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International Foundation for Electoral Systems

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**REPORT OF THE IFES DELEGATION EXAMINING THE EVOLUTION
OF THE ELECTION PROCESS**

**IN
BELARUS**

MARCH 20-24, 1992

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(March 17-27, 1990)
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Development of the Mongolian Election System
(December 3-10, 1991)

FOREWORD

This document is based on a report by the IFES delegation examining the evolution of the electoral process in the Republic of Belarus. The period of the delegation's visit was from 20 - 24 March 1992. Members of the delegation included:

Mr. Hoyt Clifton, Director
Bureau of Elections New Mexico

Mr. William C. Kimberling
Deputy Director Office of Election Administration
U.S. Federal Election Commission

Dr. Richard Smolka
Professor of Political Science
American University and Editor of Election
Administration Reports.

Statement of the delegation:

As members of the delegation, we would like to express our deep gratitude to the Charles Stewart Mott Foundation and the International Foundation for Electoral Systems (IFES) for their funding of this mission. We are also grateful to the IFES staff for their time and effort in making all our arrangements and for providing us the preparatory materials and briefings upon which we relied for some of this report. We greatly appreciated the comprehensive pre-departure briefing given to us by Dr. Paul Goble, Senior Associate, Carnegie Endowment for International Peace. And too, our appreciation goes to Vadim Razumovsky and other staff of the Russian Embassy in Washington and the Permanent Mission of Belarus at the United Nations for facilitating our visit. But most especially, we are grateful to Mr. Dimitri Bulakhov, Chairman of the Legislative Committee of the Belarussian Supreme Soviet, for his invitation (see Appendix (a)) and for providing us Ms. Larissa Volontyrets as interpreter and Mr. Stepan Rafalovitch, Legal Counsel to the Committee, as host. It is they who made our visit particularly memorable.

Finally, we are grateful to all those in Belarus who greeted our visit with such extraordinary warmth, good humor, and hospitality. And it is with best wishes for them and for their future that we submit this report.

Washington, D.C.
April 1992

INTRODUCTION

Belarus, a republic of 10 million people was created as a buffer state between Russia and its western neighbors. For this reason it is often dismissed as unimportant. However what most people fail to realize is that Belarus, not the Ukraine, forms the vital land link between Russia and the West.

Belarus is a potentially prosperous land lying northwest of Russia, due south of Lithuania and Estonia, due east of Poland, and due north of Ukraine. Though landlocked, Belarus's geographic position and gently rolling countryside make it an ideal focal point for trade. Indeed, its capital city of Minsk derives its name from the word "miansk" meaning "trade." Unfortunately, these same features have made it ideal for military invasion by virtually everyone in the neighborhood so that since the first historical mention of Minsk in the 14th century, Belarus has never really been a nation in its own right. Perhaps the closest they came was during that period when the territory was known as the Grand Duchy of Lithuania. Indeed, the term Byelorussia was not even accepted until the 19th century.

Over the past two centuries, Belarus has been the victim of a kind of tug-of-war between Poland and Russia. As a result of this and other factors, 20% of its current population of 10,000,000 are ethnic minorities (Polish, Lithuanian, Russian, Jewish, etc.) while some portions of neighboring Poland and Lithuania contain

substantial Belarussian minorities. This is, in fact, a source of some regional uneasiness in the face of newly flowering Belarussian nationalism. Externally, there are some concerns about nationalistic Belarussian attitudes toward the integrity of current borders -- especially those with Poland and Lithuania. Internally, there are some concerns about nationalistic Belarussian respect for the cultures of the ethnic minorities.

In 1918, the fledgling independent Byelorussian People's Republic was promptly absorbed by Poland and Soviet Russia and was partitioned between the two nations with the bulk of Belarus becoming a republic of the Soviet Union. For the past 70 years, then, Belarus has been under the political, economic, and cultural influence of a communist state controlled from Moscow. Its ties to Moscow were no doubt reinforced by its Russian liberation from the Nazis who slaughtered fully one quarter of the Belarussian population. It should be said, however, that the popularity of the Moscow government suffered greatly from the tragic consequences on Belarus of the Chernobyl incident as well as from the staggering price hikes under Gorbachev.

At the time of Chernobyl the Belarussian authorities followed orders from Moscow to confiscate all geiger counters. Although the Western press focussed on the Ukraine, Belarus was even more badly affected by the accident and today is still dealing with massive pollution - over 40% of the land in Belarus being unfit for

agricultural production - and with radiation-related sickness, especially in children. However, the tightly controlled Belarussian media gives little hint of these problems to the outside world.

With the break-up of the Soviet Union, it is not at all surprising that Belarus is today undergoing the same sort of political and economic reforms and upheavals that currently beset Central Europe, Mongolia, the other republics of the former Soviet Union, and even Russia itself. The success of Belarus in meeting these challenges will depend on three major factors:

- o the extent to which it can fashion a clear and popular vision of Belarus as an independent nation,
- o the extent to which the nation can extricate itself from the former USSR's economic, political, and military web in order to restructure to its own advantage political and economic systems, and
- o the extent to which it can rise above its Soviet heritage and mind set in favor of genuinely democratic government and a free market economy. For many reasons, this is not likely to be an easy, rapid, or, in some quarters, even agreeable process.

The Belarus Political Setting

a) Relations with Moscow

The Republic of Belarus might well be described as "the reluctant Republic" -- the product of administrative/political decisions rather than an organically developed nation. Its economic, military, and political ties to the Moscow government were perhaps the strongest of any of the former Soviet Republics. As both a trade center and a relatively productive agricultural area (indeed, a food exporter), Belarus played an important role in the USSR's economic network. At the same time, it provided the Soviet military with more officers than any other republic except Russia itself. Its political structure was virtually identical to that of Soviet Russia. And the leadership was uncommonly responsive to Moscow's directives. A local joke has it that "When Moscow sneezed, Minsk caught cold." The most recent evidence involves a crackdown on alcohol consumption. Despite his relative unpopularity within the political leadership of Belarus, Mikhail Gorbachev's campaign against drinking seems to have been taken more seriously in Minsk than anywhere else. Vodka is being rationed, though vodka stores still seem to do a brisk business. The renowned, extraordinary, and potentially exportable Belarussian herbal vodka is now in short supply. And rumor has it that even wine vineyards were destroyed. All this came in response to Moscow's official frown on excess consumption.

Given the closeness of Belarussian political ties to the traditional conservative Soviet regime in Moscow, it is understandable that Mikhail Gorbachev's reform efforts drew a lukewarm response from Belarussian leaders and, one suspects, from more Belarussian citizens than local reformers would have the delegation believe.

The fact that throughout 1990 anti-Gorbachev sentiments were openly aired in several semi-official organs reflects the leadership's attitude. Moreover, the reaction of the Minsk government to the August 1991 coup attempt in Moscow was decidedly non-committal -- which cost then Supreme Soviet Chairman Mikalai Dzemyantsei his job. In March of 1991, fully 83% of the voters (with 83% of the eligible population voting) supported preserving the Union with Russia and the other republics. And although opposition leaders offer several explanations for these results including the control of the media by Communist Party, popular concerns about obtaining Russian reparations for Chernobyl, insufficient time for opposition parties to organize for the 1990 elections, etc.), the fact remains that Belarus is not by any measure a hotbed of reformist sentiment. Even the 1990 strike at the tractor factory was aimed principally at the Gorbachev reforms rather than at the conservative Belarussian regime.

Indeed, considerable evidence suggests that the declaration

of Belarussian independence in August of 1991 (just following the failed coup attempt in Moscow) was not an initiative of the pro-independence popular (reformist) front, but rather the result of the Belarussian Communist Party's desire to insulate Belarus from the Russian reformist movement, even though both forces joined in the vote.

This is not to say, however, that Belarussians lack a sense of identity. For there is certainly a nationalist current that has surfaced since the end of Russian political and cultural domination. Belarus has reverted to its traditional blue and white striped flag. Belarussian is now the official language. New Belarussian currency and stamps are in the making. And everywhere there are attempts to resurrect Belarussian arts, culture, and history.

Yet it would be a mistake to imagine that this nationalistic surge necessarily coincides with current political divisions. For neither the traditional political forces nor the opposition forces hold a monopoly on the nationalistic spirit. Rather, the nationalist movement cuts across the entire array of political parties. And one suspects that neither the conservative forces nor the opposition forces are above using nationalistic appeals to their own political advantage, notwithstanding the internal and external concerns raised by such a policy.

b) The internal politics of Belarus

Today there exists a great potential for political instability in Belarus where a conservative government is now facing the anger of the population which previously focussed on the authorities in Moscow.

The main opposition movement is the Popular Front, led by Zyanon Pazhnyak. The founding congress of the Front took place in Vilnius, Lithuania, since the Belarussian authorities refused to sanction this meeting. For the next two years the headquarters of the Front remained in Vilnius.

In the 1990 elections to the Supreme Soviet, despite a large number of reported technical irregularities, the Popular Front won one third of the seats in Minsk. Pazhnyak was elected together with 30 other Front candidates in a Supreme Soviet of 360 members.

A series of strikes took place in April 1991 against price increases. The Front cooperated with the striking workers whose demands were political as well as economic. These demands included sovereignty, military reform, a market economy and round table talks to restructure the government.

These strikes culminated in 100,000 workers gathering in Lenin Square to listen to calls for the resignation of Belarussian and

Soviet leaderships, multiparty elections and an end to communism. This has been called the moment of Belarus' awakening.

Since early 1992 the Popular Front has been engaged in collecting 350,000 signatures for a petition calling on the authorities to hold a referendum on early multiparty elections. The signatures have now been collected, a remarkable feat in a country of 10 million people where citizens have every reason to be reluctant to put their name on any list.

It appears however that the authorities are seeking to invalidate the petition on the basis of legal technicalities. Should this petition be refused, the potential for civil unrest is considerable.

It is against this backdrop of a new but somehow reluctant republic that the IFES delegation examined what is now a process of cautious, if not outright reluctant, political reform.

The Belarussian Constitutional System

The current Belarussian constitutional system generally follows the traditional Soviet design. (For a full description of the Soviet model, see the Report of the United States Delegation Studying the Evolution of the Electoral Process in the Soviet Union (17-27 March 1990) in Appendix (b).)

Although there is no elected Congress of People's Deputies, there is an elected Supreme Soviet containing 360 seats. Of these, 310 seats represent geographic constituencies while 50 seats are set aside for recognized social interest groups such as veterans, the handicapped, etc.

The Head of State is the Chairman of the Supreme Soviet (elected by that body) who appears to exercise both some legislative powers (nominating legislative committee chairmen) and limited executive powers. The bulk of executive power, however, appears to be exercised by a Presidium and a Cabinet of Ministers.

Local governments are composed of locally elected councils who elect a chairman to serve, in effect, as the local executive. The current Supreme Soviet was elected in the spring of 1990. This requires some elaboration.

The Supreme Soviet of Belarus faces a number of crucial tasks which includes writing a new constitution, drafting a new election law, and designing a new economic and military order. The opposition forces, which consist primarily of a coalition among pro-democratic parties which won 30 of 360 parliamentary seats under the banner of the Belarussian Popular Front, feel that the current Supreme Soviet has exacerbated economic problems and otherwise failed in its responsibilities. It is the purpose of

this Popular Front, then, to force new elections for the Supreme Soviet in the autumn of 1992 rather than wait for the elections regularly scheduled for 1995.

Pursuant to this purpose, and in accordance with current law, the Popular Front recently circulated a petition to force a referendum in Summer of 1992 which is essentially a "confidence" election on the current Supreme Soviet. The wording of the referendum has already been registered by the Central Electoral Commission as follows : "Do you think elections to the supreme organs of state power of the Republic of Belarus should be held in the fall of 1992 on the basis of the law on elections of Belarussian people's deputies whose draft has been submitted to the Supreme Soviet by the Belarussian People's Front opposition and therefore the present Supreme Soviet should be dissolved ahead of schedule?". This petition required 350,000 signatures. And despite a narrow time frame, this objective was achieved. (On April 15, 1992, the Foreign Broadcast Information Service reported that the signatures had been successfully collected.)

As might be imagined, the leadership of the current Supreme Soviet, including Chairman Stanislav Shushkevich, lacks enthusiasm for the referendum and has publicly opposed it.

With the stage thus set, a technical problem has now emerged that may raise the issue to crisis proportions. The technical

problem arises from the legal requirement that the chairman of the group organizing the petition drive sign each page of the petition -- by all accounts an ill conceived and impractical requirement, but a legal one nonetheless. But according to Alexander Abramovich, Chairman of the Belarus Election Commission (newly appointed in view of the growing importance of that post), the chairman of the organizing group has opted instead to stamp his signature on each page. As a result, Abramovich and the other members of the Central Election Commission (to whom it is to be submitted) are inclined to reject the petition on that basis -- an action that will almost certainly be seen by the Popular Front forces as being politically inspired. What would follow this event is anyone's guess.

Should the petition be accepted, a popular referendum on confidence in the current Supreme Soviet would be conducted in the summer. A majority popular vote of "no confidence" would force new elections for the Supreme Soviet in the autumn of 1992.

Developments in January and February of 1992 may add yet another wrinkle to the unfolding of events. For two political parties (the United Democratic Party and the People's Accord Party) have called for the institution of a Presidency (presumably resembling Yeltsin's in Russia) with extraordinary powers to see the nation through its current problems. It is not entirely clear what motivates this initiative, although the draft of the new

constitution floated in December of 1991 provides for the possibility of the creation of the post of President. Interestingly, these two political parties seem to disagree about the wisdom of conducting the referendum of confidence in the Supreme Soviet.

Chairman Shushkevich and the majority of the current Supreme Soviet seem to prefer maintaining the status quo -- leaving it to the current Supreme Soviet to devise a new constitution and, afterward, a new election law. Nor do they see any urgency to this task. They advocate caution and predict that the new constitution will probably not be adopted until the end of 1992, with the new election law to come in the following year.

Given this state of affairs, it is virtually impossible to predict what will happen in the coming months. It appears certain however that the operating constitutional structure of Belarus will be altered even as a new constitution is being drafted. But whatever the scenario, the final constitution of Belarus is not likely to be in place before 1993.

Although an English translation of the proposed new constitution was not available to the delegation, the members were able through conversations to glimpse a few issues that are likely to emerge in the debate.

The first of these is the probable elimination of the 50 seats in the Supreme Soviet that are currently reserved to the publicly sanctioned social interest groups (veterans, handicapped, etc.). The resulting parliament will therefore likely resemble those that have already been formed in other former Soviet states -- a single-member-district system with each member representing a specific geographic district.

Second, there is likely to be a major debate over the nature of the executive power -- whether there should be an independently elected, relatively strong president; a figure-head president with most executive powers vested in a legislatively selected prime minister and cabinet; the current arrangement; or some new amalgam. (For more on how these two issues are being addressed by other former Soviet states, see the Report of the United States Delegation Studying the Evolution of the Electoral Process in the Soviet Union (March 17-27 1990) in Appendix (b) and Report of the International Delegation Studying the Development of Mongolian Election System (December 1-3 1991) in Appendix (c).

But the greatest constitutional debate will probably involve the political, property, human, and economic rights of its citizens.

Political Party System

It is somewhat premature to describe the Belarussian political party system. Nor is the delegation well equipped for the task inasmuch its members were informed by the members of the Belarussian Government that, because of their workload, representatives of the opposition political parties would be unable to meet with them.

Political party development is still in its embryonic stages. This impression is reinforced by the recent literature on Belarus which identifies a number of young and rather small political parties including the Social-Democratic Party (a pre-war, somewhat nationalistic party), the United Democratic Party (liberal), the National Democratic Party (also slightly nationalistic), the Social Democratic Party, the Christian Democratic Union, and the People's Accord Party (which is thought in some circles to be composed of members of the old Communist Party).

None of these parties seems to be widely known or in any way predominant. And in any event, the future political party system in Belarus will be shaped both by the new constitution and by electoral experience. A reasonable observer could expect still more parties to develop over the next two years with parliamentary and electoral discipline forcing eventual coalitions and mergers among those with sufficiently common interests and popular appeal.

The Belarussian Election System

It is impossible at this juncture to predict the exact form of the eventual election system. In the past, elections in Belarus were conducted in a manner similar to those throughout the former Soviet Union. [Once again, details of these procedures and the 1990 changes in them are described in the Report of the United States Delegation Studying the Evolution of the Electoral Process in the Soviet Union (March 17-27 1990) in Appendix (b).] There were only minor variations from the standard Soviet model. The most important involved the distribution of military votes by the Central Election Commission across constituency districts rather than having them counted in the district where the military unit was based.

While a new draft election law has yet to be formulated, and any such law must be designed to support an as-yet-to-be-adopted constitutional system, the delegation nevertheless learned what are some of the issues that are sure to provoke debate. Its insights were derived mainly from discussions with the members and staff of the Legislative Committee of the Supreme Soviet, including its Chairman, Dimitri Bulakhov.

Legislating the Election System

The draft election law is likely to be the product of at least two committees of the Supreme Soviet: the Committee on Self Management (in effect the committee on national and local government) which has original jurisdiction over the subject; and the Legislative Committee which must vet and approve all legislation before it is submitted to the Supreme Soviet for first reading. And although the task of drafting the new law is not an immediate priority, both committees are already examining key issues and considering alternatives. Indeed, they seemed genuinely interested in the delegation's views and experiences on a number of topics.

Administering the Election System

Under the current Russian-style arrangement, the Supreme Soviet elects, for a five-year term, a 19-member Central Election Commission (CEC) of whom only four members and a small staff are full time and paid. The Chairmanship of the CEC is nominated by the Chairman of the Supreme Soviet and approved by the membership. The CEC is responsible not only for conducting the elections for the Supreme Soviet, but also for designing (or redistricting) the constituencies each five years. Further, and unlike their Russian counterparts, they are responsible for distributing the military vote across the districts, ostensibly to avoid overloading

individual districts containing military concentrations. And finally, the CEC has authority over all other the Election Commissions such as handling complaints, resolving conflicts, and providing advice and assistance.

Each constituency district also has a locally appointed District Election Commission whose members serve only during the campaign and who organize and finance the campaign in that district.

Local units of government (roughly akin to counties and towns) also have locally appointed, part-time Election Commissions to conduct the elections for local offices.

In view of the enormous power of the CEC, especially with regard to redistricting and distributing the military vote, it seems important that it include representatives of the legally recognized political parties. The delegation was prepared to expand on this principle to encompass all the other election commissions including even poll workers and absentee voter staffs.

But whether because of a lack of experience with gerrymandering or election fraud, because of a mind-set, or perhaps because of the difficulty to explain the importance of this principle, Chairman Abramovich and the other members of the Central Election Commission did not share the delegation's view. They

seemed to feel that the Supreme Soviet's selection process along with the openness of the election process itself would be sufficient to ensure the integrity of the elections. Nor did the subject of inclusion of political parties attract much interest in meetings with the two committees.

Drawing Boundaries

The CEC draws the district boundaries for elections to the Supreme Soviet, while the local election commissions do the same for local councils. The delegation did not, however, have the opportunity to examine the basis and criteria on which this is accomplished. If they follow the Russian pattern in this matter, it is probably done on the basis of housing records (which also provide the basis for the voter registry) so that districts are assembled from precincts designed by local authorities. It is not clear if there are any legal requirements regarding population size, compactness, or contiguity of districts in the Supreme Soviet.

The authorities in Belarus, however, shared none of the delegation's interest in such matters -- an interest that, on the part of the delegation members, was heightened by the recent experience in redistricting in the U.S.

Providing Ballot Access

The two issues that seemed uppermost on the minds of the Belarussian hosts have to do with providing ballot access to parties and candidates.

Their greatest concern was whether or not members of the military should be permitted to run for public office. This question may seem surprising; but under the Soviet system, members of the military were viewed as having an occupation like any other and were therefore permitted -- even encouraged -- to run for office. Such a policy, however, creates problems in both the election process and the legislative process.

In the election process, there is reason to believe that military candidates may be able to tap a greater number (or at least a greater quality) of resources to support their campaigns beyond the funding and support provided to all candidates by the District Election Commission. At the same time, there are understandable concerns regarding the military vote, should there be subtle coercion involving supporting a military candidate.

From a legislative perspective, there is a potential problem in conflict of interests. An extreme form of this would involve a military man sitting on the committee that determines the military budget, although having any member of the military voting

on the military budget is sufficiently troubling. In fact, it seems entirely inappropriate to have a member of the military in a legislative body that has any authority over the Executive who is commander-in-chief of the military.

For these reasons, and no doubt others, there seems to be some strong sentiment for prohibiting members of the military from seeking public office.

Their second concern in providing ballot access is the nominating process. In the past, the Russian-style nominating process permitted any group of 300 people (worker cooperatives, recognized social interest groups, or neighbors) to gather and nominate candidates for the Supreme Soviet. The result was a proliferation of candidates (sometimes several from the same party) for a single seat. In 1990, for example, there was a total of about 2,500 candidates to fill 310 district seats. As a result, there is some discussion of changing the nominating process. And there are several possibilities:

- o adding "recognized political parties" to the list of groups empowered to nominate,
- o adding "recognized political parties" to the list while eliminating the recognized social interest groups (consistent with their probable elimination

of the 50 seats in the Supreme Soviet reserved to the social interest groups),

- o eliminating the whole idea of meetings of 300 in favor of a petition nominating system (which the delegation recommended while providing sample nominating petitions),
- o eliminating all nominating procedures other than those by political parties (who would be allowed to nominate candidates for each seat in a manner of their own choosing) or by independents (who would be able to circulate nominating petitions).

At this juncture, Belarus will probably opt for either the second or third of the above options in order to diminish the influence of the special interest groups and to begin incorporating political parties in the election process. Yet there is not much enthusiasm for restricting the nominating process solely to political parties.

Which of these two options will be selected depends on whether Belarussians would prefer nominees who are likely to emerge from meeting of 300 or more politically active, committed, and possibly extremist people or whether they would prefer nominees who are likely to emerge from a petition circulated among more ordinary

types of citizens.

Registering Voters

The issue of greatest interest with regard to registering voters was whether or not members of the military should be allowed to vote at all. For not only is there a serious question about military voters in the presence of military candidates (as previously noted), there is also concern about the physical presence of many non-Belarussian members of the military.

The delegation's response was that -- a handful of precedents to the contrary -- members of the military are generally granted the right to vote in Western democracies. And this presents no real problem, provided that members of the military are prohibited from running for public office. The problem of "foreign" members of the military can be addressed by requiring Belarussian citizenship as a condition for registering to vote.

Campaign Financing, Regulation, and Providing Voter Information

There were no issues raised -- not for lack of interest, but rather for lack of time. Their current procedures in these matters are virtually identical to those employed in Russia as described in Appendix (b).

Balloting

The only issue that emerged with regard to balloting procedures was the question of whether or not to continue the Soviet-style method of crossing out all but the preferred candidate or adopting the "single positive choice" method.

In all other respects, the Belarussian balloting and tabulation procedures mirrors those employed in Russia as described in the Report of the United States Delegation Studying the Evolution of the Electoral Process in the Soviet Union (March 17-27, 1990) in Appendix (b).

Contesting Elections and Recounts

Belarussian procedures are identical to those in Russia -- although, as in Russia, there may be a reevaluation of the potential role of the courts in the near future. Indeed, there has already been an opportunity to consult the thinking of the courts on the matter of the signatures required on the opposition petition.

Concluding Observations

The IFES team's visit took place amidst a flurry of unprecedented political activity. Both the leadership and the

opposition were busy with a number of other major issues. Meetings, for example, were scheduled between high level conferences amongst members the Commonwealth of Independent States conducted in Kiev just prior to the delegation's arrival and another in Alma Ata that was to take place immediately after the delegation's departure. And too, the matter of the opposition petition occupied domestic attentions and energies.

Against this background, the visit provided important insights into the current political turmoil and climate, a sense of when important future events, such as consideration of the new constitution and new election law, are likely to occur, and a sense of some of the issues that are likely to become significant debating points.

The delegation was happily received and there is a lively interest by Belarussian political leaders in a broad range of constitutional and electoral issues. There certainly exists interest in continuing the consultations in still greater breadth, depth, and detail.

The delegation therefore recommends that consultations with Belarussian legislative and election officials continue and that these include discussions with staff as well as members of the Supreme Soviet's Legislative Committee and Committee on Self Government and of the Belarussian Central Election Commission.

Appendix A



ВЯРХОЎНЫ САВЕТ РЭСПУБЛІКІ БЕЛАРУСЬ

КАМІСІЯ ПА ЗАКАНАДАЎСТВУ

220010 Мінск, тэл. 20-18-64

Глубокоуважаемый господин Кимберлинг!

В Республике Беларусь знают Вас как одного из крупнейших специалистов США в области избирательного права и регулирования регистрации партий.

В настоящее время в республике назрела необходимость в подготовке нового законодательства о выборах.

Настоящим имею честь направить Вам официальное приглашение посетить Республику Беларусь в удобное для Вас время.

Выражаю искреннюю убежденность в том, что Ваш визит послужит делу построения в Республике Беларусь профессионального парламента правового государства.

С глубоким уважением,

Д. Булахов,
член Президиума Верховного
Совета Республики Беларусь,
председатель Комиссии по
законодательству

SUPREME COUNCIL OF THE REPUBLIC OF BELARUS

Committee on Legislation
220010 Minsk, tel. 20-18-64

Dear Mr. Kimberling,

You are well-known in the Republic of Belarus as one of the outstanding american experts on suffrage and regulation of the registration of parties.

At present the necessity is ripe in the Republic to draft a new legislation on election.

I have the honour to invite you to visit the Republic of Belarus at the time convenient for you.

It is my strong conviction that your visit will serve the cause of setting up in the Republic of Belarus a professional parliament and lawfully constituted State.

Sincerely,

D. Bulakhov
Member of the Presidium of the
Supreme Council of the
Republic of Belarus,
Chairman of the Committee
on Legislation



ВЯРХОЎНЫ САВЕТ РЭСПУБЛІКІ БЕЛАРУС
КАМІСІЯ ПА ЗАКАНАДАЎСТВУ

220010 Minsk, T.S.N. 20-18-64

11 March 1992

Dear Mr. Kimberling,

In addition to my previous letter to you I would like to confirm by the present letter my verbal invitation for Professor Richard Smolka and Mr. Hoyt Clifton, Director of Elections for the State of New Mexico, to visit the Republic of Belarus together with you (20-27 March, 1992).

I hope to welcome you soon in Minsk.

Sincerely,

D. Bulakhov
Member of the Presidium
of the Supreme Council of the Republic
of Belarus, Chairman of the Committee
on Legislation



International Foundation for Electoral Systems

1620 I STREET, N.W. • SUITE 611 • WASHINGTON, D.C. 20006 • (202) 828-8507 • FAX (202) 452-0804

Emerging Democracy in Belarus

at

**LONGWORTH HOUSE OFFICE BUILDING
Room 1324
(Independence Avenue and South Capitol Street)**

Tuesday, April 21, 1992

10.00AM - 11.30AM

The International Foundation for Electoral Systems (IFES) invites all interested individuals to a briefing on the results of a pre-election assessment in Belarus by

**Dr. Richard Smolka
Professor of Public Affairs, American University
Editor, *Election Administration Reports***

**Mr. William Kimberling
Deputy Director, Clearinghouse on Election Administration
Federal Election Commission
International Election Expert**

**Dr. Paul A. Goble
Senior Fellow, Carnegie Endowment for International Peace
Former Special Assistant for Soviet nationalities in the
State Department's Bureau of Intelligence and Research**

Under a grant from the Charles Stewart Mott Foundation, IFES sent a technical election assessment team consisting of Dr. Smolka, Mr. Kimberling and Mr. Hoyt Clifton, Director of Elections for the State of New Mexico, to Minsk to meet with the Central Election Commission, the Legislative Commission, the Committee on State and Local Affairs and the Chairman of the Supreme Soviet. Dr. Paul A. Goble, who briefed the IFES team prior to their departure, will outline the historical, political and cultural context for the team's findings.

RSVP (acceptances only) to (202) 828-8507

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April 15, 1992

Dear Colleague:

The Helsinki Commission and the International Foundation for Electoral Systems will hold a briefing for Members of Congress, staff, press and the public on Belarus, with a focus on efforts by Belarusian reformers to hold new elections to the Supreme Soviet.

The briefing will take place on April 21, 1992 in the Longworth House Office Building, Room 1324 (Interior Committee hearing room), at 10:00 a.m. to 11:30 a.m.

Invitations will be addressed by:

Dr. Paul Goble
Senior Fellow, Carnegie Endowment for Peace

Dr. Richard Smolka
Professor of Government, American University


Mr. William Kimberling
Deputy Director, Federal Elections Commission

Minsk, the capital of Belarus, is the headquarters of the Commonwealth of Independent States. Minsk has also been selected as the venue for the upcoming meeting of the Conference on Security and Cooperation in Europe on attempting to resolve the Nagorno-Karabakh crisis.

Under a grant from the Charles Stewart Mott Foundation, IFES sent a technical election assessment team to Minsk to meet with the Central Election Commission, the Legislative Commission, the Committee on State and Local Affairs, and the Chairman of the Belarus Supreme Soviet.

We hope you will be able to attend this briefing on a nation that will play an increasing role in the integration of former Soviet republics into the European process. Please RSVP (acceptances only) to either Brenda Collier or John Finerty at 5-1901.


DENNIS DeCONCINI
Co-Chairman


STENY H. HOYER
Chairman

Appendix B

FEDERAL ELECTION COMMISSION

**Report of the United States Election
Delegation Studying the Evolution of the
Electoral Process in the Soviet Union
(17-27 March 1990)**



**Washington, DC
May 1990**

Report of the United States Election Delegation
Studying the Evolution of the Electoral Process
in the Soviet Union (17-27 March 1990)

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1.0 INTRODUCTION

At the invitation of the Central Electoral Commission of the U.S.S.R., representatives of the Federal Election Commission and the chief election officials of three States visited the Soviet Union on March 17-27, 1990, to witness that nation's emerging democratic reforms to its constitution and electoral systems.

The delegation, headed by Lee Ann Elliott, Chairman of the Federal Election Commission, included FEC Vice Chairman John Warren McGarry and Commissioner Danny Lee McDonald; the Secretaries of State of Rhode Island and Vermont; the Executive Director of the Illinois State Board of Elections; staff members from the Commission and a representative from the International Foundation for Electoral Systems.¹

The Soviet invitation was in direct response to the exchange of American and Soviet election delegations in 1989.² The purpose of this trip was to further study the evolution of the democratic reforms in the Soviet Union in the context of their elections and to answer the Soviets' questions about the operation of our State

1. See Appendix 1 for a complete listing of the United States delegation.

2. For more information about these exchanges, please consult the Report on the Visit by the Federal Election Commission to the Soviet Union, June 1989, and the Report on the 1989 U.S. Election Study Tour of the Central Electoral Commission of the U.S.S.R. which are available free of charge from the Federal Election Commission's Information Division.

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and federal electoral processes. The delegation explored the rationale for, and the implementation of, the many reforms instituted by the Soviets during the past year. We submit this report to share our experiences and findings and to enhance the general understanding of their changing nomination, campaign, and election procedures.

During our ten-day visit, the delegation participated in 14 meetings in and around Moscow and in Alma-Ata, the capital of the Republic of Kazakhstan.³ Highlights of the delegation's itinerary included detailed meetings with the Election Commissions of the Soviet Union, the Russian Federal Republic, the Republic of Kazakhstan, and the cities of Moscow and Vladimir. Importantly, the delegation was invited to meet with Anatoliy Lukyanov, Chairman of the Supreme Soviet of the U.S.S.R.

Chairman Lukyanov warmly briefed the delegation on the changes in the Soviet Union since our last visit with him in June of 1989, and on the late-breaking developments within the Kremlin upon Mikhail Gorbachev's election as President. The Chairman said that "the new elections are bringing open-minded people into the process...and the multi-party system will enliven the elections." Chairman Lukyanov was concerned, however, with the increasing campaign fraud and financing questions that competitive elections bring.

3. See Appendix II for a complete listing of the delegation's official meetings, cultural protocol, and the names and titles of our hosts.

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Because of this well established relationship, the delegation was able to make an in-depth study of the constitutional reforms in the Soviet Union and the new election procedures for seats in the Russian Federal Republic's Congress of People's Deputies, the Kazakh Supreme Soviet, and various regional councils. The delegation was afforded great access to candidates, decision makers, and voters; learned the rationale for changes in the nomination and election processes; and witnessed voting at the polls. Our delegation responded to the Soviets' detailed and in-depth questions about our federal, State, and local system of campaigns and election, and discussed the concerns many Soviet officials have about the changes in their process.

This report provides a description of the recent changes to the Soviets' constitutional structure, election process, and the people's attitudes on voting and campaigns. This report will also serve as a basis for future exchanges between our two nations and as a reference guide for future studies of the evolving Soviet government.

This trip was made possible by a grant provided by the Charles Stewart Mott Foundation and the International Foundation for Electoral Systems. We are also grateful for the assistance

and coordination provided by the United States Department of State, the U.S.S.R. and the governments of the Republics, regions, and cities we visited.

2.0 BACKGROUND AND CONTEXT

The Soviet Union comprises, by their accounting, 15 separate Republics the extent of whose individual sovereignty has, as we learned during our visit, become a matter of controversy and the subject of lively debate. By far the largest of these Republics in land, economy, and population (150 million of the national total of 289 million people) is the Russian Federal Republic which stretches from the Black Sea to the northern Pacific. Officially called the Russian Soviet Federative Socialist Republic (or sometimes just the Russian Federation), the Russian Federal Republic is composed of 73 different administrative and territorial units enjoying varying degrees of autonomy. Second in size, and lying to the southeast of Moscow in Soviet Central Asia, is the Kazakh Republic which contains 17 regions and a population of 17 million. Other Republics include the Kirghiz, Tajik, Uzbek, and Turkmen lying to the south of Kazakhstan; Azerbaijan, Soviet Armenia, and Georgia bridging from the Caspian to the Black Seas; Moldavia, the Ukraine, and Byelorussia lying to the west of Moscow; and the disputed Lithuania, Estonia, and Latvia along the Baltic Sea to the northwest of Moscow. (see Figure 1)

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The United States Government has not recognized the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union. Other boundary representation is not necessarily authoritative.

RUSSIAN SOVIET FEDERATIVE SOCIALIST REPUBLIC (R.S.F.S.R.)

ASSRs and AOs in the Caucasus

1. Kabardino-Balkarskaya ASSR
2. Severno-Osetinskaya ASSR
3. Checheno-Ingushskaya ASSR
4. Adygheyskaya ASSR
5. Nakhichevanskaya ASSR (Azerbaijan SSR)
6. Aдыгейская АО
7. Карагөзө-Чархашская АО
8. Вуьг-Осетинская АО
9. Нагорно-Карабахская АО

KAZAKH Union republic (SSR)

- Union republic (SSR) center
- Autonomous republic (ASSR), oblast, or kray boundary
- - - Autonomous oblast (AO) or autonomous okrug (AOk) boundary

Note: The union republic administrative centers are shown. The only other administrative centers shown are the oblast centers. The rest of the administrative centers are shown as dots.

0 400 800 Kilometers
0 400 800 Miles

* Areas with no oblast-level administrative divisions, where rayons are under direct republic jurisdiction.

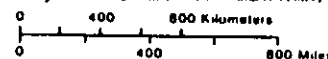
- ASSRs and AOs in the Caucasus**
1. Kabardino-Balkarskaya ASSR
 2. Severo-Osetinskaya ASSR
 3. Checheno-Ingushskaya ASSR
 4. Adygeyskaya ASSR
 5. Nakhchevanskaya ASSR (Azerbaijan SSR)
 6. Adygeyskaya AO
 7. Karachayevsko-Cherkesskaya AO
 8. Yugo-Osetinskaya AO
 9. Ingorno-Karabakhskaya AO

* Areas with no oblast-level administrative divisions, where rayons are under direct republic jurisdiction.

KAZAKH Union republic (SSR)

- Union republic (SSR) center
Autonomous republic (ASSR), oblast, or kray boundary
Autonomous oblast (AO) or autonomous okrug (AOk) boundary

Under the common regulation administration conditions, the early culture administration ...
 ... the early culture administration ...



Within the framework of these Republics live a great variety of people, more than 100 nationalities in all, whose individual cultures and mutual misgivings have been preserved virtually intact for the past 73 years. Indeed, the remarkable cultural diversity within the Soviet Union became apparent to the delegation by our visit to the monastery at Zagorsk (the traditional seat of the Russian Orthodox Church); by our visit to the ancient cities of Vladimir and Suzdal (which are widely regarded by Russians as representing the heart and soul of Russia); by our visit to Alma-Ata in the far south of Kazakhstan (with its notable mixture of Russian, Asian, and Moslem cultures); and of course, by our stay in Moscow (which is a blend of the stately old with the somewhat spartan new Russian cultures).

Cutting across this traditional order of Republics and ethnic groups is a whole structure of cooperatives and associations -- neighborhood cooperatives, worker cooperatives, agricultural cooperatives, as well as officially sanctioned "public organizations" of women, youth, academics, artists, scientists, and the like. These organizations have, since the 1920's, served to organize Soviet society along social lines and have, in the process, institutionalized the special interests they represent.

This extremely elaborate and complex Union has, for more than 70 years, been governed exclusively by the Communist Party through various party and constitutional structures of their own design intended to balance the competing interests of these Republics, ethnic groups, and social units. But while this Communist Party monopoly on power represented in theory a dictatorship of the proletariat, it operated in fact as a dictatorship of the party hierarchy.

Facing the social, political, and economic stagnation that resulted from this dictatorship, Mikhail Gorbachev came to power in 1985 with a program of perestroika (economic reform and restructuring), of glasnost (individual, cultural, and societal openness), and of democratization. Although primarily these reforms have been applied thus far only to the political process, they have already brought about some important and fundamental changes. Most notable among these are the design of a new constitutional system, the elimination of the ban on alternative political parties, and the holding of competitive elections for public offices at all levels. Our delegation's mission was to study first hand the nature, implementation, and impact of these changes.

Undoubtedly, perestroika, glasnost, and democratization have also brought about some unintended consequences. They have, for example, given vent to internal frustrations in the various Repub-

lics regarding their relationships to the central government. They have also unleashed some pent-up ethnic rivalries and animosities. And finally, they have bruised the feelings of some party regulars and interest groups who begrudge abandoning their traditional positions of influence and privileged representation. These consequences have, however, only accelerated the rate of change as the leadership of the Soviet government attempts to respond to them. Thus, there has been an effort to hasten the decentralization of power and speed up the election calendar in order, presumably, to extend the benefits of perestroika more promptly to the lower levels of government and society.

It is against this backdrop of rapid, almost daily political change and tumult that an American election delegation returned to the Soviet Union from 17 to 27 March 1990 for the purpose of studying the evolution of their electoral system. This report must therefore be viewed as simply one photograph of a system still in transition.

3.0 THE CONSTITUTIONAL SYSTEM OF THE SOVIET UNION

The constitutional system of the Soviet Union is, as we came to learn, currently undergoing dramatic review and revision even in some of its most fundamental features. Indeed, the very process of change and experimentation seems to have given rise to

further changes and refinements. Our attempt to understand it was, moreover, complicated by the fact that several former governmental institutions remain in place either for their fixed terms of office or until the election of new bodies that will supplant, restructure, or even abolish them.

The best place to begin is with Article 70 of the Soviet Constitution, which defines the "Union of Soviet Socialist Republics" as

a unified multinational state, founded on the fundamental principle of socialist federalism, as a result of the free self-determination of nations and the voluntary unification of equal Soviet Socialist Republics.

Article 72 goes on to ascribe to each of these sovereign nations "the right of free secession from the U.S.S.R."

The Gorbachev reforms have given new life to the concepts introduced in these sections. A central constitutional issue today is the degree to which power, heretofore vested almost entirely within the central government in Moscow, will be decentralized to the Republic level. The primary questions being considered by the Supreme Soviet and by the leaders of the Republics during our visit were (1) the definition in theory and the meaning in practice of Republican "sovereignty," and (2) the meaning, also in theory and in practice, of the right to secede.

Perhaps the best way to explain the picture we finally pieced together from our numerous interviews is to describe the governmental institutions at each level as we found them and then to identify recent and proposed changes to these institutions. (See Figure 2 as an aid.)

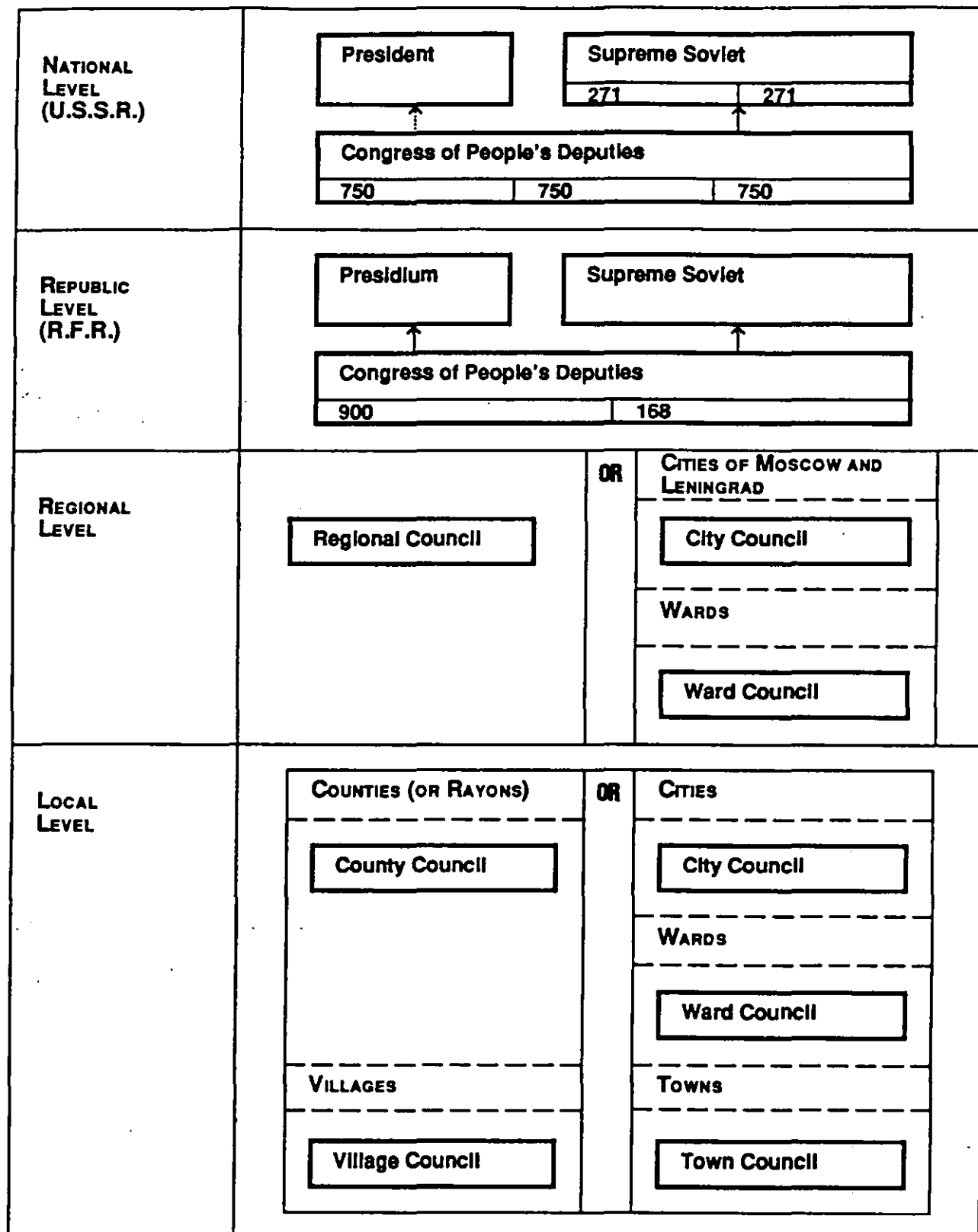
3.1 GOVERNMENT AT THE NATIONAL LEVEL

The Congress of People's Deputies of the U.S.S.R.

The national government of the Soviet Union, which Soviets call the "Union government" because of their penchant for referring to the ethnic groups as "nationalities," is composed first of a 2,250-member national Congress of People's Deputies (or national Congress). This body is elected in its entirety for a five-year term of office.

Representation in the current national Congress, elected in March 1989, is divided into three separate but equal components. The first component of 750 seats was elected by geographical (which they call "territorial") districts throughout the whole nation, just as in our own House of Representatives. The second component of 750 seats was elected by the nationalities, or ethnic groups, by geographic districts and according to uneven quotas for each national or ethnic group. The third component of 750 seats was elected by fixed quotas allocated to various officially sanc-

FIGURE 2 — THE CONSTITUTIONAL SYSTEM OF THE U.S.S.R.
(Using the Russian Federal Republic as a model)
As of 17-24 March 1990



tioned, nationwide, social or economic "public organizations" such as the Soviet Women's Committee, the Soviet Youth Committee, academics, scientists, artists, and the like.

Despite its name, this fairly unwieldy national Congress has no precise equivalent in the United States. Its nature and function lie somewhere between the Electoral College and a kind of national town meeting. Its role has traditionally been threefold: (A) to elect from their number the Supreme Soviet of the U.S.S.R. to serve as the principal legislative organ of the national government, (B) to elect the Chairman of the Supreme Soviet, and (C) to serve as a periodic sounding board on national policies, normally in two-month sessions each year or so, with the power to amend the national constitution.

The current national Congress, whose election had occurred just before the United States election delegation's visit in June 1989, was elected in just this manner, has served in all these capacities, and as noted below, has recently elected a president.

The Supreme Soviet of the U.S.S.R.

The Supreme Soviet of the U.S.S.R. is composed of 542 members who are, as noted, elected by and from the membership of the national Congress of People's Deputies and who also serve five-year terms. The Supreme Soviet is in some respects a bicameral house

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equally divided between a 271-member Chamber of the Union and a 271-member Chamber of Nationalities. These chambers meet both separately and together as the legislative agenda dictates. And, indeed, our delegation was privileged to attend briefly and be recognized by a session of the Chamber of Nationalities on March 22 during its debate on the political status of the Republics within the Union.

As the chief legislative body of the national government, and much like our own Congress, the Supreme Soviet subdivides into various committees and subcommittees focused on specific topic areas. On March 20, our delegation met jointly with representatives of two such committees: the Committee on Legislation and the Rule of Law along with the Committee on Soviets of People's Deputies, Government Administration, and Self-Government. According to their explanation, each chamber of the Supreme Soviet contains four permanent Commissions which, though they work for the entire body, appear to serve as standing committees just like those in the chambers of our own Congress.

There are, in addition, fourteen joint committees whose structure and membership are somewhat remarkable. Each committee is composed of 44 members. Only 22 members, however, are actually "Deputies," or members of the Supreme Soviet, with 11 being drawn from each chamber. The remaining 22 members of each committee are

selected from outside the membership of the Supreme Soviet on the basis of their special knowledge, relevant expertise, or interest in the committee's subject area.

Committee chairmen are nominated by the committee membership to the entire Supreme Soviet which, after a review of their credentials akin to our confirmation hearings, makes the final selection.

Our interview with the two committees touched on some other significant points. They felt, for example, that the current committee structure (with the recent addition of committees on law and order, internal procedures, and ethics) is likely to remain fairly stable for the foreseeable future, although they are considering some further legislation regarding the committees' internal structures and operations. They also mentioned that they are considering legislation on the recall of Deputies. They took particular interest in our concept of regulatory power as distinct from the enactment of statutes. Apparently they do not distinguish between regulation and legislation.

Perhaps most important, however, was the obvious pleasure they took in the growing strength of the committee process. They noted that in the past, bills simply emerged in the Supreme Soviet without specific authorship, were referred to committee for a fairly cursory review and pro forma approval, and were

then passed by an almost equally pro forma vote in the Supreme Soviet. Today, in contrast, bills have specific authorship and may be redrafted by a committee before being brought to the floor for a first reading vote. The bill is then subjected to public comment for a specified period of time after which, based on the comments received, the committee may again redraft it prior to the second reading. The bill is then submitted for comment to other relevant committees (including the budget committee) after which, apparently, the final draft is brought before the whole body of the Supreme Soviet for a final vote.

In describing this process, committee members took evident pride in the fact that only recently, and for the first time, their committee had rejected a bill originally drafted by the government and had redrafted it prior to its first reading.

The President of the Soviet Union

Only days before our delegation arrived, the national Congress of People's Deputies, upon the Supreme Soviet's recommendation, adopted a dramatic change to the Soviet Constitution by creating the office of President to be elected by a direct popular vote each five years beginning in 1995. As an interim measure, the Congress elected Mikhail Gorbachev to serve as President until the 1995 popular election. Given its novelty, it is extremely

difficult at this point to describe the precise role of the presidency. Even the Soviets themselves seem to have slightly different views on the matter.

For example, Anatoliy Lukyanov, Chairman of the national Supreme Soviet, described the new presidency in great detail in our meeting with him on March 20. He described the president's powers as falling somewhere between those of the French presidency and those of the American presidency. In his view, executive powers will remain with the Prime Minister while legislative powers will remain with the legislatures. "The role of the president," he asserted, "is to coordinate legislative and executive functions." Although he did not elaborate on just how that might work in practice.

Lukyanov then defended the new presidency against charges that it will lead to dictatorship -- charges that were leveled repeatedly during its debate in the Supreme Soviet. His arguments were that: (A) this reform is consistent with the recent adoption of a multi-party political system, (B) the powers of the presidency have in no way diminished the powers of the Congress of People's Deputies and the Supreme Soviet, and (C) new institutions are being created to enable the president to work effectively. The primary institution through which the president will work is the Presidential Council, which is to include the Chairman of the Supreme Soviet and the Chairman of the Council of Ministers. In

Chairman Lukyanov's view, the Presidential Council will "translate into power the decisions of the legislative branch" by "coordinating legislative and executive functions while maintaining separation between them."

However, members of the Supreme Soviet committees with whom we spoke later in the day seemed to take a slightly different view of the presidency as being primarily an executive office complete, they pointed out, with a proposed veto power. They also expressed the view that while future presidents will be popularly elected, the current president is accountable to the Congress of People's Deputies which elected him.

At this juncture, we can only report that the powers and functions of the presidency of the U.S.S.R. may soon be elaborated in forthcoming legislation and are likely to evolve over time just as in the case of the American presidency.

Changes in Government at the National Level

In addition to creating the presidency, the national Congress of People's Deputies recently adopted a change in its own representative structure to take effect in the next elections to that body scheduled for 1994. Specifically, they abolished the 750 seats set aside for the special representation of the "public organizations" previously described. The next national Congress

will therefore be composed of 1,500 Deputies elected by geographical districts from throughout the nation plus the 750 Deputies elected by districts representing the nationality (or ethnic) groups.

There is no guarantee, however, that even this arrangement will endure until 1994. There is already some talk, for example, of abolishing the 750 nationality seats in the national Congress in favor of a Congress elected entirely by geographical districts. More dramatic still is the possibility that the entire national Congress of People's Deputies will be abolished in favor of a national Supreme Soviet elected either directly by districts, or else by districts plus a quota of seats set aside for the nationality groups. Members of the Supreme Soviet committees, responding to our delegation's direct question on this point, admitted cautiously that this possibility exists. The members also cited as an objective rotating the membership of the Supreme Soviet by one fifth of the seats each year, although they did not elaborate on how such a thing might operate -- whether by staggered direct popular elections (as in our Senate) or by annual elections for these seats in the national Congress of People's Deputies.

Suffice it to say that the institutions of national government in the U.S.S.R. are in a state of flux and reorganization. The Soviet Constitution's final form is likely to be shaped both by events and by their experience with these reforms over the next decade.

3.2 GOVERNMENT AT THE REPUBLIC LEVEL

Republics in the Soviet Union are in many ways comparable to our States despite the predominance in size of the Russian Federal Republic. And just as with our own States, the institutions of government at the Republic level are somewhat parallel to those at the national level. The Republics, however, have recently been granted increased authority to reorganize their own governmental structures with the result that there are now slightly different institutional arrangements from Republic to Republic. We report here only on the two Republics we visited -- the Russian Federal Republic and the Republic of Kazakhstan -- and with the note of caution that institutions in both Republics, as at the national level, are undergoing some review and restructuring.

The Russian Federal Republic has, for example, retained its Congress of People's Deputies and, indeed, our visit was timed to coincide with the run-off elections for seats in this assembly. Until recently, this 1,068-member Congress of the Republic has mirrored the national Congress of People's Deputies in both

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structure and function. That is to say, until this election, the Congress of the Russian Federal Republic was composed of 900 seats elected by districts from throughout the Republic plus 168 seats elected by the nationality or ethnic groups. The function of this Congress was two-fold: (1) to elect from its own members a Supreme Soviet of the Republic to serve as the Republic's principal legislative body, and (2) to elect a Presidium of the Republic to serve in a quasi-executive role along the lines of a parliamentary cabinet.

The new Congress of People's Deputies in the Russian Federal Republic represents a departure from previous practice certainly in one respect and possibly in two others. This new Congress, whose run-off elections we witnessed, was chosen entirely by 1,068 geographic districts. It no longer contains the quota of 168 seats set aside for the ethnic groups. Moreover, it is not entirely clear whether this new Congress will, as in the past, elect from its members a new Supreme Soviet of the Republic or whether it will abolish that institution and constitute itself as the Republic's sole legislative body.

By the same token, it is not entirely clear whether this new Congress will continue to elect a Presidium or whether it will follow the example of the national Congress by creating an independent executive corresponding to our office of State Governor. Tatyana G. Ivanova, the Deputy President of the current but

outgoing Presidium of the Russian Federal Republic, was of the opinion that the new Congress would elect a new, slightly expanded and reorganized Presidium. Informal comments from our hosts, however, indicated that anything is possible. And in a moment of humor, one Soviet suggested privately that the Russian Federal Republic might well elect its own executive and then secede from the Union beating the other Republics to the punch.

The Republic of Kazakhstan, in contrast, has opted to abolish its Congress of People's Deputies in favor of a directly elected Supreme Soviet of the Republic which chooses its own Presidium. The elections we witnessed there were to fill all 360 seats in their Supreme Soviet -- 270 of them elected by districts and 90 elected by the various ethnic groups, although the Kazakh Central Electoral Commission indicated that these 90 quota seats will soon be converted to district seats.

Changes in Government at the Republic Level

In addition to the reorganizations occurring in the Republic governments, it should be noted that the entire relationship of the Republics to the national government is very much in question. The issue before them is the extent to which these Republics might now exercise some sovereignty -- specifically with regard to powers to tax and spend independently of the national government.

Members of the U.S.S.R. Supreme Soviet's Committee on Legislation and Rule of Law along with the Committee on Soviets of Peoples' Deputies, Government Administration, and Self-Government responded to our delegation's questions on this matter by pointing out that while Article 77 of the current U.S.S.R. constitution asserts the supremacy of Union law over Republican law, a new constitution is likely to devise a different relationship. They foresee the "emergence of a federal system into which sovereign Republics enter" and, thus, "the development of a limited power of the Union to interfere in Republic matters." Any disputes between Republic and national governments would be settled, they indicated, by an Institute of Constitutional Supervision now being formed.

On the other hand, Chairman Nursultan Nazerbayev of the Presidium of the Supreme Soviet of the Kazakh Republic, expressed to the delegation in no uncertain terms that he doubts the Union government is willing to relinquish its power over the Republics. He even went so far as to reveal his own intention of forming an alliance with other Central Asian Republics, if necessary, in order to press the Union government on this point.

Accordingly, the constitutional relationship between the Republics and the national government remains unclear and is an issue that is likely to stir some lively debate in the near future.

3.3 GOVERNMENT AT THE REGIONAL LEVEL

Each Republic in the Soviet Union is divided into Regions. There is no exact equivalent to these in the United States. They would be a unit of government smaller than a State but larger than a county. Their existence in the Soviet Union seems to trace to the geographical, cultural, or ethnic groupings which in large measure they continue to reflect. Thus we were informed that in the Republic of Kazakhstan, as an exception to the general rule regarding size, there are some cases in which two or more small regions exist within the same County -- reflecting, presumably, the many small concentrations of different ethnic groups characteristic of that Republic.

Each Region in the Soviet Union elects its own Council, and Regional Councils vary in size from 200 to 300 members directly elected by geographic districts. We had the pleasure of meeting with representatives of one such Council on March 23 in the Region of Vladimir located a few hours outside Moscow -- known, because of its long and dramatic history, as the "heart and soul of Russia."

It should be noted in passing that the cities of Moscow and Leningrad, because of their size, are considered regions unto themselves -- much as in the State of Maryland where the City of Baltimore assumes a status separate but equal to that of a county.

Since elections to the Moscow City Council were being held in tandem with the elections to the Russian Federal Republic's Congress of People's Deputies, we were able to witness both elections first hand.

3.4 GOVERNMENT AT THE LOCAL LEVEL

Regions in the Soviet Union are divided into what we would consider rather large counties (and which they call "rayons"). These governmental entities are remarkably similar to counties in the United States even down to their sometimes puzzling interrelationships with cities and towns. Just as in the United States, the easiest way to understand them is to distinguish between predominantly rural and predominantly urban settings.

In predominantly rural settings, each county elects by geographical district a council of around 150 members. Small towns and villages that lie within these counties also elect by district their own Town or Village Councils of usually 25 or so members.

In predominantly urban settings, the County Council is supplanted by a similarly elected City Council of 100 to 500 members, which governs the entire county in a kind of unigovernment

arrangement. In counties so governed, there may also be smaller towns outside the main city which elect their own Councils of approximately 50 members.

Cities of a certain size are further subdivided into districts which we would call Wards. Each Ward elects by district its own Ward Council of approximately 100 members.

Moscow and Leningrad are, as previously noted, exceptions to this general rule in that they each constitute an entire Region governed by a City Council. In these cities, the Wards take on the size and importance of counties (or rayons) resembling in some respects the boroughs of New York City. Because Moscow's 33 Ward elections were being held concurrently with the others previously mentioned, our delegation was able to witness three simultaneous elections in Moscow: the Congress of People's Deputies of the Russian Federal Republic; the City Council (which governs the Moscow Region); and the Ward Councils within the City of Moscow.

At this point in our understanding, we began to think that everyone in the Soviet Union must hold one public office or another. And, interestingly, any citizen may hold up to two elected offices. We learned from several interviews, however, that the vast majority of these Councils and Congresses meet infrequently, that their members are for the most part unpaid, and that the day-to-day business of government is typically

conducted by an elected chairman or an executive committee which, along with staff, are full time, paid positions. This was true, we learned, even at the level of the Presidium of the Russian Federal Republic.

It also became evident to us, through our conversations with the Chairman of the Vladimir Regional Council and with the Mayor (or Council Chairman) of the City of Suzdal, that just as with the Republics, there is a growing demand at the Regional and local levels of government for independent authority in matters of taxation and spending policies. Although the committees of the national Supreme Soviet told us they are giving this matter top priority, it is not an issue that will likely be resolved quickly or easily.

4.0 THE POLITICAL PARTY SYSTEM OF THE SOVIET UNION

For the past 70 years or so, the Soviet Union has existed as a one-party state governed exclusively by the Communist Party. The governmental apparatus was tightly controlled by the party through a system in which all appointments to governmental positions emanated from the personnel offices of the party.

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In February of 1990, the Communist Party held a plenum of its Central Committee during which Gorbachev laid the groundwork for the fundamental reform of this system. Gorbachev and his allies were able to discredit Article Six of the Constitution, which guaranteed the Communist Party as the "leading and guiding force" in society. As a result, only weeks before our arrival, the national Congress of People's Deputies eliminated Article Six from the Constitution and legalized the right of political parties to form and act freely in Soviet society.

Because this development was so recent and because of the time it takes for political parties to form, our delegation was unable to predict what effect this change is likely to have on political developments in the near future. And judging from four separate interviews, even Soviet views on the matter are not clearly formulated. It does seem clear, however, that Gorbachev has succeeded in implementing the first steps toward reinstitutionalizing power out of the exclusive hands of the Communist Party into the hands of the state.

Chairman Lukyanov, in his remarks to us on March 20, seemed to look favorably on the development of a multi-party system as "an inevitable stage in the process of democratization under perestroika." In looking ahead, he voiced "optimism in the face of difficulties," admitted to "some current instability," but saw "no way back to the old order."

Ivan D. Laptev, Editor-in-Chief of Izvestia, expanded on this view on March 22 by telling us, vis-a-vis new political parties, "I foresee many streams converging into three or four great, steady rivers."

Vladimir Orlov, chairman of the national Central Electoral Commission, went even further in our final meeting with that agency on March 26. He foresees the day when the electoral commissions at all levels of government will be required to include representatives from the competing political parties -- thereby institutionalizing their role in the political process.

In contrast to these views which, notably, represent the opinions of the national hierarchy, Tatyana Ivanova, Deputy President of the Presidium of the Russian Federal Republic, painted a somewhat different picture during our meeting of March 23. She described the current political upheaval as being a case of party self flagellation. She seemed to dismiss the reformers outside the party as being "populists inexperienced in the ways of government." She even suggested that those of the democratic tendency within the Communist Party lacked sufficient "commitment" to the party and were therefore merely "fellow travelers." She argued, "it is only through the party that sound reforms can be made" and expressed her concern about "destructive forces" in the society. In response to

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our direct question about it, she viewed the separation of party offices from public offices as merely a temporary trend which would not last five years.

And too, despite all the talk about a greater openness, three themes emerged in virtually every meeting we had. First, most officials we interviewed made a point of reminding us that the vast majority (usually 70% to 85%) of the candidates for office were members of the Communist Party -- although officials of the Moscow City Election Commission jokingly admitted that this might not mean a whole lot since the candidates, whatever their own views, have already learned to take on the ideological coloring of their constituencies. Second, everyone made a point of criticizing some candidates (presumably the reformist candidates) for gaining popularity by being "glib tongued," merely "charming without constructive ideas," using "catchy phraseologies," and generally as being idealistic but "ignorant of how to run the government." Third, there were repeated complaints about "too much democracy" meaning that "too many candidates" tended to confuse the electorate and might therefore depress voter turnout.

Still, we found promising signs that a healthy and competitive multi-party system might soon begin to emerge. We learned from the respective Central Electoral Commissions, for example, that there were 7,000 candidates seeking 1,068 seats in the Congress of People's Deputies of the Russian Federal Republic, an

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average of 7 candidates per seat in the Moscow city elections, and over 2,000 candidates seeking 360 seats in the Supreme Soviet of the Kazakh Republic. This is impressive evidence of competitive elections.

We also learned in our interview with the Soviet Women's Committee on March 19 that they may join with some of the other "public organizations" for the purpose of forming coalition political parties. These officially sanctioned "public organizations" are bemoaning the recent loss of their quota of seats in the national and Republic representative bodies. And because their future influence is likely to hinge either on endorsing individual candidates who share their views or else on joining together to put forward their own "coalition" candidates, their role in political party development may prove pivotal.

This is all the more true in light of the sheer size of these public organizations. The Soviet Women's Committee, for example, has sponsored and represents over 240,000 women's groups in neighborhoods and workplaces throughout the Soviet Union. They have also been very active both in raising issues and in proposing candidates (although it must be said that only two women out of 121 won seats in the first round of elections to the Russian Federal Republic's Congress of People's Deputies). Yet if their

size and organization are an example of other such public organizations, it seems unlikely that any embryonic political party would ignore them.

In any event, it was far too soon for our delegation to assess the possible impact of a multi-party system in Soviet politics.

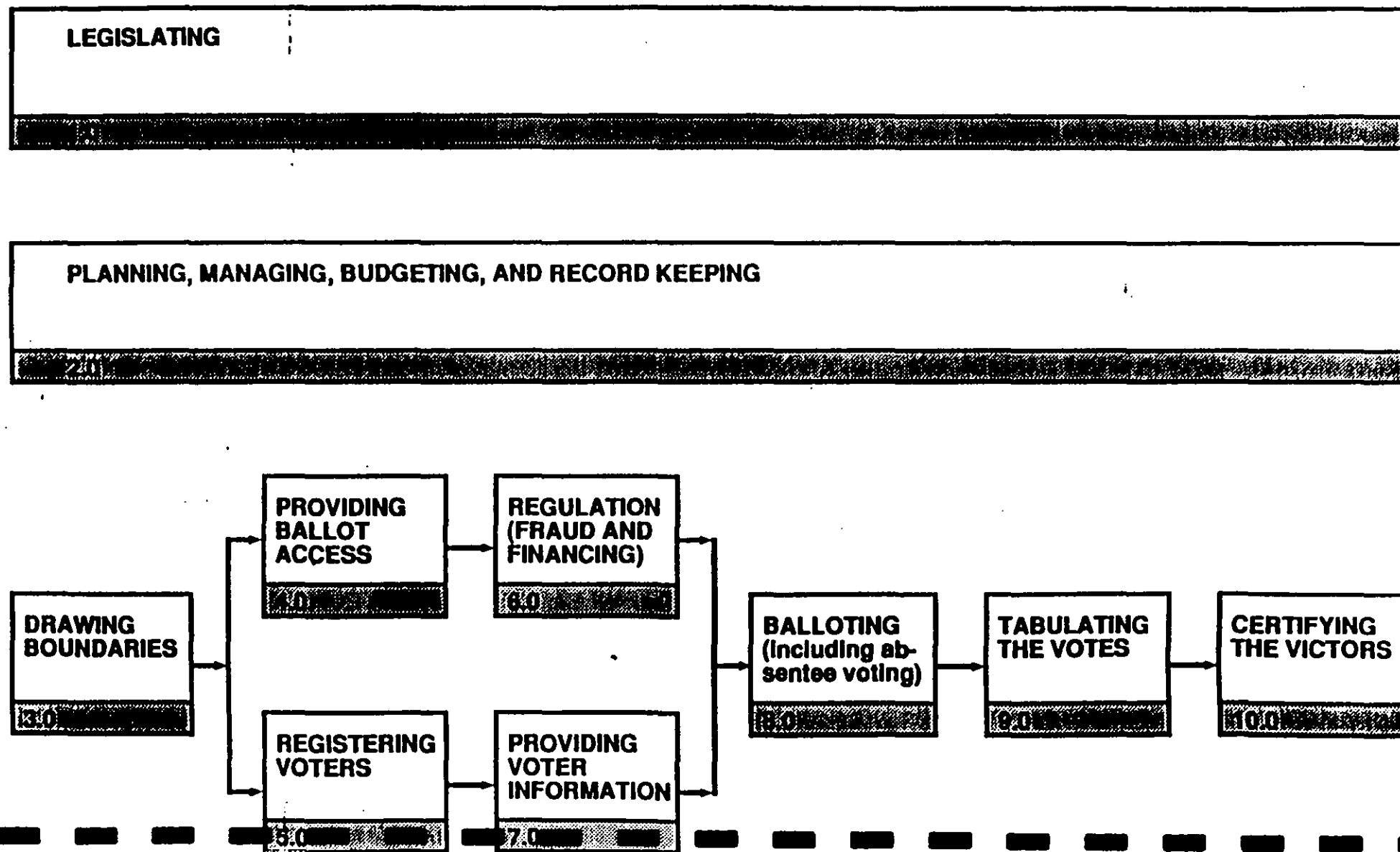
5.0 THE ELECTION SYSTEM OF THE SOVIET UNION

All election systems can be described in terms of the ten functions necessary for conducting an election (see Figure 3):

- o legislating the election process
- o administering the election process
- o drawing boundaries (both districts of representation and precincts)
- o providing ballot access to parties and candidates
- o registering voters (or drawing up voter lists)
- o regulating and financing the campaigns
- o providing voter information and education
- o balloting
- o tabulating the votes, and
- o certifying the winners after resolving any challenges to the outcome.

FIGURE 3

PRIMARY FUNCTIONS OF AN ELECTION SYSTEM



It is within this framework that we report on the election system in the Soviet Union based on our interviews with the Central Election Commissions in the Russian Federal Republic, the Region and city of Moscow, and the Republic of Kazakhstan as well as on witnessing the voting process first-hand in those locations.

5.1 LEGISLATING THE ELECTION PROCESS

The Soviet election apparatus resembles the Canadian system in that the national government passes all laws regarding the procedures to be followed in electing national offices while the Republics pass all laws regarding the procedures to be followed in electing their own and lower level offices.

As previously noted, the Republics of the Soviet Union have recently been granted greater authority to organize their own governmental affairs including the administration of their own elections. Yet despite minor variations in specific procedures and election dates, there are strong similarities in the election process from Republic to Republic just as there are among our own States. By the same token, they share common problems and are likely to adopt similar reforms over time.

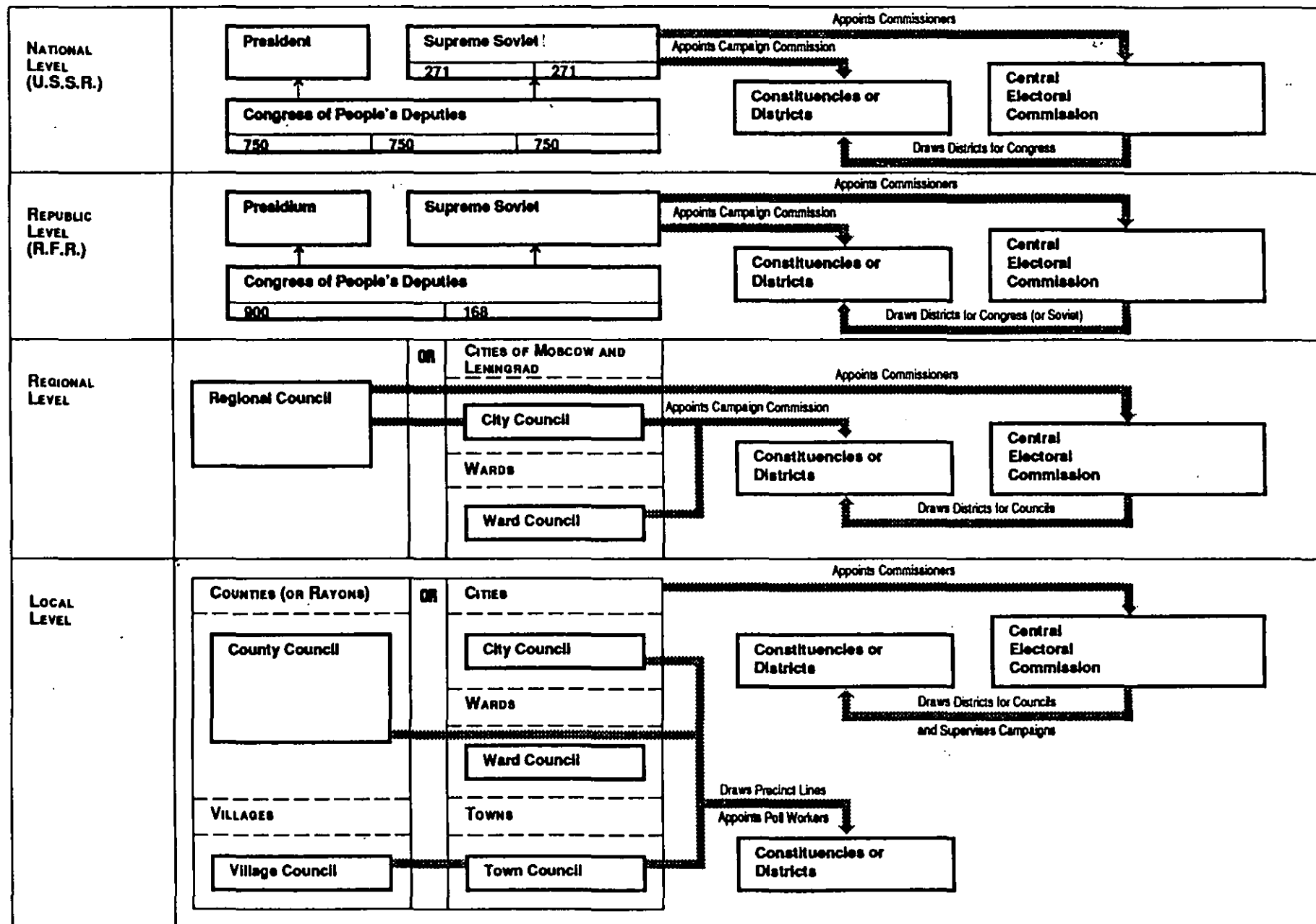
5.2 ADMINISTERING THE ELECTION PROCESS

The administrative structure of elections in the Soviet Union is fairly complex and should be viewed in horizontal tiers rather than as a hierarchy of authority (see Figure 4 as an aid).

At each level of government, the legislative body (either the Supreme Soviet or the relevant Council) appoints a Central Electoral Commission based on nominations put forward by worker cooperatives, public organizations, and the like. These Central Electoral Commissions each sit for terms of five years and vary in size from place to place and from level to level. The national Central Electoral Commission, for example, contains 35 members; the Central Electoral Commission of the Russian Federal Republic contains 29 members; the Moscow Central Electoral Commission contains 21 members; and Regional Central Electoral Commissions typically contain 11 to 15 members.

The purpose of these Central Electoral Commissions is to arrange for and generally oversee the elections for offices at their level of government, to hear related complaints, and, importantly, to draw the district lines for seats in the elected body at their level of government. Thus, the national Central Electoral Commission draws the district lines for the national Congress of People's Deputies, the Republics' Central Electoral Commissions draw the district lines for their respective elected

FIGURE 4 — ADMINISTRATIVE STRUCTURE OF ELECTIONS IN THE U.S.S.R. (17-27 March 1990)



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bodies, and so forth down to the local level where either the county or the city Central Electoral Commission draws the district lines for its own and all smaller elected bodies.

It is important to note, however, that there is no hierarchical command structure from the upper level electoral commissions to the lower level ones, although there must surely be some mechanism of coordination which we were unable to discern. But as described in their election law, each election commission acts independently, responsible only to the appointing body within its own level of government.

Once the district lines have been drawn, the same legislative body that appointed the Central Electoral Commission then appoints for each district seat what amounts to a District Campaign Commission. Thus, the national Supreme Soviet appointed District Campaign Commissions for each of the 1,500 geographical and ethnic districts represented in the national Congress of People's Deputies; the Republics' legislative bodies do likewise; and so forth down to the local level where the local Central Electoral Commission doubles as the Campaign Commission for all districts within its jurisdiction. Unlike the Central Electoral Commissions, these District Campaign Commissions are appointed to serve for only one series of elections. .

The purposes of each District Campaign Commission are (A) to preside over the nomination of candidates for their district's seat and (B) to supervise, facilitate, and fund each candidate's campaign for the office.

5.3 DRAWING BOUNDARIES

There are two types of boundaries on an election map: districts of representation (or constituencies) and precincts.

Districts of representation in the Soviet Union are, as noted in the previous section, drawn by the Central Electoral Commissions at each respective level of government. Unfortunately, we did not have occasion to ascertain during our visit what criteria are employed in drawing the districts at each level, whether such criteria are uniform, or whether the criteria include (as do ours) compactness, contiguity, and equality in population. Nor did we have occasion to ascertain whether they have had or anticipate having any problems with gerrymandering.

Precincts in the Soviet Union are drawn by the lowest level Council, whichever one that might be -- Village, Town, City Ward, City, or County, -- on the basis of housing records which are also kept at that level. Precincts range in size from 20 to 3,000 eligible voters with 1,500 being about average. It is important to note, however, that no district at any level of government may

divide a precinct. Thus all districts at all levels of government are constructed from precincts defined by the lowest local level. This is quite the reverse of standard procedure in the United States in which precincts must, for the most part, be subsequently designed to accommodate the overlapping local, State, and federal districts drawn by the State and local legislative bodies.

5.4 ATTAINING BALLOT ACCESS

Ballot access, in the Soviet context, refers to the process whereby candidates for public office come to appear on the ballot. In order to understand this process, as it was explained to us by the three Central Electoral Commissions with whom we met, it is best to distinguish between the nominating process and the election process.

Any eligible voter in the Soviet Union (including, surprisingly, members of the military) may be nominated by one of three possible methods: by a meeting of at least 300 people of their work collective (which may nominate more than one candidate), by a meeting of at least 300 people of one of the officially sanctioned "public organizations" (which may also nominate more than one candidate but not more than one fifth of all the candidates), or by a meeting of at least 300 people of a neighborhood organization (which may nominate only one candidate each). A candidate's

residence or employment within the district is required under the law of the Russian Federal Republic, although such a requirement does not yet pertain to candidates for national offices.

In the past, candidates so nominated then underwent a kind of screening process, arranged by their District Campaign Commission, in which an equal number of representatives from each nominating body within the district met to winnow the list of candidates down to those upon whom a majority of them could agree. We were advised, however, that this intermediate step was problematical, drew public suspicion, and has therefore been eliminated. (See the Report on the Visit by the Federal Election Commission to the Soviet Union, June 1989 for further details on this now defunct procedure.) As it works now, candidates nominated by the aforementioned methods proceed directly to the first round of elections.

The election process in the Soviet Union requires that the winner obtain an absolute majority of votes (one over 50%) from an absolute majority (one over 50%) of all the eligible voters in their district. In order to satisfy this fairly stringent requirement, they conduct serial elections so as to cover all contingencies. There are initial elections, run-off elections, and repeat elections.

All duly nominated candidates for all seats participate in the initial election (although it is noteworthy that candidates may withdraw their names from consideration as late as the night before the election). Should any candidate (whether opposed or unopposed) achieve the absolute majority vote of the absolute majority of voters in the district, that candidate is declared elected in the first round. Should no opposed candidate receive over 50% of the vote in a district where an absolute majority of the people voted, a "run-off" election between the top two vote getters is conducted in that district approximately two weeks later. In those cases where unopposed candidates received less than 50% of the vote in a district where the majority of people voted, and in all cases where fewer than the majority of people in the district voted, a "repeat" election, requiring new nominations, is conducted approximately six weeks after the initial election.

Elections to the Russian Federal Republic's Congress of People's Deputies serve as an example of this extremely complicated and arduous nomination and election process. In January and February of 1990, over 7,000 candidates were nominated to fill the 1,068 seats in the Congress. Only 3% (33) of the districts nominated just one candidate, while 77% nominated at least two, and 300 districts nominated more than 10 (with one nominating 28).

The March 4 "initial" election for the Congress of People's Deputies in the Russian Federal Republic elected outright only 121 of the 1,068 available seats. In 930 districts, opposed candidates failed to achieve the required 50% of the vote, although the majority of people voted in those districts. Our delegation was witness to the ensuing run-off elections for some of these districts on March 18. Repeat elections for those 17 districts in which a majority of voters failed to vote or in which an unopposed candidate failed to receive over 50% with a majority voting will be conducted on April 22. And should any district fail to elect a candidate by the required dual criteria in either the run-off or repeat elections, still further run-off or repeat elections will be scheduled for them until they do. Indeed, the process could go on virtually ad infinitum, although the legislative body may legally convene whenever a quorum has been duly elected.

In Moscow, this picture was further complicated by the fact that three sets of offices were up for election: seats in the Republican Congress of People's Deputies, seats on the Moscow City Council, and seats on the Moscow City Ward Councils. It is not surprising, then, that we heard several complaints that voters were confused by this novel process. Nor is it surprising that members of the Russian Federal Republic Central Electoral Commission, the Moscow City Central Electoral Commission, and Vladimir Orlov, Chairman of the national Central Electoral Commission, foresee the need for some reform.

The nominating process, for example, seems to have generated quite a number of complaints (over 150) brought to the attention of the Russian Federal Republic's Central Election Commission. The bulk of these, they reported, involved the lack of legal quorums in the district nominating bodies or irregularities in the nominating process such as unauthorized nominating groups or disallowed multiple nominations. Similar problems appear to have occurred in Moscow in light of the city Central Election Commission's interest in our own nominating procedures in general and in our candidate petition process in particular.

It must also be said that the advent of political parties in the Soviet Union along with the recent and confusing multiplicity of candidates for office may result in their reviewing the entire nomination process more thoroughly than they currently envision -- especially with regard to the privileged nomination rights of the "public organizations" (whose quota seats have already been eliminated from the legislative bodies), the privileged nomination rights of work cooperatives, and the right of candidates to withdraw so late in the campaign.

The sheer elaborateness of the election process was also a topic of some concern to the Moscow City Central Electoral Commission. Fearing a progressive decline in voter turnout from one serial election to the next (indeed, the run-off election in

Moscow drew only about a 57% turnout compared to about 74% in the initial election) they foresee the need to shorten the process or, at least, to bring it to a more prompt conclusion. The reform they anticipate, though, is the elimination in repeat elections of the absolute-majority-of-votes-cast requirement rather than the elimination of the majority turnout requirement. But again, the process is new, and experience may cause them to rethink the problem.

5.5 VOTER REGISTRATION

In a formal sense, there is no voter registration in the Soviet Union. Instead, precinct voter lists are drawn up by the Council of local government -- Village, Town, Ward, City, or County -- which is closest to the precinct and which, as previously noted, also draws the precinct lines.

Much as in the Federal Republic of Germany, where civil registries of all inhabitants are maintained by the local unit of government, Soviet local governments maintain all housing records from which they may readily prepare the voter lists. According to the Central Electoral Commission of the Russian Federal Republic, these voter lists are posted at each voting place a few days in advance of the election as an extra precaution against fraud or error. As a result of this procedure, virtually all Soviet citizens age 18 or over are automatically registered to vote.

5.6 CAMPAIGN FINANCING AND REGULATION

Campaign financing and regulation in the Soviet Union is the primary function and purpose of District Campaign Commissions appointed for each electoral district by the legislative body of each level of government (see section 5.2 above).

In an attempt to establish and maintain a level playing field for all candidates in the district, the respective District Campaign Commissions: (1) control campaign financing by distributing an equal sum of public money to each candidate and by equally distributing any additional sums of money contributed by work cooperatives or public organizations; (2) facilitate candidate exposure to the public by holding or authorizing district meetings for all candidates to attend and by producing official candidate photos, biographies, and brochures; (3) underwrite a limited campaign staff by funding five candidate-appointed "trustees" to serve as advocates, organizers, and spokesmen for the candidate; and (4) monitor campaign practices and receive related complaints.

Yet despite such a noble objective, each of these areas of endeavor has encountered important problems and subversions. Indeed, virtually all the candidates we spoke to felt themselves

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to be the victims of some form of campaign inequity, abuse, or foul play (although it must be said that most candidates in most democracies feel the same way).

In the area of campaign financing, for example, the equal distribution of public funds to candidates is intended, we were informed, to defray the costs of any legitimate campaign activities -- rallies, travel, or additional posters and brochures. The amount of these public funds varies, of course, according to the type of district seat being sought. Candidates for seats in the Congress of People's Deputies of the Russian Federal Republic each received 300 rubles or about \$50 (which, by the way, goes a lot further in the Soviet Union than it would in the United States). And although mechanisms were recently implemented for the equal distribution of other funds contributed by work cooperatives, public organizations, and even private individuals, there was no reported instance of such private contributions. Instead, there were complaints that some candidates, by virtue of their positions, line of work, or method of nomination, were able to take advantage of what we would term unauthorized "in-kind" contributions of communication facilities, superior photographic facilities, quality printing facilities, professional writers, and the like. Other candidates felt awkward, however, in making such accusations which they felt were difficult to prove. Even if the

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better part of these complaints were merely sour grapes or bitter campaign memories, the perception that there is a problem is as important as having the problem itself.

Equally significant were the complaints about what we would term unauthorized "independent expenditures" against or on behalf of candidates, whether attributed to their authors or not. The Moscow Central Electoral Commission described the Moscow elections as a "flurry of pamphlets" culminating, we were told, in a pre-election mass mailing of a letter from Boris Yeltsin endorsing all reformist candidates generally. Some of the other pamphlets were reportedly unattributed, scurrilous attacks on individual candidates accurately or inaccurately citing their religion, ethnicity, sex, personal peccadilloes, or complicity in previous wrongdoings.

Our delegation has absolutely no doubt, then, that the search for an equitable campaign finance law will continue to be a topic of debate and revision at all levels of government in the Soviet Union.

We were also told of candidate complaints about the equity of the public meetings arranged by the District Campaign Commissions. Some of these complaints dealt, predictably, with the timing and location of these public meetings while others dealt with the manner in which they were conducted -- the amount of time allotted to each candidate, the order of candidate appearances, and the

like. Our delegation privately concluded that such complaints are inevitable under any arrangement that tries to organize these events officially rather than leaving them to the initiative of the candidates or of whatever groups that might want to invite them. And, in fact, members of the Central Electoral Commission of the Russian Federal Republic anticipate that future elections will involve more private and fewer public functions of this nature.

There were fewer complaints reported to us regarding the notion of five publically-supported but candidate-appointed "trustees" to serve as campaign representatives and spokesmen. The effectiveness of these campaign agents seems to have depended largely on the individuals selected and how the candidate employed them. One candidate, Alevtina Fedulova, Chairman of the Soviet Women's Committee, noted female activist, and Deputy Chairman of the national Central Electoral Commission, admitted to an error in judgment in choosing five female activist "trustees" to support her candidacy for a seat in the Congress of People's Deputies of the Russian Federal Republic against her military opponent. Another candidate's "trustee" reported serving not only as a door-to-door advocate, but also as a systematic reporter to the candidate on which of his position and points were being well received and which were not (in much the same manner as our own paid campaign pollsters).

The monitoring of campaigns by the District Campaign Commissions and their handling of related complaints (3,000 of them throughout the Russian Federal Republic) stirred only mild comments from the candidates we spoke with. Although defacing campaign posters is illegal, for example, such things occurred. Yet the candidates seemed to view this as both inevitable and difficult to police. In any event, the legal penalties for it are not yet clearly defined. Complaints therefore focused on the unknown perpetrators whose frequently scurrilous and unfounded graffiti were viewed by the candidates as yet another example, in addition to the nasty pamphlets, of negative campaigning.

In sum, it is the impression of our delegation that the whole body of law regarding campaign financing and regulation in the Soviet Union is likely to undergo substantial review, revision, and refinement. Indicative of this was the interest shown by officials at all levels of Soviet government in the campaign financing experience in the United States.

5.7 PROVIDING VOTER INFORMATION AND EDUCATION

Just as the District Campaign Commissions are charged with campaign financing and regulation, so they are responsible for providing voter information above and beyond the official candidate meetings, photos, posters, and brochures.

Specifically, they are obliged to officially inform the citizenry in their district of the election date as well as which candidates are competing for which offices. In the case of the Moscow elections, owing to the unaccustomed complexity and confusion born of multiple candidates for three simultaneous elections, the District Campaign Commissions posted in each polling place notices (about the size of a newspaper page) identifying the candidates for each office along with a brief biographical sketch. This was, however, an aberration from the standard practice, followed in Kazakhstan, of simply publishing the same sort of notice in the local newspaper just prior to the election. Indeed, the Kazakh Republic went the Russian Federal Republic one step further in providing voter information by mailing to all voters an "invitation" to vote which specified their polling place.

We were advised, however, that there are as yet no systematic programs in the schools to develop democratic practices and disciplines owing principally to the novelty of the democratic process itself in the Soviet Union.

5.8 BALLOTING

Polling places in the Soviet Union are designated by the same local Council that draws the precinct lines and prepares the voter lists. Generally speaking, these are places of public familiarity and convenience which, whatever their nature, must provide ade-

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quate spaces for the purpose free of charge. We we told that facilities view it as an honor to be selected as a polling place. In Moscow, for example, our delegation visited polling places located in a hotel, a day care center, the offices of Izvestia, the Artists and Actors Building, and a building housing the Moscow city planning exhibition. In Kazakhstan, we visited similarly convenient polling sites.

The only peculiarity that we, as Americans, found in the polling places was a concerted effort to make them attractive and, in some respects, even festive. In both Moscow and Kazakhstan, the polling places were festooned with flowers and, as an added incentive, voters were able to purchase otherwise scarce snacks and goodies (including Pepsi Cola) from small stands, called buffets, stationed near the exit. At least one polling place in Kazakhstan featured a young rock band just outside who attracted quite a crowd. The other polling places we visited in Kazakhstan played music through outside loud speakers.

Each polling place in the Soviet Union is staffed by 11 to 19 poll workers who are appointed by the local Council on the basis of nominations received from work cooperatives. We were advised that these are much sought after positions because it is considered an honor to serve. Poll workers are not paid by the government but rather receive their normal salary from their place of work.

Voting procedures in the Soviet Union would come as no surprise to most Americans or, for that matter, to the citizens of any democracy. There are, though, a few unique features.

Election day is on a Sunday and the polls are open from 8 a.m. to 8 p.m. Citizens desiring to vote must first present their national identity papers to one of the poll workers who are seated according to alphabetical groups. Voters who have only recently moved into the community and do not yet appear on the voter list may present evidence of their current address and be placed on a list designated for such cases. The voter is then issued one ballot for each office up for election. In Kazakhstan, there was some measure of ballot control in that ballots (in the native language appropriate to the voter) were filed in envelopes upon which were printed the voter's name and identification number. In Moscow, there appeared to be no such ballot control.

Voters then proceed to a privacy booth where they scratch out all but one of the candidates' names (or all of them, if they are dissatisfied with the choices). They then leave through the other side of the booth and deposit their folded ballot(s) into the ballot box and depart.

All of this occurs under the watchful eyes of authorized candidate representatives, who are seated together at a table and who may file complaints but not interrupt the proceedings.

Although this seems like a fairly innocuous process, a few remarks on it are in order. In times past, and even in a few places today, only one candidate appeared on the ballot (hence the procedure of crossing out to indicate disapproval). It was also the case that privacy booths were once positioned off to the side drawing suspicion on anyone who used them, since approval of the sole candidate required only folding and depositing the ballot. And finally, there was an accepted practice of proxy voting whereby one could vote on behalf of other members of the family.

Today, although crossing out candidate names is still the established practice despite its negative undertone, polling booths virtually block the path to the ballot box so that voters are obliged to at least pass through them. By the same token, proxy voting is now officially prohibited. Still, old habits are hard to break. Our delegation was therefore surprised to see some voters shun the booths and mark their ballots publicly. We also witnessed in Kazakhstan apparent instances of proxy voting.

There are three forms of absentee voting in the Soviet Union: for the disabled (or shut-in), for travelers, and for those stationed abroad. Elderly or handicapped voters who are unable to

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vote at the polls (and nearly every polling place we visited had a formidable staircase) are entitled to request a service we know as supervised voting. On election day, teams of three poll workers are deployed to the residences of such voters with ballots and a miniature ballot box. They ascertain the voter's identity, provide the ballot(s) to be marked in secret, and receive the voted ballot in the ballot box, which is eventually returned by the close of polls to the polling place. Some of our delegation witnessed this procedure in operation in Alma-Ata, Kazakhstan.

Travelers who will be away from home but within the jurisdiction of the election (within the Republic or Region or whatever) are entitled to obtain in advance a kind of voucher from their own Central Electoral Commission. They may present this voucher at whatever polling place they happen to be near on election day and cast a ballot in that district's election. Although many Americans might be shocked at this procedure, it should be said that the volume of travel in the Soviet Union is probably not yet sufficient to create any serious distortions from one district to the next. Moreover, the postal system in the Soviet Union does not yet lend itself to voting by mail. These things considered, then, the Soviets place a higher value on the right to vote than on the "purity" of each district's electorate. In time, however, circumstances may force them to reconsider this procedure just as they

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have recently abolished the older practice of providing polling stations at hospitals and transportation terminals (railroad stations, airports, etc.).

Those who are stationed abroad (in military units outside the country, in embassies, or on board merchant vessels) are entitled to vote in the districts to which their unit is attached. Thus, embassy personnel vote in the First District of Moscow; men on board ships at sea are entitled to vote in the appropriate district of the port city to which their ship is attached; military units abroad are entitled to vote in the district in which their unit is permanently stationed. The senior official of each of these organizations is provided the appropriate ballots by the relevant Central Electoral Commission. This official then establishes, presumably, a polling place, conducts the election, and transmits the results back to the relevant Central Election Commission, and submits the official documentation as soon thereafter as possible. Again, Americans would be surprised at this practice since it was declared unconstitutional in many of our States during the Civil War. Most would also be surprised at the Soviet practice of permitting domestic military personnel to vote in the district where they are stationed -- thereby yielding, at least potentially, an identifiable military vote. Given current conditions, however, Soviet priority again attaches to the right to vote rather than to the "purity" of the district's electorate.

Finally, there is the important issue of ballot control. At this stage in their democratic development, the Soviets do not seem to attach much importance to strict ballot accountability -- numbered ballot stubs, chains of custody, and careful audit trails. Their current nonchalance was highlighted by an exchange between our delegation's chairman and a polling official. When asked what would happen if, at the end of the day, there were fewer ballots in the box than there were voters, the polling official replied that this would present no serious problem since some elderly people simply forget to deposit their ballots in the box. When asked what would happen if, at the end of the day, there were more ballots in the box than there were voters, he replied, "That simply could not happen!" Yet we heard a rumor that Pravda reported an extra 2,000 ballots were found in a Leningrad precinct.

There is little question, then, that many important details of Soviet election procedures will undergo a review and revision in which our experience might prove helpful.

5.9 TABULATING AND REPORTING THE RESULTS

Ballots in the Soviet Union, as in some parts of the United States, are hand counted by the poll workers immediately after the close of the polls. Where possible, as in Moscow, unofficial returns are telephoned in to the relevant Central Electoral Com-

mission where, in a process familiar to most American election officials, they are entered into a computer in order to provide prompt results to the media. Official returns and legal documentation, as in our system, follow by special courier.

In every step of the election process, however, there are important nuances. The Moscow Central Electoral Commission reported, for example, that in the initial March 4 election there were 400,000 ballots ruled invalid. Except for ballots on which two or more names were not crossed out, we did not have the opportunity to explore in greater detail what constitutes an invalid ballot or who makes that determination.

5.10 CERTIFYING THE RESULTS AND RESOLVING CHALLENGES

The formal certification of official election results, in the Soviet Union, is performed by the Central Electoral Commission of the appropriate level of government. That is to say, the national Central Electoral Commission certifies the results of the national election, the Republican Central Electoral Commission certifies election results of the Republic, and so forth.

To date, there have apparently been no challenges to election outcomes. This may be due in part to the opportunity candidates have to file complaints either with their District, Regional, or Republic Central Electoral Commissions.

The Central Electoral Commission of the Russian Federal Republic for example, informed us that they had received a total of about 3,000 complaints. Complaints are first examined by the legal staff who may advise plaintiffs directly. If the plaintiffs are not satisfied, they may appeal to a member of the Commission. If still unsatisfied, they may appeal to a special "conflict resolution group" assembled by the Commission for the purpose. If still unsatisfied, they may appeal to the full Commission, two thirds of whom must be present and voting with half the members needed to support a decision. There is currently no appeal beyond the Commission.

It is not clear whether any challenge to the outcome of an election would be handled in the same manner. Their officials seemed greatly interested, however, in our election criminal code, criminal procedures, and generally the role of the courts in election matters. Indeed, Vladimir Orlov, Chairman of the national Central Electoral Commission, foresees the day when Soviet courts would be involved in such matters.

6.0 CONCLUDING OBSERVATIONS

Overall, the members of our delegation were deeply impressed by the sincerity and genuineness of most of the high level offi-

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cials we met who were involved in the democratic reforms currently under way in the Soviet Union.

Already a great deal of progress has been made since our June, 1989 visit. Constitutional reforms are streamlining an otherwise cumbersome, centralized, and unresponsive governmental structure. Political parties are, in principle, now free to form and participate openly in the political process. Increasingly competitive elections are now being held at all levels of government. And a new spirit of activism and optimism is widespread.

There are, to be sure, a number of serious issues to be resolved, problems to be overcome, and procedures to be revised. Yet we were equally impressed by the candor with which Soviet officials addressed their problems as well as by their interest in and readiness to learn from the United States' democratic experience.

Where there might be some shortcomings in their election laws and procedures, these appear, the Soviets noted, to be born of idealism and inexperience. And in no case do they appear to be fatal to the democratization of the nation's campaigns and elections.

Our concluding observations should therefore be viewed not as criticisms but rather as helpful warning signs about the road ahead.

With regard to the constitutional system:

- o We anticipate additional structural reforms at all levels of government in the direction of further separating and clarifying executive, judicial, and legislative functions. The relationships among these branches of government cannot, however, be precisely and neatly laid out in any single document. Rather, they must be worked out over time. One important question that may eventually arise is the workability of a legislatively-appointed Central Electoral Commission, responsible to the Supreme Soviet, which oversees the direct election of a president.
- o We anticipate the possibility of a further devolution of power with greater autonomy and control over taxation and spending policies being granted to Republics and lower levels of government. Such a development would likely foster even more competitive elections since greater powers would be at stake. And too, these increased powers would likely have a significant impact on campaign financing.

With regard to the political party system:

- o We anticipate further devolution of power from the Communist Party apparatus into the hands of elected government officials as a logical antecedent to a meaningful multi-party system.
- o We foresee in the very near future the formation of a multitude of narrow, special interest political parties (born principally from the "public organizations") which for a while will cause some temporary political confusion. The incentives created by the single-member district system of representation and by the dual-majority formula required for election to office may, however, eventually force coalitions.
- o We foresee the need to require multi-party representation on every electoral commission at every level of government and in all districts and precincts in order to guard against forms of election fraud born of single party control of the election process.
- o Pursuant to the above, we foresee the need to formally recognize political parties for the purpose of serving

on electoral commissions and for the purpose of nominating candidates in a manner to be agreed upon.

With regard to the election system:

- o Because of their cumbersome nature and steadily eroding responsibilities, we foresee the eventual demise of the District Campaign Commissions and the incorporation of their campaign financing functions under the Central Electoral Commissions.
- o Absent clear criteria and adequate multi-party representation on the Central Electoral Commissions, we foresee a problem with the gerrymandering of districts at all levels of government.
- o Because of the problem, as they see it, of too many candidates, which is sure to grow with the devolution of power and the early formation of political parties, we anticipate substantial revisions in the nomination process which would place the responsibility more on candidates than on the populous. Such revisions might take the form of a candidate petition process or even, eventually, a party nomination process.

- o Because of voter fatigue and the consumption of valuable time and resources, we anticipate changes in the election process which would combine more elections and shorten the time period they consume -- possibly at the sacrifice of requiring an absolute majority of the eligible voters to participate. In other words, we anticipate an evolution toward the French election system of an initial election followed by a conclusive run-off.
- o We anticipate problems of increasing severity in the area of campaign financing exacerbated by a lack of central control, regulation, and enforcement.
- o We foresee stricter ballot control measures and equitable multi-party representation in the appointment of poll workers, to prevent instances of vote fraud.
- o We foresee eventual changes in absentee voting procedures to enable those away from their homes to vote in their home districts by mail.
- o We foresee clearer criteria and more centralized decision making to prevent vote fraud in incorrectly causing ballots to become invalid.

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- o We foresee the need for a legal process whereby appeals of Commission decisions on complaints, challenges to election outcomes, and other significant election matters may be judged in an unbiased court of law.

Although many of these matters may seem either minute or premature, it is the American experience that the best election laws and procedures are carefully and deliberately designed to ensure the public's confidence in free, fair and honest elections. In fact, the Soviets stressed that with the advent of competitive elections, the integrity of their process is becoming more important.

It is also the sincerest hope of this delegation that mutual exchanges with our Soviet election colleagues will continue for our mutual understanding and benefit.

UNITED STATES ELECTION DELEGATION
WHICH STUDIED THE EVOLUTION OF THE ELECTORAL PROCESS
IN THE SOVIET UNION

MARCH 17-27, 1990

Lee Ann Elliott, Chairman
Federal Election Commission

John Warren McGarry, Vice Chairman
Federal Election Commission

Danny Lee McDonald, Commissioner
Federal Election Commission

The Hon. Kathleen Connell
Secretary of State
The State of Rhode Island

The Hon. James H. Douglas
Secretary of State
The State of Vermont

Dr. Ronald D. Michaelson
Executive Director
Illinois State Board of Elections

Craig M. Engle
Executive Assistant to
Chairman Lee Ann Elliott

Frances Glendening
Executive Assistant to
Commissioner Danny Lee McDonald

William Kimberling
Deputy Director
National Clearinghouse on Election Administration
Federal Election Commission

Joshua L. Dorosin
Project Director
International Foundation for Electoral Systems

**ITINERARY OF THE UNITED STATES DELEGATION
WHICH STUDIED THE EVOLUTION OF THE ELECTORAL PROCESS
IN THE SOVIET UNION**

MARCH 17-27, 1990

Throughout our visit, the delegation was honored to be accompanied by Vladimir P. Orlov, Chairman of the Central Electoral Commission on the Election of People's Deputies to the Soviet Union; Vladimir Manin, the Head of the Secretariat of the Central Electoral Commission and Sergey Mikheyev, who served as interpreter.

In addition, the delegation was frequently accompanied by Alevtina Fedulova, the Deputy Chairman of the Central Electoral Commission of the Soviet Union; Alexey Kulakov of the Supreme Soviet staff, Igor Shamrayev of the International Department of the Supreme Soviet and Vadim Razumovsky, the 3rd Secretary of Ministry of Foreign Affairs.

Saturday, March 17, 1990

Greeted at Moscow Sheremetyevo-2 Airport by Vladimir P. Orlov, Chairman of the Central Electoral Commission on the Election of People's Deputies of the U.S.S.R. Briefed on the delegation's itinerary and protocol. Also attending the briefing were:

Deputy Chairman Alevtina Fedulova
Vladimir Manin, Head of the Secretariat of the Central Electoral Commission.

Meeting in Moscow with the Central Electoral Commission for the Election of Peoples Deputies of the Russian Federation (RSFSR), Chaired by Vasily Kazakov. Also attending were:

Deputy Chairman Mikhail Kukushkin
Deputy Chairman Tamara Maximova
Executive Secretary Amatoily Petrov
Commissioner Vladimir Abolentsev
Commissioner Mikhail Godenko
Commissioner Vladimir Zelenski
Vladimir Voschinin, Legal Counsel
Yuri Zagainov, Senior Staff Member
Alexander Sukhanov, Assistant to the Chairman

Sunday, March 18, 1990

Election Day in the Russian Federation.

Toured five polling places in Moscow where voting was taking place for election to the Russian Republic's Congress of Peoples Deputies, the Moscow City Council and the Moscow City Ward Councils. The polling places visited were in a hotel, a day-care center, the offices of Izvestia, the Artists and Actors building, and the building housing the permanent exhibition of the city of Moscow.

Afternoon meeting with the Moscow City Electoral Commission for Election of People's Deputies to the Moscow City Council, Chaired by Anatoly Porshnev. Also attending were:

Yury A. Vinogradov, Secretary of the Executive Committee of the Moscow City Council
Alexander V. Lukyanchikov, Deputy Head of the Executive Committee of the Moscow City Council
Vladimir Afanasaev, Secretary of the Moscow City Electoral Commission

Attended an evening concert performance in the Big Hall of the Conservatoire, Moscow.

Monday, March 19, 1990

Travel to the City of Zagorsk to tour the Trinity-St. Sergius Laura, the religious center of the Russian Orthodox Church, at the invitation of a Prelate who also is a member of the Congress of People's Deputies. Met with the lay head of the Monastery's instructional division on the growth and future of religious instruction in the Soviet Union.

Afternoon meeting in Moscow with the Committee of Soviet Women, a recognized public organization. Committee chairman Alevtina Fedulova (who is also Deputy Chairman of the Central Electoral Commission) chaired the meeting. Also attending were:

Deputy Chairman Tamara Kukoff
Valentina Shevchenko, Committee member and People's Deputy
Tamara Dudko, Committee member and People's Deputy

Tuesday, March 20, 1990

Tour of Red Square, Lenin's Tomb, and the Chamber of the Supreme Soviet of the U.S.S.R.

Meeting in the Kremlin with Anatoly Lukyanov, Chairman of the Supreme Soviet of the U.S.S.R.

Meeting with the Chairmen and several members of the Supreme Soviet Committees on Legislation and Rule of Law, and the Committee on Government Administration and Self-Government.

Lunch in honor of the delegation in the Kremlin Palace of Congresses Banquet Hall, hosted by the Chairmen of the Supreme Soviet's Committees on Legislation and Government Administration.

Afternoon tour of the Kremlin grounds, churches, Armory Museum and a display of precious stones.

Wednesday, March 21, 1990

Travel to the City of Vladimir to meet with Vladimir V. Dolgov, the Chairman of Vladimir Regional Executive Committee and a member of the Supreme Soviet of Peoples Deputies. Also attending were:

Valentine I. Garin, Deputy Chairman
Eugeny I. Zakharov, Secretary of the Regional Executive Council
Vyacheslav D. Stepanov, Head of the International Division

Tour of the City of Vladimir, including its famous churches, ramparts, the fortified "Golden Gate" and their museum of industry.

Tour the City of Suzdal and meet with their Mayor Alexander I. Markin.

Dinner in honor of the delegation hosted by the Chairman of the Vladimir Region.

Thursday, March 22, 1990

Witness the opening of the Committee of Nationals in the Supreme Soviet of the U.S.S.R., where the delegation was recognized by the Chairman in his opening remarks.

(March 22, cont.)

Travel to the "Gzhel" Ceramics Factory in the Ramensky District, accompanied by Alvetina Fedulova. Meet with Victor M. Loghinov, General Director.

Briefing in the United States Embassy by Michael Joyce, Deputy Chief of Mission; 1st Secretary John Parker and 2nd Secretary Ed Salazar.

Afternoon meeting in Moscow with Ivan D. Laptev, Editor-in-Chief of Izvestia, and his Deputy.

Friday, March 23, 1990

Meeting at the Presidium of the Supreme Soviet of the Russian Federation Chaired by Tatyana G. Ivanova, Deputy President of the Presidium. Also attending were:

Stephan Chistoplyasov, Secretary of the Presidium
Boris A. Stolbov, Chief of the Legal Office of the Presidium
Mr. Venagravof, Administrator of Supreme Soviet of the Russian Federation

Flew to Alma-Ata, Kazakhstan with Chairman Orlov and Vladimir Manin. Met by a delegation of the Kazakhstan Central Electoral Commission.

Saturday, March 24, 1990

Meeting in Alma-Ata with Supreme Soviet of the Kazakh SSR Chaired by Nursultan A. Nazarbaev, Chairman of the Kazakh Supreme Soviet and a People's Deputy of the U.S.S.R. Also attending were:

Kairut Z. Zhusupov, Head of the Secretariat of the Kazakh SSR Supreme Soviet
Akmaral Kh. Arystanbekova, Kazakh SSR Foreign Affairs Minister
Members of the Kazakh Supreme Soviet and Electoral Commission

Meeting in Alma-Ata with Gennady N. Korotenko, Chairman of the Kazakh SSR Central Electoral Commission. Also attending were:

Amzebek Zholshibekov, Member of the Kazakh CEC
Zinaida Alieva, Member of the Kazakh CEC
Anatoly Roshkov, Member of the Kazakh CEC

(March 24, cont.)

Dinner in honor of the United States delegation held in the official banquet hall and hosted by the Kazakh delegation.

Sunday, March 25, 1990

Election Day in Kazakhstan.

Tour of five polling places in Alma-Ata, Kazakhstan with Chairman Korotenko and members of the Kazakh CEC.

Tour of the museum dedicated to the history of Alma-Ata and its economic development.

Return to Moscow.

Monday, March 26, 1990

Morning meeting in Moscow with the Central Electoral Commission of the U.S.S.R., Chaired by Vladimir P. Orlov. Also attending were:

Alevtina Fedulova, Deputy Chairman of the Central Electoral Commission
Vladimir Manin, Chief of Staff of the CEC
Mikhail N. Avakumov, Member of the CEC and Vice Chairman of the Union of Artists
Georgi V. Barabashev, Member of the CEC and Chairman of the Department of Constitutional Law, Moscow State University
Retired General Kuznetsov
Inna Naumenko, Director of the Trade Union of Cultural Workers

Dinner hosted by the United States delegation for our Soviet hosts at the Tren-Mos restaurant, Moscow, a U.S. - Soviet joint venture.

Tuesday, March 27, 1990

Final private meeting with Chairman Orlov. Depart Moscow Sheremetyevo-2 Airport for the United States.

Appendix C

REPORT OF THE INTERNATIONAL DELEGATION
STUDYING THE DEVELOPMENT OF THE
MONGOLIAN ELECTION SYSTEM

3 - 10 DECEMBER 1991

FORWARD

This document is a report by the international delegation studying the development of the Mongolian election system. The period of our visit was from 3 through 10 December 1991, and members of the delegation included:

Mr. Ron Gould
Assistant Chief Electoral Officer
Elections Canada

Mr. William C. Kimberling
Deputy Director
Office of Election Administration
U.S. Federal Election Commission

Ms. Anne Birte Pade
Director of Elections of
Ministry of the Interior
Denmark

As members the delegation, we would like to express our deep gratitude to the Asia Foundation for their funding of this mission, for their time, effort, and thoughtfulness in making all our arrangements, and for their patience in awaiting our final reports. We are also grateful to the International Foundation for Electoral Systems for their valuable advice and preparatory materials. And most especially, we are grateful to the government, the political leaders, and the people of Mongolia who greeted our visit with such extraordinary personal warmth, interest, hospitality, and good humor. It is they who made our visit forever memorable. And it is with best wishes for them and for their future that we submit this report.

Ron Gould

William Kimberling

Anne Birte Pade

March 1992

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REPORT OF THE INTERNATIONAL DELEGATION
STUDYING THE DEVELOPMENT OF THE
MONGOLIAN ELECTION SYSTEM
3 - 10 DECEMBER 1991

INTRODUCTION

Mongolia comprises 604,103 square miles of magnificent and largely unspoiled land situated between Russia to the north and the People's Republic of China to the south. Over one third of its 2,000,000 or so inhabitants reside in the capital city of Ulaanbaatar (600,000 pop.), in the second city of Darhan (65,000 pop.), or in Erdenet (50,000 pop.). The remainder, some of them nomadic, are distributed throughout the eighteen (18) aimaks (political subdivisions roughly akin to large counties in the United States). The vast majority of the people are of Mongolian descent, and about 75% of them are 35 years of age or younger with 40% being below the age of 16.

Mongolia's history has been shaped primarily by its landlocked isolation between two giant neighbors. Its dominant historical figure is Ghengis Khan whose military conquests from the Pacific to the Mediterranean contributed to a rich and unique culture. Since those imperial days, China and Russia have competed for political and economic dominance over Mongolia. Indeed, the land called Inner Mongolia remains a province of northern China. But since 1924, the current nation of Mongolia (once referred to as Outer Mongolia) has come under the influence of the Soviet Union and has modeled itself on the Soviet political and economic systems.

It is not surprising, then, that Mongolia is today undergoing the same sort of political and economic reforms and upheavals that currently beset the countries of Eastern Europe and the republics of the former Soviet Union. Yet despite some measure of political confusion and despite the temporary economic dislocations that such fundamental reforms inevitably entail, there are reasons to expect that Mongolia will recover more rapidly than most of its sister soviet socialist states.

First, it seems unlikely that Soviet ideology permeated all stratas of Mongolian society quite as thoroughly as it did in the Soviet republics or Eastern Europe. Soviet communism was, after all, primarily an urban industrialized notion rather than a rural agrarian one. And although we did not have an opportunity to explore this hypothesis first hand in the small towns or

countryside, it is a fair bet that the daily lives of many of the rural and nomadic populations were largely unaffected by the prevailing ideology. Moreover, the majority of the population, as noted earlier, are relatively young and thus more amenable to radical changes -- especially those that give vent to their energies and ambitions. Already there are signs of adjustment. There is, for example, a robust free-trade market based, it seems, on the U.S. dollar. Privately run "dollar shops" abound while a shopping center composed entirely of privately owned and operated stalls seems to do a lively business. And steps are underway toward even further privatization.

A second reason for optimism is that despite fearful rumors of conservative or reactionary Mongolian People's Revolutionary Party (MPRP) elements, there seemed to us a genuine and determined spirit of reform at all official levels and in all political parties. There are, to be sure, differences over the speed and extent of proposed reforms; but if there really are elements that seek to restore the old order, we did not meet them.

Finally, it should be said that it is probably easier to reform a semi-industrialized nation of two million people than it is a fully industrialized, complex nation of (say) twenty five or fifty million people. The more so in the absence of complicating internal ethnic or national rivalries. From the point of view of those who would provide assistance, then, each dollar of it would undoubtedly go further in Mongolia than in any other reforming soviet socialist republic.

The picture, however, is not entirely rosy and bright. The recent cessation of substantial aid from the former USSR is sure to have profound and terrible consequences on an economy that has been virtually dependent on the USSR for everything from paper to nails. Upon the withdrawal of USSR technicians, construction projects have come to a standstill; and in the absence of USSR replacement parts, vital services such as electricity, heat, and public transportation are in jeopardy. Moreover, the transition from a command to a free market economy is certain to result in temporary shortages and inflation. Already, butter and other foodstuffs are being rationed when they are available at all. Meanwhile, exports of valuable Mongolian products such as cashmere, leather, furs, suede, wool, carpets, raw materials, and even tourism are hampered by inadequate transport facilities. For at present, the only routes in or out of this landlocked nation are either through Russia or through China. And they lack cargo aircraft as well as primary aviation support services.

From a political, sociological, and technical perspective, Mongolia is similarly isolated. Most foreign degrees in higher education have, understandably, been obtained in Moscow. Most books are in Russian or at least in Cyrillic script. And direct contacts with the West have been few. Faced with the collapse of the system of which they were an integral part, the Mongolians are, by their own admission, "hungry for Western concepts, ideas, and practices." This appetite has, however, led to two hazardous tendencies.

The first is that in their enthusiasm for examining Western concepts and practices (and they have conducted a very creditable review of Western constitutions), they are sometimes inclined to borrow what seems like a good idea from here and what seems like a good idea from there without apparent regard to the overall consistency or compatibility of the resulting amalgam. Nowhere is this more apparent than in their new Constitution which contains seemingly incompatible or at least complicating elements of both the parliamentary/prime ministerial form of government and the congressional/presidential form of government. (For a further discussion of this matter, see the section below on The Constitutional System). The same problem carries over into selecting a system of representation (majoritarian versus proportional), into several aspects of the election process, and even into other areas of law (such as mineral and oil rights) that are outside the focus of this report.

The second hazardous tendency is their inclination to draft laws that are overly detailed, overly comprehensive, and inflexible. It is as though they are trying to substitute one complete and absolute body of dogma with another. In so doing, they sometimes find themselves prematurely caught up in complexities and nuances that are probably better left to another day or even to another decade (such as absentee voting for military and overseas citizens as well as for those jailed awaiting trial or hospitalized outside their voting district; campaign financing; and the like). By the same token, the law often addresses details (such as the number of voters per polling place, step-by-step voting procedures, etc.) that are better left to administrative rules and procedures that can be altered over time in light of experience and circumstances. (For a fuller discussion of these matters, see the section below on The Election System).

It is within this economic and political context that our delegation was privileged to witness what, despite Mongolia's problems, can only be described as their impressive and

substantial strides toward a free and democratic political process. Their continued progress, however, may depend in large measure on continued technical advice and assistance from the industrial democracies.

Our observations below address The Political Environment, the Constitutional System, the Political Party System, and the Election System as we found them. The summary provides our specific recommendations for further assistance in Mongolia's electoral development.

THE MONGOLIAN POLITICAL SETTING

Political developments in Mongolia have, from 1924 to this day, closely paralleled those in the former Soviet Union. Mongolia's previous constitution, for example, included:

- o a Great People's Hural which functioned much like the USSR's Congress of People's Deputies (meeting only occasionally during its five-year term to elect the the Baga Hural, the President, confirm major decisions, etc.)
- o a Baga (Small) Hural which functioned much like the USSR's Supreme Soviet (serving as the primary legislative body)
- o a five member Politburo which functioned much like its USSR counterpart, and
- o a President and Prime Minister who functioned much like their USSR counterparts.

These national institutions were, until 1990, dominated exclusively by the Mongolian People's Revolutionary Party (MPRP) in precisely the same manner as the Communist Party of the Soviet Union dominated that government.

Given such parallel development, it is not entirely surprising that the reforms instituted in Mongolia since 1984 have also closely followed those undertaken in the Soviet Union during the same period. There was, for example, a gradual political and economic liberalization from 1984 to 1989 which coincided with that in the Soviet Union. Further, in the spring of 1990 (just shortly after the Communist Party in the USSR did so), the MPRP renounced its monopoly of political power and

replaced senior governmental and party officials. Finally, in tandem with the USSR's Congress of People's Deputies, the Mongolian Great People's Hural in March of 1990 amended the constitution by eliminating single party control of the government, by slightly restructuring the national legislative bodies, and by authorizing the eventual direct election of the President. They also called for new elections to be held in July of 1990 -- one year earlier than originally scheduled.

In July 1990, the first multi-party elections in seventy years were held to fill 430 seats in the Great People's Hural as well as to determine, by proportional vote, the distribution of seats in the 52-member Baga Hural. Several features of those elections deserve mention inasmuch as they highlight themes that continue to weave through current debates and discussions.

The first significant feature of the 1990 elections was the system of representation chosen for each of the Hurals. In the Great People's Hural, each of the 430 seats represented a single geographic district. But the districts were designed such that about 370 seats represented rural areas (containing around two thirds of the population) while only about 60 seats represented the remaining third of the population residing in urban areas. This bias in favor of the rural (traditionally more conservative) population was a recurring issue in our conversations with reformers and conservatives alike.

In contrast to the single-member-district system of representation in the Great People's Hural, seats in the Baga Hural were distributed amongst the political parties in accordance with the nationwide proportion of votes cast for political party preference. This system, too, fell under some criticism inasmuch opposition parties (having only newly formed with little opportunity organize throughout the countryside) felt that it gave the MPRP undue advantage.

In the end, the MPRP won about 85% of the seats in the Great People's Hural and about 60% of the seats in the Baga Hural. And the issue of what might be the most desirable system of representation for Mongolia continues to be a topic of lively debate (see System of Representation below).

A second significant feature of the July 1990 elections was the fairly curious and somewhat cumbersome nominating process. A multi-party system was new to Mongolian politics, and there appear to have been some difficulties in accommodating the traditional nominating procedure to the existence of more than one party.

Rather than permitting each qualified political party to nominate one candidate for each of the 430 seats in the Great People's Hural, the Mongolian government chose instead to continue the traditional USSR style nomination process. Thus, any officially recognized group of 150 persons in cities (or 50 persons in rural areas) could nominate a candidate -- regardless of political party affiliation. The consequences were two-fold: a proliferation of candidates for each seat (as many as 70 in one race alone) many of whom were of the same political party; and complaints from the newly formed political parties that this nomination process favored the MPRP by reason of its well established nationwide organization.

The proliferation of candidates for each seat in the Great People's Hural was originally to be resolved in the same manner as provided for in USSR elections -- by district "caucuses" which would winnow the many candidates for each seat down to a few. But under intense pressure from the newly formed political parties, the government instead opted for what they called a "primary" election whose purpose was to reduce the field of candidates for each seat to the top two vote getters in each district -- presumably without regard to their political party affiliation. (The only thing similar to this procedure in the United States is the Louisiana State primary system). Such a "primary" was conducted on 22 July 1990.

The general election for the Great People's Hural, conducted one week later on 29 July 1990, was therefore a run-off election between the top two vote getters in each district. It also included a separate ballot on party preference for the purpose of assigning seats in the Baga Hural to the political parties in accordance with their proportion of the vote.

Because this nomination process was expensive, cumbersome, aroused charges of political bias, and seems unsuited to a multi-party setting, alternative nominating procedures are now being actively considered.

A number of other potentially troubling features of the July 1990 elections deserve brief mention:

- o Although each of the qualified political parties at the time received limited financial assistance from the government, the fairness of the arrangement stirred complaints from some of the smaller parties (though it must be said that any public financing scheme is likely to draw complaints of one kind or another).

- o Similarly, there were some complaints about the ease of access to the media for the purposes of campaigning.
- o The electoral commissions at the national, regional, and local levels responsible for conducting the elections (including absentee voting officials) appeared to be dominated by members of the MPRP rather than representing a political party balance.
- o The method of casting a vote still followed the USSR style of crossing out unwanted candidates rather than indicating a positive choice. This process was viewed by some as being burdensome on voters when the ballot contained more than five or so names and seems to have resulted in an abnormal number of voided ballots.
- o Similar to procedures in the USSR, if all names were crossed off the ballot on a number of ballots sufficient to deny any candidate the absolute majority of votes cast, the election for that seat was nullified and a new election in that district was conducted within 30 days. This is an expensive process that could, at least potentially, delay the final seating indefinitely.
- o And finally, there appeared to be some gaps in the training of election officials and the education of voters.

It is with this recent experience in mind that the Great People's Hural assembled, selected a president and vice president, members of the Baga Hural, and, along with the Baga Hural, began considering a new constitution and new election laws for the Republic of Mongolia.

Our delegation arrived in December of 1991 during the legislative debate on the new constitution and before debate had begun on the proposed draft election law (a copy of which had been provided to us in advance). This report on the new Mongolian constitutional, political party, and election systems is therefore tentative and incomplete. Our purpose is not to describe these systems (which are, in any event, still being designed), but rather to identify the major issues in the current debates and discussions so that future delegations might enquire into how these matters have been resolved.

THE NEW MONGOLIAN CONSTITUTIONAL SYSTEM

This section describes, to the best of our understanding, the new Mongolian constitutional system as it relates to the election system. (As previously noted, our delegation arrived in December of 1991 during the debate on the new constitution. We have, however, since received the final draft of the Mongolian constitution as adopted on 13 January 1992). For the purposes of this report, a constitutional system is defined as including the form of government, the structure of government, and the system of representation.

Form of Government

"Form of government" refers to the horizontal distribution of power among institutions at the national level. There are, with some variations on each, two principal forms of democratic government: the parliamentary/prime ministerial form and the congressional/presidential form.

The parliamentary/prime ministerial form of government is characterized by a legislature popularly elected for a term not to exceed a fixed number of years. The Head of State is typically either a royal personage or else a person appointed or elected to fill that largely honorific and ceremonial role. The Head of State also designates his prime minister (usually a person recommended by the head of the majority party or majority coalition). The prime minister, along with members of a cabinet appointed by him typically from within the parliament, constitute the "government" and exercise all important executive powers "on behalf of" the Head of State. It is also characteristic of parliamentary/prime ministerial forms of government that, under certain circumstances, the prime minister's government may fall -- necessitating either the formation of a new government or else new parliamentary elections within six weeks or so.

The congressional/presidential form of government is characterized by a congress popularly elected for fixed and unvarying terms of office. The president is separately elected for a similarly fixed term, serves as the ceremonial Head of State, and (along with a cabinet appointed by him from outside the congress but typically requiring the approval of the congress) exercises all executive powers. In the congressional/presidential form of government, the executive administration does not "fall" under any circumstances, and elections for congress and president therefore occur on a regular and predictable schedule.

As a result of their examination of Western constitutions, and in response to their own experiences and preferences, the Mongolians appear to have adopted a hybrid of these two forms of government which includes some curiosities and inconsistencies that directly affect the election process and that perhaps only time and experience will resolve.

Article 21 of the new constitution calls for a single-chamber State Great Hural containing 76 members to be popularly elected for a term of four years. Articles 30 and 31 also establish a four-year Presidency -- candidates for which are to be nominated by political parties represented in the State Great Hural but elected by an absolute majority of a popular vote. It is noteworthy that should no presidential candidate receive an absolute majority of the vote in the first election, a second "runoff" election between the top two vote getters is to be held at some later, unspecified date. And this process repeats -- presumably ad infinitum -- until a candidate receives an absolute majority. It is possible, then, that a presidential election could be two or more events rather than a single one.

Consistent with most congressional/presidential forms of government, Article 25, Section 5 along with Article 35, Section 2 of the constitution grant the State Great Hural the power, under certain defined circumstances, to relieve or remove the President. On the other hand, consistent with most parliamentary/prime ministerial forms of government, Article 22, Section 2 of the constitution grants the president the power, under certain defined circumstances, to dissolve the State Great Hural.

These simultaneous and countervailing powers set the stage for some interesting and potentially paralyzing constitutional crises. Moreover, in the event that the Hural is dissolved by the president, it is not entirely clear what would happen next. (Under Article 25, Section 3 of the constitution, the sitting Hural seems to have the power to fix the date of its next election and, under Article 23, Section 2, to retain its power until newly elected members are sworn in. They could, then, at least in theory, thwart their own dissolution by fixing the next election far into the future.) The question also arises whether, in the event of the dissolution of the Hural or the removal of a President, the subsequently elected Hural or President would enjoy the full four year term granted them in the constitution. If so, then there would be no predictable synchronization between the the Huralic and Presidential elections. Presidential and Huralic elections could conceivably end up happening in the same

year or in one of three different years from each other. And there is scientific evidence that suggests a partisan political consequence in the timing of presidential versus legislative elections -- depending both on their proximity and on which election happens first. But perhaps these are matters that will be addressed in the election law.

Article 33 of the constitution grants to the President not only the ceremonial and official powers of Head of State but also certain important executive powers including: both partial and complete veto power over legislation passed by the State Great Hural (balanced by the Hural's power to override such vetoes by a two-thirds vote); the power to "direct the government on questions within the areas of his competence"; "full power in foreign relations"; and the power of Commander-in-Chief over the armed forces. It is not clear whether these executive powers can be exercised independently (as in a congressional/presidential arrangement) or whether they are to be exercised only through the "government" (as is customary in a parliamentary/prime ministerial arrangement).

This is an important consideration since Chapter Three, Part III of the constitution also establishes a "government." As in most parliamentary/prime ministerial arrangements, the Mongolian "government" is to be composed of a Prime Minister and other members (Article 39, Section 1) who then constitute the "highest executive body of the State" with appropriate executive powers as specified in Article 38. Yet unlike most parliamentary/prime ministerial arrangements, the Mongolian Prime Minister is to be appointed by the State Great Hural on the basis of a proposal from the President made after his consultation with the majority party (or all parties) of the State Great Hural (Article 33, Section 2). As an even greater departure from traditional parliamentary/prime ministerial arrangements (and much more akin to congressional/presidential forms) the other members of the Mongolian "government" must also be approved by the State Great Hural upon their nomination by the Prime Minister (Article 39, Sections 2 and 3). It is not entirely clear whether the Prime Minister or other members of the "government" must be members of the Hural (as in most western parliaments) or, conversely, whether any member of the Hural so appointed would have to resign his seat (as in France). Nor is it entirely clear what effect the resignation of the Prime minister or the entire government would have -- whether it would necessitate new elections for the Hural or whether a new Prime Minister and government could be appointed without new elections. These matters, which the Mongolians themselves raised during our seminar, must be clarified in the election law.

Chapter Three, Part IV of the constitution creates a judicial branch composed of a Supreme Court and lower general courts that are to hear all cases except constitutional disputes which are, according to Chapter Five of the constitution, reserved to a special Constitutional Court (although in practice such a distinction is often subtle and may give rise to jurisdictional disputes). Which court would hear cases involving elections would seem to depend, then, on the specific issues involved (whether the case is purely a matter of election irregularities or whether it is one involving fundamental constitutional rights -- although one often leads to the other).

Finally, it should be noted that although Article 31 of the constitution spells out the manner of electing the President, Article 21, Section 4 specifically leaves to subsequent law the procedure for electing members of the State Great Hural.

The form of government established in the Mongolian constitution appears, then, to be an amalgam of both parliamentary/prime ministerial and congressional/presidential forms of government. In light of the resulting ambiguities cited above and in light of the complexities inherent in any election law, Mongolia might greatly benefit from qualified legal and technical assistance in drafting their election law. And such assistance should be provided by experts from both forms of government.

Structure of Government

"Structure of government" refers to the vertical distribution of power across national, regional, and local units of government. Although there are several models for such a distribution, Article 2, Sections 1 and 2 of the Mongolian constitution define Mongolia as a "unitary state" to be "divided into administrative units only." Chapter Four of the constitution amplifies this principle by authorizing the establishment of the following lower administrative units: Aimaks and a capital city (Aimaks to be divided into Somons and Somons into Buks; and the capital city into Districts and Districts into Horoos).

Each of these levels are to be governed, at least to some extent, by an elected Hural (Article 59, Section 3 and Article 63, Section 1) and by a Governor proposed by the respective Hural but appointed, in most cases, by the executive of the next higher level (Article 60, Section 2). All Governors are to serve four

year terms (Article 60, Section 2) unless they resign (Article 61, Section 3). Similarly, the Hurals of Aimaks and the capital city are to be elected for four-year terms (Article 59, Section 3), although the terms of office of the lower level Hurals seem to be left to subsequent law.

From the standpoint of the election process, the most significant issue in this structure of government is the timing of the local Huralic elections relative to each other and then relative to the national elections. For although the terms of office (and, hence, the election dates) of the local Hurals appear to be fixed and immutable, national elections for the State Great Hural and for president (though certain to be on separate days) may, as previously noted, end up being in the same year or in any combination of two different years.

Thus even if, for the sake of clarity and thrift, all local Hurals are to be elected on the same day each four years, it is still conceivable (depending on dissolutions of the State Great Hural or the removal of a president) that Mongolia could have national legislative, presidential, and local legislative elections all in one year or in as many as three separate years. The latter case could be a very expensive and somewhat confusing election calendar.

In any event, the procedures for local Huralic elections are left in the constitution to subsequent law (Article 59, Section 3) -- thereby underscoring the potential benefit to Mongolia of qualified legal and technical assistance in drafting their election law.

System of Representation

"System of representation" refers to the method by which popular votes are translated into the selection of individuals to fill public offices. And there is an astonishing variety of such systems from which to choose -- each of which has a significant impact not only on partisan political outcomes, but also on the formation of political parties and on the administrative costs and difficulties of conducting elections. [NOTE: The system of representation may be defined either in a written constitution, by statute, or by traditional practice. Yet because of its central significance to how a government is "constituted", the issue appears here under "The Constitutional System."]

Although the manner of electing the President of Mongolia is (except for the timing of any runoff election) clearly defined in Article 31 of the constitution, it is clear from Article 21, Section 4 and from Article 59, Section 3 that the manner of electing the State Great Hural and the local Hurals shall be a matter for subsequent legislation. Thus, the election law is to contain not only the procedures to be followed in the election process but also the system of representation to be reflected in each of the Hurals.

Based on our delegation's discussions with various Mongolian political leaders during our visit, the problem of selecting a system of representation is likely to be a highly contentious one. For there are a number of conflicting purposes in play, and the consequences of alternative systems of representation do not seem to be clearly understood (nor are they, for that matter, in Western democracies).

One issue in dispute, for example, is the relative electoral weight to be accorded to rural versus urban populations (an issue that, as previously noted, arose in the 1990 elections and one that is evaded in Article 21, Section 2 of the constitution by its conspicuous omission of "equal" to describe the suffrage). There are two principal ways of achieving an equal voting strength for all citizens regardless of their physical location:

- o single member majoritarian districts of exactly equal population, or
- o a nationwide proportional system.

In either case, all other things being equal, one individual's vote carries as much weight as another's anywhere in the country. But there are variations on these two extremes that can alter the relative balance between urban and rural populations. The three most common are:

- o single member majoritarian districts not based on equal population (wherein districts can be drawn according to territory rather than population),
- o multi-member majoritarian districts (wherein the number of seats allocated to each district is not proportional to the size of its population), and

- o multi-member proportional districts (wherein the number of seats allocated to each district is not proportional to the size of its population although the political party distribution of seats within each district is proportional to the party vote within the district).

In any of these cases, the districts or district size can be manipulated in such a way as to grant one population a relatively greater electoral weight than another.

A second issue in dispute is the desirability of a two-party versus a multi-party system. There is ample empirical evidence which, along with the internal logic of each system, suggests that:

- o majoritarian systems of representation (and especially single-member-district majoritarian systems) tend to result in a two-party system, while
- o proportional systems of representation (and especially nationwide proportional systems) tend to result in a multi-party system.

Although there are modifications of each of these systems that ameliorate their respective effects, it is clear that a multi-party system is ill suited to any majoritarian system of representation. And by the same token, a two-party system makes no sense in any proportional system of representation.

It follows, then, that those who want to overrepresent the rural areas by way of a multi-member-district proportional system of representation but who also want a two-party system cannot have it both ways. Conversely, those who want equal voting strength through a single-member-district majoritarian system of representation but who also favor a multi-party system must make a choice.

A third issue in dispute is the probable partisan outcome that any system of representation might have. This concern was raised occasionally by the newly formed political parties who fear the advantage that the MPRP might have given its former monopoly and its well established organization throughout all parts of the country. And a tangential issue that the Mongolians raised in our seminar is whether a member of the Hural who changes his party affiliation should retain his seat (as in most western democracies) or lose it (which might seem appropriate under some proportional systems of representation).

Finally, it should be said that the choice of the system of representation has profound consequences on election costs and procedures (especially on ballot preparation, on voting procedures, on ballot tabulation, and on any political party subventions). These consequences, too, must be taken into account.

In sum, because the election law is to include a definition of the systems of representation to be used in the national and local Hural, Mongolia might benefit from qualified technical advice on the overall consequences of each alternative. Such advice should, of course, come from experts representing or at least familiar with the workings and consequences of each alternative system.

THE MONGOLIAN POLITICAL PARTY SYSTEM

For several reasons, it is premature at this point to discuss the Mongolian political party system at any length or depth. First, political parties are, as previously noted, a fairly recent development dating from 1990. Second, without a decision regarding a system of representation, no speculations can be made as to future developments. And third, there is, apparently, a substantial body of law already on the books regarding the formation, recognition, and allowable behavior of political parties. Unfortunately, this lengthy law has not been translated into English so that our delegation was unable to examine its provisions.

Suffice it to say that during the time of our delegation's visit, there were six legally recognized political parties with at least two more said to be in the process of forming and at least one rumored to be in the process of dividing. As might be expected, the current political parties constitute a broad and sometimes overlapping spectrum of political views. Political colorations in the Mongolian conservative-liberal frame of reference (which, under the circumstances, is opposite that of the Western spectrum) range from:

- o the extremely conservative (represented by the old line, traditionalist wing of the Mongolian People's Revolutionary Party (MPRP))
- o the slightly conservative (represented by the reformist wing of the MPRP and by the Mongolian Social Democratic Party (MSD))

- o the middle of the road (represented by the Mongolian Party for National Progress (MNP) akin to Western Liberal parties)
- o the slightly liberal (represented by the Mongolian Democratic Party (MD) akin to Western Conservative parties)
- o the extremely liberal (represented by the Free Labor Party (FL) which, in fact, is meant to mean Free Enterprise party), and
- o the Greens (who, though somewhat outside any spectrum, are nevertheless represented by the Mongolian Green Party (MG)).

[NOTE: This political picture is complicated somewhat by historical artifacts. Future delegations might want to note that prior to the legalization of political parties, some like-minded Mongolians had formed what amounts to political "clubs" whose names pretty much paralleled the names of the current political parties. When political parties were legalized, some of these "clubs" converted themselves completely into political parties. Others spawned political parties of the same name while maintaining their "club", its name, its membership, and its officers. It is important to ascertain, then, whether one is talking to a representative of a political club or to a representative of a similarly named political party. In time, however, this distinction is likely to disappear along with the political clubs.]

In our brief interviews with representatives of over half the current political parties, our delegation gathered at least three distinct impressions:

- o Mongolian political parties are, to date, essentially parliamentary parties rather than mass based political parties. That is to say, the organizational and policy making functions appear to take place from the top down based more on topics being currently debated in the Hural than on any set of philosophical or ideological principles. (This is not, by the way, particularly surprising since historically most Western political parties began in the same way). Thus far, however, political party activities in Mongolia seem to have focused primarily on

recruitment and on publishing a party magazine (printing facilities and paper supplies permitting) rather than on issue development, meetings, organization, and the nomination process.

- o Mongolian political parties seem as yet unclear about their proper role in a democratic government. That is to say, they are inexperienced and understandably unfamiliar with how to work together, how to behave in power, how to behave in opposition, and, generally, how to act as a political party. (This uncertainty was underscored by one political party representative who said to us bluntly, "Well, now we have formed our political party. What do we do next?").
- o The political party picture in Mongolia is likely to undergo substantial changes in the next few years. That is to say, break-ups, coalitions, and new parties are likely to occur frequently over the next few years in response to new issues, electoral experience, and whatever system of representation is adopted.

Based on these impressions, it is our delegation's conclusion that Mongolia would greatly benefit from a week-long, non-partisan seminar on political parties open to all those interested and focusing on:

- o the nature of a political party
- o the responsibilities and limitations of a political party in power
- o the responsibilities and limitations of a political party in opposition
- o political party organization and recruitment
- o political party fundraising
- o political party policy formation
- o political party nominating processes, and
- o political party campaigning.

Such a seminar would best be provided by a bi-partisan or multi-partisan team of experienced and knowledgeable political party operatives along with appropriate philosophical or academic mediators (Richard Hofstadter and William Crotty leap to mind).

THE MONGOLIAN ELECTION SYSTEM

As with the Mongolian political party system, it is impossible at this point to define in any detail the Mongolian election system. The reason for this is simply that the election law is yet to be written and enacted. And although our delegation was provided a proposed draft of the election law pertaining to the election of members to the State Great Hural, it must be said that substantial changes were made to that draft during the course of our delegation's visit, and further changes are sure to result from legislative deliberation.

We restrict ourselves, therefore, to identifying the primary functions of an election system and to highlighting some of the important issues regarding those functions that emerged during our conversations and seminar on the election law. But before doing that, a few general observations are in order.

First, it is important to note that our delegation was provided a proposed draft election law pertaining only to the election of members to the State Great Hural. The reason for this is that the manner of electing the president or any local offices had not yet been constitutionally decided. Still, we had a hard time remembering this narrow application of the proposed draft. We recommended at the time, and reiterate the recommendation here, that there be only one election law. And should there be minor differences in procedures between elections for the State Great Hural, the local Hurals, and the president (such as the possible runoff election for president) these differences should be specified in subsections of the general election law rather than in three separate election laws. Our reasoning is that election procedures for the three types of elections should be as similar as possible so as to (1) minimize confusion for voters and election officials alike, and (2) minimize redundancies and possible discontinuities in the law.

Our second observation is that the Mongolian election law is constitutionally obliged to define the systems of representation in both the State Great Hural and in the local Hurals. Our suggestion here, in line with the recommendation above, is that the same system of representation be adopted for all Hurals in

order, once again, to minimize voter and election official confusion as well as to minimize redundancies and possible discontinuities in the law. Such uniformity would also simplify ballot printing ballot counting procedures.

Our third observation is that no election law is perfect. Every election system throughout the world, however sophisticated or rudimentary, is in a process of evolution in response to changes in its political, technical, economic, and administrative environments. It is important to keep in mind, then, that although the election law should not be changed for light, transient, or partisan reasons, neither should it be considered a complete and final document immutable for all time. This is especially true for nations who are, for the first time in recent history, entering into truly competitive, democratic elections. Not all problems can be foreseen. And not all services, however desirable eventually, can be prudently undertaken from the start. The writing of an election law should therefore be seen as an iterative process with changes and improvements to be made over time in accordance with needs and capabilities that only experience can provide.

Our fourth observation is that election laws are often over-written. That is to say, in the course of thinking through the election process and in an effort to document everything, there is a temptation to burden the law with procedural details that are better left to administrative rules and regulations. The election law must, of course, define all legal deadlines and describe all procedures that, if not followed to the letter, could have a partisan political consequence. But purely administrative procedures and details should be reserved to "rules established by the National Election Commission." Not only does such an approach simplify the law, but it also reduces the need to continually change the law in order to accommodate new and improved administrative procedures.

Our fifth observation is that an election law is something like a spider web in that the slightest change in one part can have profound, unexpected, and unwanted consequences in seemingly unrelated parts. The final proposed draft of an election law should therefore be examined to ensure that all its component parts fit together into a coherent and consistent whole, that it serves the requirements of the constitution, and that it can be made to work in the current environment. Moreover, any proposed changes to the drafts or to the final election law should first be carefully examined to ascertain what effect they might have on any other aspect of the election

process. (A good way to begin this, by the way, is to draw up a calendar of all events related to the election. It is then possible to review what activities will be occurring when and whether critical deadlines throughout the process bear a reasonable relationship to each other).

Our final observation is that, for the reasons cited above, it is probably easiest to organize the election law according to the primary functions of an election system as identified below.

The Primary Functions of an Election System and Some of the Issues that Mongolians Face Regarding Each Function

An election is a single event whereas an election system is that set of laws and procedures which permit elections to occur again and again in an orderly manner.

An election system may be envisaged as a set of ten logical and inter-related functions (see Figure) which must be performed. Although there are, to be sure, different methods and techniques for performing each function (as well as different organizational structures for administering them), one way or another someone must accomplish the following ten things:

Legislating the Election System

No election system can operate without statutory foundation. Whether provisional under decree or formally enacted by a legislature, there must be some generally agreed upon legal document which sets out the basic election rules and procedures. Some election forms and procedures are, however, essentially administrative in nature and should therefore be left for the election authority to promulgate as regulations. This legislative function should, then, be broadly interpreted to include administrative regulations as well as their legal framework. The legislative function should also be seen to include provisions for enforcing the election laws and provisions for amending the election law.

With regard to this legislative function, Mongolia faces a number of issues.

The first of these is making a distinction between legislation and regulation -- that is, what should appear in the law and what might better be left to rules and procedures

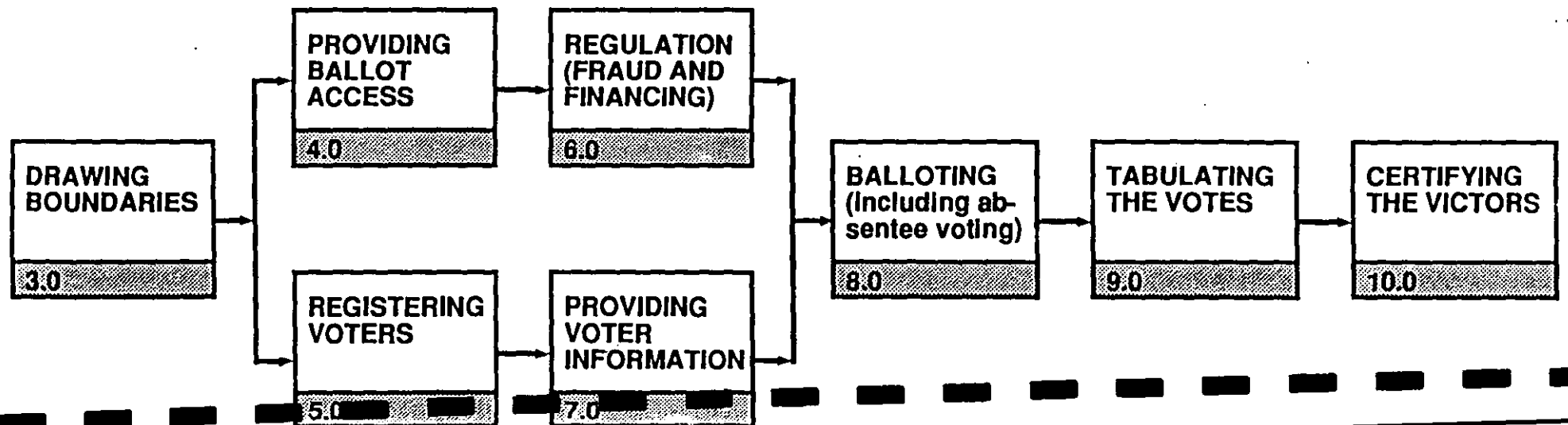
PRIMARY FUNCTIONS OF AN ELECTION SYSTEM

LEGISLATING

1.0

PLANNING, MANAGING, BUDGETING, AND RECORD KEEPING

2.0



promulgated by the National Election Commission. We indicate in the appropriate sections below those items that our delegation feel are better left to regulation.

A second issue is the manner of amending the election law. Given a single legislative body (the Great State Hural) and the tradition of single party dominance, it may be prudent to consider requiring an exaggerated majority (a two-thirds or three-quarters vote) to amend the election law. Such a requirement might prevent a single majority party or coalition from amending the law for light, transient, or partisan reasons.

A third issue is the enforcement of the election law. Mongolian authorities indicated to our delegation that they anticipate two types of election offenses: administrative violations and criminal violations. If this is the case, then the law should specify which violations are of which type. And further, the law should specify, for each type of offense, how complaints are to be filed (who may file, when, and to whom) as well how complaints are to be processed (investigated, prosecuted, or otherwise disposed of).

Finally, as noted previously, we recommend that Mongolia adopt a single election law that applies to all elections -- for the State Great Hural, for the presidency, and for the local Hurals -- rather than three separate laws.

Administering the Election System

This function refers to the design, creation, and staffing of the agency or organizational structure responsible for the overall administration and management of the election process. It encompasses routine planning, management, and budgeting responsibilities as well as any special enforcement or quasi-judicial powers which might be granted to the election authority. A vital aspect of this administrative function is the generation of an election timetable or flow diagram which identifies all major tasks related to conducting a forthcoming election, defines the dates for their accomplishment, and assigns responsibilities for their completion.

In our view, the most important issue Mongolia faces in administering its elections is one of ensuring multi-party representation at each level in the administrative hierarchy -- on the National Election Commission, on the local commissions, in the voter registration process, in the polling process on

election day, and in the absentee voting process. Indeed, we recommended that the National Election Commission be composed of representatives of each legally recognized political party and that, insofar as possible, this principle be applied at every stage of the election process.

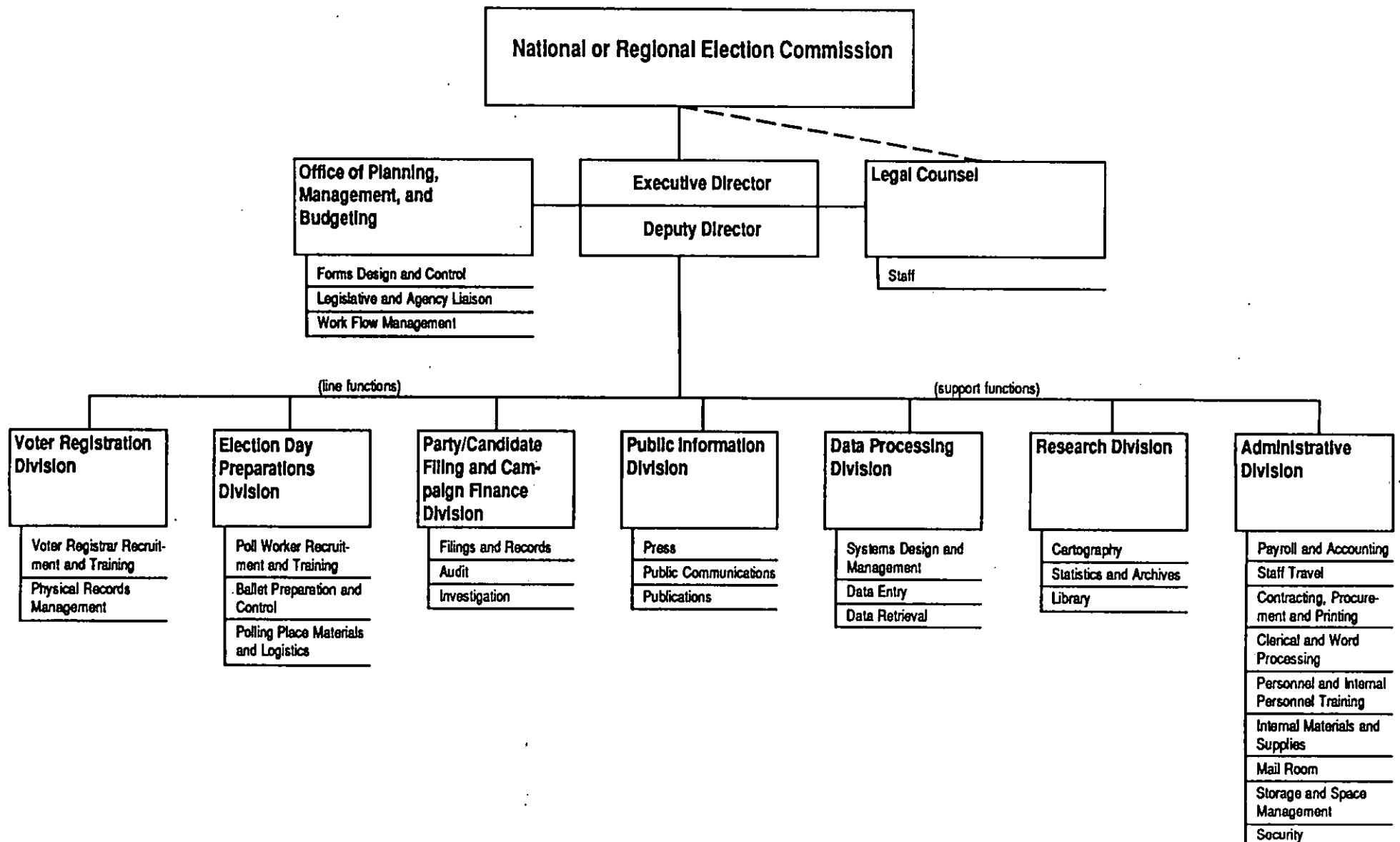
A second and related issue is the need for at least a small permanent full time staff (at least a Director and secretary) appointed by and serving under the National Election Commission. Such a staff would lend continuity to the election process as well as enhance the development of election experience and expertise. This staff would no doubt need to be expanded preparatory to an election along the lines suggested in the organization chart presented in the following figure. In order to accomplish this at minimum public expense, it would prove useful if the election law contained specific language requiring all Mongolian governmental agencies to provide such personnel, materials, supplies, and facilities as might be requested by the National Election Commission.

A third important issue facing Mongolia, and one that is often overlooked in developing election systems, is the need to prepare a detailed election plan specifying all major tasks related to conducting the election (including legal and critical deadlines), who generally is to be responsible for accomplishing these tasks, and what resources will be necessary for their accomplishment. Such a plan should, in our view, identify key dates in terms of the number of days before the election rather than after the issuance of any writ of election.

Finally, because of our recommendation that several matters be left to rules and procedures promulgated by the National Election Commission rather than being specified in the law, it follows that Mongolia must devise, as soon as possible (and on the basis of an election plan described above), appropriate procedures manuals regarding, for example, the development and maintenance of the voter lists, election day procedures, absentee ballot procedures for shut-in voters, ballot counting procedures, and the like. These manuals should also include internal operating procedures for the National Election Commission itself.

In view of the enormity of this task and the advantages of experience in developing such manuals, we believe that Mongolia would benefit greatly from a team of experienced international advisors to assist them in preparing detailed election and internal operating procedures manuals. Such a team, however, could only begin work after an election law has been passed. And the undertaking could require as much as a month's time.

SUGGESTED ORGANIZATION OF ELECTION AUTHORITIES



Further, Mongolia may require financial or in-kind assistance in printing an adequate supply of these procedures manuals for use throughout the country. And lastly, the promulgation of such procedures manuals suggests the need for training seminars for those who are to follow the procedures.

Drawing Boundaries

Drawing boundaries refers to the detailed mapping or definition of two types of electoral units. The first type of electoral unit is the "constituency" which is a district or sector of political representation (whether single or multi-member). Constituencies pertain not only to the national legislature but also to any lower levels of elected government. The second type of electoral unit is the "precinct" which is a geographical voting district wherein all voters cast their ballots at a single conveniently located voting place.

It is not clear at this juncture whether the Mongolian system of representation will require dividing the country up into constituencies or "districts" at either the national or local levels.

If there are to be districts, the issue arises of how the national district lines will relate to local district lines (whether they will overlap or whether they will be coterminous). Because overlapping lines create considerable confusion, we recommend that any national district lines be drawn first and that any local boundaries be drawn only within the national districts.

Similarly, the issue arises of how any national or local district lines will relate to precinct or "voting district" lines. And again, we recommend that precinct lines be drawn only after national and local districts lines have been determined and that no precinct be divided by any district line. Such an approach would minimize both costs and confusion -- especially should national and local elections ever occur on the same day.

Providing Ballot Access

Providing ballot access refers to the rules and procedures whereby political parties and candidates (including independent candidates) come to be officially recognized for the purpose of appearing on an official election ballot and, importantly, how

they maintain or lose such recognition. This function also includes the procedures for submitting certain questions (initiatives, referenda, constitutional amendments, etc.) to a public vote.

As previously noted, there appears to be a body of law already on the books regarding the formation and activities of political parties. Because that body of law was not translated, our delegation was unable to review it. We recommend, however, that any such body of law be incorporated into the election law as an integral section.

Moreover, if it does not already do so, we recommend that the political party law directly address the question of whether political parties may form coalitions or whether they may instead nominate, with permission, candidates of another party. (The decision here is likely to hinge on the system of representation that Mongolia adopts). In any event, we recommend that the method of candidate nomination be left entirely to each political party (rather than being a subject of intrusive national law) and that each party be permitted to nominate only one candidate for each seat up for election (or, in proportional systems, a list of candidates equal to the number of seats up for election).

A second important issue is the need to specify candidate qualifications with regard to residence (i.e. whether the candidate must be a resident of the district he offers to represent and, if so, how residence for this purpose is to be defined and measured).

A third important issue is the need to specify in law whether members of the military (or members of religious orders) will be allowed to stand as candidates for public office or whether such candidacies would be considered an unacceptable conflict of interests.

A fourth important issue is whether or not non-party, independent candidates will be permitted and, if so, by what mechanism. This decision, too, is likely to depend on the system of representation adopted inasmuch as independent candidates make little sense in systems of proportional representation but make a lot of sense in majoritarian systems.

Finally, it is not clear whether Mongolia contemplates the possibility of conducting initiative or referendum elections. If so, both the timing and procedures for such events need to be specified in the law.

Registering Voters

Registering voters refers, clearly, to the rules and procedures whereby eligible citizens come to appear on the voter list. It includes the method by which the list is prepared, maintained, changed, added to, and deleted from. It also, rather importantly, encompasses the method by which the voter establishes his identity not only in registering but also in presenting himself at the voting place on election day. And finally, this function includes the considerable task of recruiting and training registrars.

It need hardly be said that the election law should specify the qualifications for registering to vote -- especially with regard to age, mental state, and criminal status. It should also specify where a citizen is entitled to be registered -- whether in the district of his residence or in some other district -- and when in advance of an election a citizen must be registered. Anything much beyond these matters (and especially matters involving the preparation, maintenance, public inspection, and distribution of the registration lists) should, in our view, be the subject of detailed rules and procedures promulgated by the National Election Commission.

An important issue does arise, however, with regard to where members of the military should register and vote. This is a truly difficult question. For if members of the military are permitted to register and vote on their bases, they might easily fall prey to intimidation by their commanders (the more so if members of the military are permitted to seek public office). Moreover, registration and voting on military bases would yield an identifiable military vote -- something a democracy is better off not having. If, as a second option, members of the military are to vote in the community nearest the base (so as to avoid the previously mentioned problems), then the local civilian population is likely to feel overwhelmed. The third and most desirable option is that members of the military should register and vote in the communities where they resided previous to their joining the military. This option, however, requires a level of administrative experience and sophistication (not to mention a well developed mail system) that seems unrealistic to expect for at least the next decade. On balance, we are inclined to recommend the second option until such time as more elaborate absentee voting procedures can be safely devised. (As a final note, the importance of this issue hinges to some extent on the system of representation since the impact of a military base's vote in its nearest community would no doubt be greater in a majoritarian system than in a proportional system).

Regulating Campaigns

The regulation of campaigns has, in a sense, two aspects. The first is that set of laws which are generally and collectively referred to as "fair campaign and election practices." These laws prohibit such patently corrupt or unfair practices as ballot box stuffing, falsely registering, intimidating or bribing voters, interfering with opposition rallies, and the like. The second aspect of regulating campaigns is that body of laws and procedures regarding campaign finance reporting requirements, limitations, or public subventions either direct or indirect.

With regard to "fair campaign and election practices," we have previously noted the importance of specifying in the election law the types of election offenses (whether administrative or criminal) and the sanctions for each (see Legislating the Election System above).

Another important issue regarding this function, however, is whether or not the government will provide some form of subvention to the legally recognized political parties or candidates in the national and/or local elections. Two types of subventions are possible: either providing cash subsidies or providing free radio and television time for campaigning. But neither option is as simple as it sounds.

Cash subsidies not only entail an outlay of public funds but also typically impose substantial accounting and reporting burdens both on the election authority and on the recipient political parties or candidates. There is also the troubling problem of whether funds should be distributed to each party equally, proportional to their membership, proportional to their vote, or by some other formula. And no formula has proved universally popular.

As an alternative to direct cash subsidies, most Western democracies simply provide free radio and television time to recognized political parties or their candidates. But this approach, too, involves some controversial decisions. Should all parties or candidates appear together or, as is more customary, should they be accorded separate time slots? If parties are accorded separate time slots, should their "air time" be equal or should it be proportional to their membership, proportional to their vote, or distributed by some other formula? And too, there is the question of which parties get to appear first, middle, and last relative to election day.

Whatever decision is made regarding political party subventions (whether cash subsidies, free media time, or some combination of these), the manner of providing them needs to be specified in the law with sufficient detail as to avoid misinterpretation or manipulation.

Providing Voter Information and Education

This function refers to providing official information to voters (as distinct from information provided by parties or candidates) regarding the time, manner, and places of registration; the time, manner, and places of voting; and, perhaps, a sample of the ballot which the voter will encounter at the voting place on election day. It may also include the development of programs in the schools for the purpose of training the young in democratic values, practices, disciplines, and procedures.

The importance of providing official voter information is often overlooked or, at least, readily sacrificed to budget constraints. Yet it is essential to the democratic process that voters know where and when to register and vote, that voters and parties have an opportunity to inspect the voter lists prior to the election, and that voters have an opportunity in advance of the election to see a sample of the ballot they will be given on election day. We therefore recommend that such public information programs be undertaken and that, should it prove necessary, financial or in-kind assistance be provided to Mongolia in order to support such programs.

Balloting

Balloting refers to the essentially logistical aspects of election day. It encompasses choosing the date and time for the election as well as selecting the balloting technique. It also includes designating the voting places; recruiting, training, and deploying election day workers; providing the requisite materials and supplies to the voting places; designing, preparing, and controlling the ballots; and devising the detailed procedures to be followed at the voting places on election day. It may further include providing absentee voting services for those citizens unable to go to a voting place on election day.

In performing this function, Mongolia faces a number of significant issues.

The first of these is deciding on the date(s) of the elections. Barring the dissolution of the State Great Hural or the removal of a president, the month of June for many reasons recommends itself as the ideal month for conducting elections. And, indeed, during our visit there was considerable sentiment in favor of conducting the national legislative elections in June of 1992. Yet our delegation is doubtful that there is sufficient time to prepare adequately for a June 92 election. The election law must be completed and adopted, a National Election Commission must be formed, district lines (if there are to be districts) must be drawn, detailed procedures manuals must be prepared and printed, staff at all levels (including poll workers) must be trained, nominations must be made, ballots must be designed and printed, and the like. Because of the significance of this first election under the new constitution, our delegation recommends that ample time be allowed for these tasks before conducting the election. We therefore suggest that careful consideration be given to conducting the first election in November (during a declared "transitional" period) with all subsequent normal legislative elections to be held in June.

A second important issue is the timing of the local legislative elections relative to the national elections (whether they are to occur simultaneously, on different days within the same year, in different years, or whatever). Because of the delicate philosophical, political, and administrative consequences of this decision, we offer no views on this matter except to note that the timing of local legislative elections must be specified in the law.

A third important issue is the format of the ballot(s). There are two aspects to this issue: (1) deciding how the voters are to indicate their choice(s) -- either by crossing out all the unwanted candidates or else by marking a positive choice -- and (2) deciding how the choices will be presented on the ballot(s) -- which parties or candidates are to be listed first, whether party emblems will be permitted to appear, and a variety of other significant details. These items need to be clearly specified in the law. Although we favor the idea of voters marking a positive choice on the ballot, our recommendations with regard to the layout of the ballot itself depend entirely on the system of representation to be adopted (since different systems suggest different ballot styles).

The fourth issue is the extremely important one of providing absentee voting services. There are basically four groups of people who might benefit from absentee voting services: voters

who, by reason of disability, cannot make it to the polling place on election day; members of the military; persons in transit within the country; and overseas citizens. Mongolia already has in place adequate procedures for carrying ballots and ballot boxes to the disabled (provided that in future these teams represent competing political parties). And we have previously discussed the problem of military voting (see Registering Voters above). The question of voters in transit within the country can only be resolved after the system of representation has been decided (and is not in any event likely to be a sizable problem). The problem of overseas voters, however, could be a major one.

On the one hand, it is a wonderful idea to provide absentee voting services to citizens residing abroad in order to facilitate their constitutional right to vote. Yet the constitutional right to vote does not require such services since an overseas citizen's right to vote can be exercised by his returning to Mongolia for that purpose. The question, then, is not so much legal as it is practical. And consistent with our views on military voting, it is our delegation's recommendation that at this stage Mongolia not provide absentee voting services to its citizens residing abroad. There are many reasons for this including the vulnerability of such an absentee voting process to fraud, abuse, and confusion; the lack of administrative experience in managing such a process (even the country of Belgium abandoned such a service because of administrative difficulties); delays in the mail service which must support such a service; and other practical considerations. In light of these problems, we suggest that absentee voting services for citizens residing overseas not be provided until it becomes truly practicable -- perhaps in a decade or so.

The remaining aspects of the balloting function (designating polling places; printing, preparing, and controlling the ballots; providing the other requisite materials to the polls; and devising election day procedures) should, in our view, be left to rules and procedures promulgated by the National Election Commission rather than being specified in the election law. The only exception is that there should, we believe, be a provision in the law requiring balanced political party representation among the poll workers at each voting place.

Finally, it should be said that the political parties were nearly unanimous in their desire for foreign observers at the next election. And our delegation concurs that foreign observers would not only have a salutary effect but might also prove useful in identifying unanticipated, correctable problems.

Tabulating the Votes

Tabulating the vote refers, obviously, to the procedures followed for counting the votes, for resolving ballots in question, for reporting the results, and for accounting for all ballots distributed.

In our view, there are only a few issues in tabulating the votes that the Mongolian election law needs to address. Most significant among these are: (1) who is to count the votes, (2) when are the votes to be counted, (3) how are the results to be transmitted, and (4) what constitutes an invalid ballot. Other details are best left to rules and procedures promulgated by the National Election Commission.

Our delegation is inclined to favor a local count of the votes in each voting place conducted by the poll workers immediately after the close of polls. Results, on official tally sheets (copies of which are immediately given to the local political party representatives), may then be securely transmitted to the National Election Commission in any one of several ways.

The question of what might constitute an invalid ballot depends, for its resolution, not only on the system of representation adopted, but also on the manner in which voters are to indicate their choice(s) on the ballot. Still, it is a matter that should be specified in law.

Certifying the Results

Although this function refers ultimately to the legal ceremony of issuing certificates of election to the victors, it also includes the critically important procedures for resolving any legitimate challenge to the election process or its outcome.

The major issue for Mongolia in this regard is to specify in the election law (with careful legal detail) the manner in which a recount of the ballots in any election can be requested (who has standing to make such a request, to whom, by when, how the recount is to be conducted, who pays the costs, etc.).

Challenges to election results for reasons other than alleged miscounting (eg. accusations of fraud or other irregularities) would, presumably, be resolved in the courts. Yet this procedure too requires some specification in the election law with regard to who has standing to make such challenges, how, to whom, and by when.

SUMMARY OF RECOMMENDATIONS FOR FURTHER ASSISTANCE TO MONGOLIA

The ten functions described above constitute a general model of an election system. The task of developing a particular election system is one of devising and documenting the requisite laws and procedures for accomplishing these functions in a manner consistent with the environment in which the election system is to operate. In approaching this task, Mongolians are facing a number of important issues. In order to assist them in resolving these issues and in order to facilitate Mongolia's transition to a free and competitive democratic political system, our delegation recommends, for the reasons cited above, that:

1. As soon as possible, an international team of experienced legal and technical experts be offered to Mongolia for a period of at least two weeks to assist them in drafting the election law.
2. Within the next three months or so, an international team of experts experienced and knowledgeable in political party theory and development be offered to Mongolia for the purpose of conducting a one-week seminar on political parties.
3. Immediately upon the completion and adoption of the election law, an experienced international team be offered to Mongolia for a period of one month or so to assist them in developing detailed election procedures manuals for use in all future elections.
4. Adequate financial or in-kind assistance be provided to Mongolia in order to assist them in the acquisition of all requisite election materials and in order to assist them in the printing and production of all ballots and other essential election documents.
5. A team of international observers be offered to Mongolia for the purpose of observing the next election and making suitable recommendations.

