the Soviet period, one could not easily raise the issue and the border issues could not "grow into open opposition as Moscow performed the role of supreme arbiter."¹²

Following the NTD policy until their independence in 1991, there had been made multiple changes in the boundary between the Kyrgyz and the Uzbek SSRs. This means the absence of clearly defined republican borders was further complicated with the land swaps and temporary land leases from one republic to another, justifying such swaps by means of economic efficacy.¹³ For use in agricultural and industrial development, the Uzbek SSR rented tracts of land from the less densely populated Kyrgyz SSR. However, rents were rarely collected and land was not always reclaimed when the tenure formally expired.¹⁴ For instance, the Kyrgyz SSR rented to the Uzbek SSR 660 hectares of land for the construction of Orto Tokoi-Kasan Sai reservoir at Moscow's behest which recognized the growing importance of cotton industry to the Soviet economy.¹⁵ The reservoir was built in 1954 using the Uzbek SSR's resources

11 Nick Megoran, "The Uzbekistan-Kyrgyzstan Boundary: Stalin's Cartography, Post-Soviet Geography", *Borderlines and Borderlands: Political Oddities at the Edge of the Nation-State*, (eds.) Alexander C. Diener and Joshua Hagen, (Maryland: Rowman & Littlefield Publishers, 2010), 41

12 Mirzohid Rahimov and Galina Urazaeva, "Central Asian Nations and Border Issues", *Conflict Studies Research Centre* 5, No.10 (2005), 17.

13 Dadabayev, *We Want a State of Our Own! Reconstructing Community Space in Bordering Areas of Central Asia*, 13

14 Nick Megoran, "Rethinking the Study of International Boundaries: A Biography of the Kyrgyzstan-Uzbekistan Boundary", *Annals of the Association of American Geographers* 102, Issue 2 (2012), 8.

15 Cholpon Orozobekova, "An Absence of Diplomacy: the Kyrgyz-Uzbek Border Dispute", *the Dip-*

in Kyrgyzstan's Ala-Buka District, which had been a major source of conflict between Kyrgyzstan and Uzbekistan for years.

The enclaves which were also the product of the NTD of the 1920s further complicate the demarcation and delimitation process and affect bilateral relations of the states involved. While some historians claim that the creation of the enclaves was a master plan of the Bolsheviks who intentionally divided the land in a way that would undermine earlier political structures, others explain it as a product of regional delimitation and was carried out with the desire of regional decision makers, based on cultural ties and language.¹⁶ Whatever the reasons, the problems around the enclaves have caused frequent border conflicts among the involved Central Asian states. Although the enclaves were not an acute issue in Soviet times, their geographical position and the issue of their status remain problematic issues significantly for Central Asian states. Enclave residents and the people living close to the border experience huge problems in travelling, trade, getting access to water, land resources, as well as participating in cultural activities of their relatives living across the border. In this sense, there is a need for immediate legal solution in the question of enclaves and wellbeing of their residents. The legal status of any an enclave is usually defined on the basis of its historical background. However, in the Kyrgyzstan-Uzbekistan case, the history of enclaves has turned out to be a subject of dispute itself since each party prefers to use particular Soviet documents that benefit its own interests.

The Sokh enclave has been a point of dispute between the Kyrgyz ASSR and the Uzbek SRR since the 1920s. The wrangling in the 1920s stopped only after Stalin imposed a ban on any discussion of territorial claims but both sides resumed their arguments over Sokh during the 1950s after Stalin's death.¹⁷ Ultimately, the land was divided and the Uzbek part left within the Kyrgyz SRR's territory. As the question reemerged after the collapse of the Soviet Union, both Kyrgyzstan and Uzbekistan have tried to legitimate their claims by referring to different Soviet documents. However, the nonconsensual documents put Sokh's status in jeopardy causing speculation and debate.

There are eight enclaves in the Ferghana valley with the population of 100.000 people.¹⁸ Out of the five enclaves located in Kyrgyzstan and Uzbekistan, three of them often create major inconveniences for both bilateral relations and for

lomat, 1 April 2016, <https://thediplomat.com/2016/04/an-absence-of-diplomacy-the-kyrgyz-uzbek-border-dispute/>, (Accessed: 19.05.2017)

16 Anchita Borthakur, "An Analysis of the Conflict in the Ferghana Valley", *Asian Affairs* 48, No.2 (2017), 338-339.

17 Arslan Koichiev, "Kyrgyzstan and Uzbekistan Map Out Their Differences", 4 March 2001, <http://www.eurasianet.org/departments/insight/articles/eav030501.shtml>, (Accessed: 30.08.2017)

18 Raikhan Tashtemkhanova, Zhanar Medeubayeva, Aizhan Serikbayeva and Madina Igimbayeva, "Territorial and Border Issues in Central Asia: Analysis of the Reasons, Current State and Perspectives", *Anthropologist*, Vol. 22, No.3 (2015), 520.

the enclave residents. Frontier conflicts have occurred inside and in vicinities of Sokh, Shohimardon and Barak. The main reasons are access to water, pastures and strict boundary control that affect most of the residents of the enclaves. For instance, in 2013, after Sokh became epicenter of a conflict between residents, Kyrgyz border guards and the residents of neighboring villages, border checkpoints and railroad communications were shut down by Tashkent, while Bishkek promised to turn Sokh into “reservation” by surrounding it with a concrete wall.¹⁹ These events led the Kyrgyz side to block entry to Shohimardon and the Uzbek side to Barak.

Apart from the enclaves located in the Ferghana valley, due to the reasons mentioned above, significant portion of the Kyrgyz-Uzbek border in the valley is disputed. There have been several incidents at the borders when security forces of one side or the other were involved. Several cross-border and ethnic violence occurred that led the Kyrgyz and the Uzbek side to repeatedly close and reopen the border over the years. Bilateral discussions on territorial delimitation had been held since late 2013 but reports indicated that the progress was forthcoming, if slowly.²⁰

2. The Legal Basis For the Resolution of Border Issues

The borders established in 1927 largely persisted until the dissolution of the Soviet Union and they remained virtually invisible during the first years of independence. Before the late 1990s, the only problem occurred in 1993 when Uzbekistan closed its borders with Kyrgyzstan to prevent Russian rubles through the territory of valley, after which Kyrgyzstan exited the ruble zone and introduced its own currency.²¹ Although some border and customs posts were established, there was minimal control checks or did not exist and daily transboundary life in the valley continued almost interrupted.

In general, as one of the leading experts put it, “the process of border demarcation in the Ferghana valley lacks transparency and had been built on political fears and emotions.”²² This is true for the Kyrgyz-Uzbek boundaries which started to be materialized in 1999. In February 1999, the major Osh-Andijan cross border bus line and many other routes were suspended. Uzbekistan’s President Islam Karimov explained his move as he wanted to defend the Uzbek territory and economy by preventing the citizens of Kyrgyzstan from entering

19 Rashid Gabdulhakov, “The Highly Securitized Insecurities of State Borders in the Ferghana Valley”, *Central Asia Fellowship Papers by CAP*, (2015), 5.

20 Andrew C. Kuchings, Jeffrey Mankoff and Oliver Backes, “Central Asia in a Reconnecting Eurasia? Kyrgyzstan’s Evolving Foreign Economic and Security Interests”, *A Report of the Centre for Strategic & International Studies (CSIS) Russia and Eurasia Program*, (London: Rowman & Littlefield 2015), 8

21 Isabella Damiani, “Kyrgyzstan-Tajikistan-Uzbekistan? Ferghana Valley”, *Border Disputes: A Global Encyclopedia*, (ed.) Emmanuel Brunet-Jailly, (California: ABC-CLIO TM, 2014), 329

22 Gabdulhakov, *The Highly Securitized Insecurities of State Borders in the Ferghana Valley*, 3.

and spreading poverty. The closure of the border was accelerated several days later after a series of bombing attacks to the Uzbekistan's capital Tashkent by the Islamic Movement of Uzbekistan (IMU) that claimed responsibility saying their aim was to abolish the state and create a caliphate in the valley. This necessitated tighter border controls to prevent infiltration from Islamists and protect the regime and thus Islam Karimov launched a "border sealing" policy by 1999-2000s.²³ Uzbekistan tightened its border controls and began to erect two-meter-high barbed wire fence on the border with Kyrgyzstan and install minefields with Tajikistan and Kyrgyzstan.²⁴ As the rapid and unilateral construction of the fence was underway, the Kyrgyz side accused that Uzbekistan was actually corraling tens of thousands hectares of Kyrgyz land, a legacy of the poorly regulated land leases of the Soviet period. Absence of clearly determined borders also caused accusations by Kyrgyzstan that Uzbekistan was mining Kyrgyz territory in addition to its own. Thus, border issues became factor in mutual relations by 1999 and 2000s.

Major post-Soviet agreements such as the Minsk Agreement of December 8, 1991, the Almaty Declaration of December 21, 1991 and the Commonwealth of Independent States (CIS) Charter of June 22, 1992 form the legal basis for the post-Soviet border settlement. All of them mainly call for successor states to preserve the status quo. For instance, the initial framework for settling border disputes within the region was set up in the Almaty Declaration affirming that all signatories of the declaration would "recognize and respect each other's territorial integrity and the inviolability of the existing borders".²⁵ Similar key document which could form the legal basis for the settlement of border disputes between Kyrgyzstan and Uzbekistan was Treaty on 'Eternal Friendship and Cooperation' signed on March 14, 1991. Article 3 states that the borders between the Kyrgyz Republic and the Uzbek Republic would be remained and the parties would undertake to protect them firmly.²⁶ With these agreements, in the early 1990s, the integrity and transparency of the borders of the CIS had been maintained. However, due to the Central Asian leaders' fears of several perceived threats and concerns, certain former republics considered revisiting the notion of transparent borders and shifting to costly border delimitation. During this process, the existence of these documents make some large scale territorial claims less likely, but there are problems related with the Soviet imprecise maps or nonconsensual documents that often led to the (re) claims of disputed areas by the Kyrgyz and the Uzbek side.

23 Fabio Belafatti, "Borders in the Ferghana Valley: an Inevitable Source of Conflict", *Geopolitika*, 3 February 2014, <http://www.geopolitika.lt/?artc=6497>, (Accessed: 30.08.2017)

24 Damiani, *Kyrgyzstan-Tajikistan-Uzbekistan? Ferghana Valley*, 330

25 "Almatinskaya Deklaratsiya" (Almaty Declaration), 21 December 1991, <http://naviny.org/1991/12/21/by77513.htm>, (Accessed: 30.08.2017)

26 Narynkul Nazaraliyeva's Interview with Kurbanbay Iskandarov, "Tvoi Granitsy Razgranicheny, Utochneny, Kyrgyzstan?" (Your Boundaries are Demarcated, Delimited, Kyrgyzstan?), *Kyrgyz Tuusu*, 7 July 2012, http://m.gezitter.org/interviews/12771_tvoi_granitsyi_razgranicheniyi_utochnenyi_kyrgyzstan/, (Accessed: 30.08.2017)

After border issues became serious concerns for both governments, both sides decided to establish joint commission but there emerged major differences between two parties over the issue of a legal basis for border delimitation. This was due to the fact that parties use Soviet documents or maps produced at different periods showing different boundaries. Soviet maps were produced in the 1920s, 1950s and 1980s and parties have tended to use maps that are for their own advantage following their independence.²⁷ The Uzbek side (commission) suggested adhering to 1924-1928 documents on border delimitation which include a whole package of acts on administrative division between two countries from 1924 to 1928: these include the document of 17 March 1925 approved by the Central Asian Liquidation Commission and the clarifications to this document approved by the Central Executive Committee (CEC) and adopted by a Resolution of the CEC in 1926 and 1927.²⁸ For the Kyrgyz side (commission), these documents do not contain a description of the exact location of frontiers and therefore cannot serve as a basis for border delimitation. In this sense, the Kyrgyz side asserted the border should follow the outline agreed upon in the 1950s. The special representative of the Kyrgyz government on the border delimitation and demarcation Kurbanbay Iskandarov explained the reason in an interview as follows:

The reason is that in the years 1924-1927 the work to clarify the boundaries between the republics were not completed. Therefore, disputes over land between the republics did not cease. In order to put an end to border issues by agreement, in 1955 there was established intergovernmental joint commission. The Joint Commission fully clarified the Kyrgyz-Uzbek border, its results were approved by the Council of Ministers of the Kyrgyz SSR and the Council of Ministers of the Uzbek SSR. In addition, in 1961, they were approved by the decree of the Supreme Council of the Kyrgyz SSR.²⁹

The resolutions endorsed the findings of the joint commission but the Presidium of the People's Representative Council of the Uzbek SSR voiced concerns over disputed areas of northern Sokh. More importantly, it was not approved by the Presidium of the People's Representatives of the USSR rendering the document void. Nevertheless, because it includes detailed description of borders, for the Kyrgyz side, 1955 documents are the only legitimate basis for present-day border delimitation.

In addition to differences on the legal basis for border delimitation, the head of intergovernmental commission on border issues said, the situation has been further complicated when the commission members arrive to the disputed

27 Borthakur, *An Analysis of the Conflict in the Ferghana Valley*, 338.

28 Timur Dadabayev, "Securing Central Asian Frontiers: Institutionalization of Borders and Inter-State Relations", *Strategic Analysis* 36, No. 4 (2012), 561.

29 Narynkul Nazaraliyeva's Interview with Kurbanbay Iskandarov, "Tvoi Granitsy Razgranicheny, Utochneny, Kyrgyzstan?" (Your Boundaries are Demarcated, Delimited, Kyrgyzstan?)

area, “it turns out that someone’s house with a vegetable garden or a road was located there, or this area had a different name, not the one indicated in documents of 1920s and 1950s.”³⁰ On some sections, if the borders were to be concretely demarcated, some households would be split in half, one half living in Kyrgyzstan, and the other in Uzbekistan. Thus, as both sides insisted on their proposals and due to the problems as mentioned above, the border issues remained unresolved, causing suffering to both the residents concerned, as well as bilateral relationship.

The joint commission’s work began in February 2000 but had proceeded very slowly. A year later, only 209 kilometers out of the total Kyrgyz-Uzbek territory had been jointly demarcated.³¹ In 2006, only 993 kilometers had been agreed while remaining 382 kilometers were not on maps and therefore kept fomenting border conflicts and mutual distrust.³² Moreover, insufficient funding had greatly hindered border delimitation efforts. For instance, in 2008 Kyrgyzstan allocated approximately \$230,000 for border delimitation efforts.³³ Kyrgyzstan and Uzbekistan agreed to restart the work of the intergovernmental commission in 2009 and the commission held its first meeting after a five-year break. The commission’s work was suspended due the April and the June events in Kyrgyzstan in 2010 and was again resumed in early 2011. As the conflicts repeated at the joint border, parties intensified their work in the beginning of 2014 and according to statistics of 2014, they agreed on some 1,058 kilometers of border, which accounts for over 70 % of the common border.

Kyrgyzstan and Uzbekistan had attempted to solve the problems around Sokh and Barak enclaves. In February 2001, Uzbek Prime Minister Utkir Sultanov and Kyrgyz Prime Minister Kurmanbek Bakiev signed a memorandum accordingly Kyrgyzstan would give a 40-kilometer corridor to Uzbekistan to connect its Sokh enclave with the mainland.³⁴ In return, Kyrgyzstan would get a smaller corridor to its Barak enclave in Uzbekistan. Such swaps would eliminate enclaves on both sides and increase their security against IMU incursions and other trans-border criminal activities. The confidential memorandum became public only after it leaked to the press a few months after its signing and the Kyrgyz public and the parliament greeted with outrage. They were outraged because the land corridor to Sokh would cut of a major transportation

30 An Interview with Salamat Alamonov, “Border Demarcation with Uzbekistan Does not Come Easy”, *UzDaily*, 17 December 2017, <http://www.uzdaily.com/articles-id-2109.htm>, (Accessed: 31.08.2017)

31 “Central Asia: Border Disputes and Conflict Potential”, *International Crisis Group: Asia Report*, No. 33 (4 April 2002) 16.

32 “Delimitation of the Uzbek-Kyrgyz State Border is Questionable”, 29 December 2006, <http://enews.fergananews.com/articles/1720>, (Accessed: 31.08.2017)

33 Alisher Khamidov, “Stringent Border Measures Fueling Tension in Enclaves”, *Transitions Online*, 14 August 2009, <http://www.tol.org/client/article/20794-stringent-border-measures-fueling-tensions-in-enclaves.html>, (Accessed: 31.08.2017)

34 *Central Asia: Border Disputes and Conflict Potential*, 15.

route to the Batken region, making it enclave itself.³⁵ The other reason would be Uzbekistan's gain in total control over the Sokh river, which is vital for Batken's irrigation.³⁶ As public protests mounted, some members of the Kyrgyz parliament pressed the government to explain its actions and Kyrgyz officials tried to downplay the memorandum insisting that no final arrangement had been agreed upon. Bakiev insisted that the signing of the memorandum was merely a starting point for further talks while the head of the intergovernmental commission Salamat Alamonov stressed that Kyrgyzstan had not finalized a swap. Eventually, both Bakiev and the Kyrgyz parliament, under the pressure of the public, demanded to freeze the memorandum concluding that Uzbek land offer was not equal quality with Kyrgyz land offer. In response, the Uzbek side proposed to consider the Kyrgyz preference for a land swap, but because of distrust, "such moves by Uzbekistan were considered to be a plot to annex land in Kyrgyzstan."³⁷

Since then, nobody has come up with the new formula for deciding the fate of enclaves. In 2013, Russian expert on border issues Alexander Sobyenin proposed that a five-party commission composed of representatives from Kyrgyzstan, Uzbekistan, Russia, the US, and Kazakhstan should be created to resolve the problems around the enclaves. For the Kyrgyz expert Salamat Alamonov, "...no third parties should interfere such matter... the reason is that it is not known in whose interests the problem will be solved."³⁸ The highest level talks between deputy prime ministers on border issues that focused on Sokh enclave started in March 2013 after clashes erupted between Kyrgyz border guards and local Uzbek citizens. In Barak case, the problems seem to be resolved only for those residents who wanted to leave Barak as the Kyrgyz side allocated some 18 hectares of land in Osh province in 2011.

The resolution of disputed objects (facilities) is entrenched in 1992 agreement, signed by the CIS states, which stipulates that all objects built during the Soviet Union should pass directly under the control of the host country.³⁹ In accordance with the agreement, the governments of the CIS adopted a resolution on the transfer of a number of facilities previously operated by the Uzbekistan to the Kyrgyz property. In this respect, the transfer of lands in Burgandy array

35 See for other reasons Glen R. Hamburg, *Games of Life and Land: Comparative Analysis of the Origins of True Enclaves in South and Central Asia, their Impacts on Public Policy, and Factors Prolonging Their Existence*, (New Delhi: KW Publishers, 2014)

36 Arslan Koichiev, "Batken Residents Furious over Secret Kyrgyz-Uzbek Deal", 24 April 2001, <http://www.eurasianet.org/departments/insight/articles/eav042501.shtml>, (Accessed: 02.09.2017)

37 Dadabayev, *Securing Central Asian Frontiers: Institutionalization of Borders and Inter-State Relations*, 562.

38 Aydanbek Akmat uulu, "V Resheniye Problem Anklavov Vmeshayetsya Tret'ya Storona?" (The Solution of the Problems Intervenes Third Party?), 5 February 2013, http://rus.azattyk.org/a/kyrgyzstan_border_politics/2489137.htm, (Accessed: 02.09.2017)

39 "Soglasheniye O Vzaimnom Priznanii Prav i Regulirovanii Otnosheniy Sobstvennosti" (Agreement on Mutual Recognition of Rights and Regulation of Property Relations), 9 October 1992, http://www.lawrussia.ru/texts/legal_383/doc38a947x955.htm, (Accessed: 25.08.2017)

with gas and oil to Kyrgyzstan together with the equipment had been considered since 1996 and at the end of the 2000s, four plots of land where the Chaur-Yarkutan, Sary-Kamysh, Sarytotok and Severny Rishtan located were transferred to Kyrgyzstan along with their equipment.⁴⁰ However, according to Kyrgyz representatives, although they provided relevant legal documents proving the ownership, the remaining three deposit sites of Chongara-Galcha, Severny Sokh and Gazohranilishe, for unknown reasons, were not transferred to Kyrgyzstan. The auto transport column No.1 of the Ferghana transport administration, objects of civil defense of the Ministry of Emergency Situations ‘Ferghananeft’, auto station No.4 ‘Ferghananeft’ and land plots located in the village of Kaitpas Kyrgyz-Kyshtak of Kadamjay District, Drujhbba, Madaniyat, 50 Let Oktyabrya pumping stations and the left-bank Naryn canal with a length of 43,1 kilometers located in Jalal Abad region, a number of hydraulic structures and sections of water canals were among the facilities transferred to Kyrgyzstan in 2015.⁴¹

Uzbekistan swiftly implemented the 1992 agreement, while Kyrgyzstan delayed the issue in order not to damage relations with neighbors. Only in 2011, the Kyrgyz government adopted resolutions to get back its facilities operated by other countries and since then both sides cannot agree on the transfer of several facilities. According to some experts, the Uzbek side will not be quick to agree on their transfers because it has declared its ownership rights to some of these facilities.

3. Bilateral Relations, Border Issues And Recent Initiatives

Kyrgyzstan and Uzbekistan signed a ‘Treaty of Eternal Friendship’ in 1997 but bilateral relations have never developed until 2016. For many experts, cooperation with Central Asian poorest states of Kyrgyzstan and Tajikistan had hardly been a priority for Tashkent. It can be concluded that this had led to small progress on resolving border problems between Uzbekistan and Kyrgyzstan. The former Uzbek President Islam Karimov frequently visited both Turkmenistan and Kazakhstan, two regional countries which have vast natural resources. He visited Turkmenistan three times in last five years while he travelled to Kazakhstan many times in recent years. The Uzbek side and the Kazakh side already in 2001 signed an agreement which delineated 96% of the common border.⁴² On the other hand, for almost ten years, no Kyrgyz leader

40 Narynkul Nazaraliyeva’s Interview with Kurbanbay Iskandarov, “Tvoi Granitsy Razgranicheny, Utocheny, Kyrgyzstan?” (Your Boundaries are Demarcated, Delimited, Kyrgyzstan?)

41 “Iskandarov: Uzbekistan Priznal Peredachu Ob”yektov na Balans Kyrgyzstana” (Iskandarov: Uzbekistan Recognizes the Transfer of Objects to the Balance of Kyrgyzstan), 26 March 2016, <https://ru.sputnik.kg/society/20160326/1023641579.html>, (Accessed: 25.08.2017)

42 “Border issues between Kazakhshtan and Uzbekistan”, *Neweurasian.net*, 30 November 2005, <https://www.neweurasia.net/politics-and-society/border-issues-between-kazakhstan-and-uzbekistan/>, (Accessed: 17.12.2017)

paid official visit to mend ties with Uzbekistan. Some Kyrgyz opposition politicians according to whom the border crisis on the Kyrgyz-Uzbek border in 2016 was the outcome of a lack of dialogue: one of them said that “the leadership in our country has failed to build a dialogue with Uzbekistan not only on border issues, but also on every single problem.”

The problems arising from natural resources allocations between two countries can sometimes be related to border issues. The arguments over natural resources allocations flared in the late 1990s and in the beginning of 2000s. Uzbekistan regularly turned off gas supplies to Kyrgyzstan during the winter months as Kyrgyzstan failed to pay the bills. This move was considered by many in Kyrgyzstan as unfair since Uzbekistan never contributed financially to the upkeep of dams and reservoirs located in Kyrgyzstan that primarily watered Uzbekistan’s agriculture.⁴³ In 2014, after Bishkek sold its state gas company to Russian Gazprom for a nominal price, Uzbekistan terminated its gas supply to Kyrgyzstan stating that Uzbekistan had to sign a fresh deal with the newly established Gazprom-Kyrgyzstan. However, the Kyrgyz side threatened to withhold water to pressure the Uzbek side to resume gas supply and eventually supply was renewed later that year and water was not cut.⁴⁴ On the other hand, Uzbekistan had strongly opposed Kyrgyzstan’s plans to build Kambarata-3 Hydro Power Plant fearing that this project would limit or disrupt the flow of irrigation water that is essential for its cotton fields and farmers. In this sense, the most recent military deployment was partly driven by Uzbekistan’s water needs as 165-million cubic meter Orto Tokoi-Kasan Sai reservoir waters 28 thousand hectares of land in Uzbekistan while it waters only 1,5 thousand hectares of land in Kyrgyzstan.⁴⁵ One of the leading expert argued that Uzbekistan’s border maneuver was a further way of reminding Kyrgyzstan of its interests.⁴⁶

The bilateral relations have begun to improve after Shavkat Mirziyoyev came to power in September 2016 following Karimov’s death. Former Kyrgyz President Almazbek Atambayev’s visit to Uzbekistan in December 2016 was the first visit by a Kyrgyz leader paid to Uzbekistan since 2008 heralding that

43 Megoran, *The Uzbekistan-Kyrgyzstan Boundary: Stalin’s Cartography*, *Post-Soviet Geography*, 42-43.

44 “Uzbekistan: In Transition”, *International Crisis Group (ICG): Crisis Group Europe and Central Asia Briefing* No: 82, (29 December, 2016), 10.

45 See for detailed analysis Elenora Beishenbek kyzy, “Tashkentte Prezidentter Chek Arani Talkuulashat” (Presidents to Discuss the Border in Tashkent), 12 December 2017, http://www.azattyk.org/a/kyrgyzstan_uzbekistan_border_jeenbekov_2017/28911262.html, (Accessed: 25.12.2017); “Orto-Tokoi Suu Saktagychnyn Kaitaruu Kirgizstanga Yanvardan Tartyp Otor” (Orto-Tokoi Will be Transferred To Kyrgyzstan by January), 24 December 2017, <https://www.azattyk.org/a/28935747.html>, (Accessed: 25.12.2017)

46 Quoted in Timur Toktonaliev, “Uzbek-Kyrgyz Border Spat Highlights Tensions”, *Institute for War and Peace Reporting*, 24 March 2016, <https://iwpr.net/global-voices/uzbek-kyrgyz-border-spat-highlights-tensions>, (Accessed: 25.12.2017)

relations began to improve. Later, visit by Shavkat Mirziyoyev to Bishkek in September being the first official Uzbek President's visit since 2000 and consecutive visits by Almazbek Atambayev in October 2017 and the new Kyrgyz President Sooronbay Jeenbekov to Tashkent as his first official international visit in December 2017 all contributed to the development of Kyrgyz-Uzbek relations as well as diversification of economic, diplomatic and cultural cooperation between two countries. More than 40 documents and agreements were signed during these visits. Only for the period from January to November of 2017, mutual trade has increased by more than 56% reaching over 235 million dollars and parties agreed to 500 million dollars in the coming years.⁴⁷ More recently in December 2017, two countries agreed on intergovernmental program on economic, scientific-technical and humanitarian cooperation for 2018-2021. All these developments can be seen as indicator that relations have been normalizing after troubled relationships for almost two decades.

Within the short period of time, two countries have also made considerable progress in resolving their border disputes. In September 2016, Kyrgyzstan and Uzbekistan resumed and hastened negotiations on border issues after a meeting of prime ministers in Uzbekistan just right after border conflict erupted between two countries. In less than two months, these countries had reached provisional agreement on about 50 non-demarcated sections of the border, a move which signaled positive development in bilateral relations. Some international observers called this progress 'remarkable' while also evaluating it as 'too good to be true'.⁴⁸ Kyrgyz officials were deeply suspicious and stressed the agreements were provisional which could let Uzbekistan renege on them. However, meeting of two presidents at the end of 2016 has created the conditions for revival of the work of the intergovernmental commission on border issues. The commission has already held 15 meetings in a year and eventually in Bishkek in September 2017 two presidents signed an agreement demarcating 1170 kilometers of the Kyrgyz-Uzbek border, which accounts approximately 85% of the common border.⁴⁹ Now, the parliaments of two countries need to ratify the agreement. A month later in Tashkent, the presidents signed another document which ensured the complete transfer of protection, operation and management of Orto Tokoi-Kasan Sai reservoir to Kyrgyzstan. On the other hand, according to the document, parties agreed on the joint use of the reservoir while Uzbekistan undertakes obligations to finance operation of the reservoir which accounts 92% of total costs.⁵⁰ Some deputies criticized

47 "Historical Year in Strengthening Relations between Uzbekistan and Kyrgyzstan", *Uzbekistan Today*, 14 December 2017, <http://www.ut.uz/en/politics/historical-year-in-strengthening-relations-between-uzbekistan-and-kyrgyzstan/>, (Accessed: 18.12.2017)

48 "Uzbekistan: Reform or Repeat?", *International Crisis Group (ICG): Crisis Group Europe and Central Asia Briefing*, No.84, (6 December 2016), 4.

49 Eldiyar Arykbaev, "Atambayev i Mirziyoev Podpisali Dokument o Soglasovanii 85 Protsentov Granits", *Kloop.kg*, 5 September 2017, <https://kloop.kg/blog/2017/09/05/live-mirziyoev-vpervye-pribyl-v-kyrgyzstan/>, (Accessed: 18.12.2017)

50 "Soglasheniye po Orto-Tokoiskomu Vodokhranilishche Zaklyucheno na Neopredelenny Period "

the document during the ratification process saying that it does not mention about the fate of the Uzbek citizens living on the territory of the reservoir, legal status of the reservoir and its validity period since it was concluded for an indefinite period. Despite these criticisms, the document was ratified by the Kyrgyz Parliament during which 100 deputies voted in favor and only one voted against out of 120 deputies.⁵¹

All these developments show that both countries made major breakthrough by agreeing on the most issues related to a two decades-long border dispute. However, there are still more than 200 kilometers of unresolved border which constitutes most contentious parts necessitating maybe unconventional solutions. Since the parties signed an agreement to demarcate some 85% of the common border, it has been reported that the commission on border issues demarcated more than 40 kilometers but no further agreement is signed on this issue so far. The remaining 15% most contentious parts are mostly related with five tricky ethnic enclaves and several sectors around Kempirabad reservoir. The border dispute around the Unkur Too-Ungar Tepa is another issue that needs to be urgently resolved. The Kyrgyz state representative on border affairs Kurbanbay Iskandarov said that there are still 36 sectors along the border that are disputed and believes that parties will find a common compromise on these contentious parts.

There are mainly three ways to resolve disputes around the border issues. The first option could be trading territory which has already been used recently by Kyrgyzstan and Uzbekistan by swapping small bits of land. To look at international examples, India and Bangladesh settled their boundary disputes in 2015 by swapping more than 150 pockets of land and the residents were given the chance to choose where to live.⁵² Recently, Belgium and the Netherlands also swapped lands to resolve jurisdictional claims over the lands. However, this option is applicable in less populated and less cultivated areas and in this sense Kyrgyzstan and Uzbekistan can apply this option especially for disputed lands and small enclaves which are less populated or have no population. When it is not the case, such territorial exchange must consider the wishes of people which is very sensitive and difficult issue. The application of this option might be big challenge for Kyrgyzstan and Uzbekistan since some unresolved areas are densely populated. The creation of corridors to enclaves is another option to resolve border issues. However, as earlier put, both countries' earlier efforts to create corridors had failed. Another Central Asian country Tajikistan's

(Agreement on the Orto-Tokoi Reservoir Concluded for an Indefinite Period), *Gezitter.org*, 22 December 2017, http://www.gezitter.org/economics/66328_soglasheniye_po_orto-tokoyskomu_vodohranilischu_zaklyucheno_na_neopredelennyiy_period_/, (Accessed: 25.12.2017)

51 "Orto-Tokoy Suu Saktagichı Boiuncha Makuldashuu 2-Okuudan Kabyl Alyndy" (Agreement on the Orto-Tokoi Reservoir was Adopted after the Second Reading), 21 December 2017, <http://www.azattyk.org/a/28931181>, (Accessed: 29.12.2017)

52 "India and Bangladesh Sign Historic Territory Swap Deal", *BBC*, 6 June 2015, <http://www.bbc.com/news/world/-asia-33033342>, (Accessed: 29.12.2017), (Accessed: 29.12.2017)

attempt to create corridors with Kyrgyzstan also failed since Kyrgyz side opposed such proposals as interfering with the movement of Kyrgyz citizens.⁵³ The disagreements on terms of conditions make corridor solution for Kyrgyzstan and Uzbekistan less unlikely to become reality. Creation of corridors seems theoretically possible, but practically this might also create complications such as newer issues of delimitation or border control. A leading expert proposes the third option that is to leave the border fully free and open, and gives the example of the Baarle-Hertog enclaves in the Belgian-Dutch borderlands where freedom of movement ensures peaceful and cooperative interactions between the two communities.⁵⁴ However, this option requires a lot of changes in bilateral relations and strong interstate relations.

Conclusion

This study showed that unresolved border issues can easily and deeply affect Kyrgyz-Uzbek relations. This means two Central Asian states need to finally resolve remaining unresolved segments as soon as possible to prevent similar incidents. The latest developments in bilateral relations after September 2016 have greatly contributed to the settlement on certain segments of the border disputes. Two countries have made considerable progress in a short period of time eventually signing an agreement demarcating 85% of the common border. In this regard, this paper argues that an absence of diplomacy and dialogue in resolving border disputes had recently caused escalations of tensions. Moreover, when parties had tried resolved the border issues, unilateralism and conflicting historical interpretations complicated the situation, making progress in border demarcation and delimitation process very slow.

For some people, the latest developments are considered as a turning point in Kyrgyz-Uzbek relations. Some doubt saying that it is early for such an evaluation since Kyrgyzstan and Uzbekistan had managed to resolve the comparatively easy disputes and if the agreement on the remaining segments cannot be reached, it may again spark a new wave of escalation in Kyrgyz-Uzbek relations. Nevertheless, these developments have shown that the political will is what matters most and both countries seem to showing it at the moment. More importantly, if both sides continue to demonstrate diplomatic efforts and constructive dialogue, there are reasons to expect further progress and real turning point in relations between two neighboring Central Asian countries. However, in addition to them, the new approaches and solutions to the problems, rather than insisting on proposing different legal documents, could speed up this process as remaining contentious parts may necessitate unconventional solutions.

53 Richard W. T. Pomfret, *The Central Asian Economies Since Independence*, (Princeton: Princeton University Press, 2006), 103

54 Pete Baumgartner, "Tug-of-War: Uzbekistan, Kyrgyzstan Look to Finally Settle Decades-Old Border Dispute", *Center for Eurasian Studies*, 14 December 2017, <http://avim.org.tr/en/Bulten/TUG-OF-WAR-UZBEKISTAN-KYRGYZSTAN-LOOK-TO-FINALLY-SETTLE-DECADES-OLD-BORDER-DISPUTE>, (Accessed: 30.12.2017)

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