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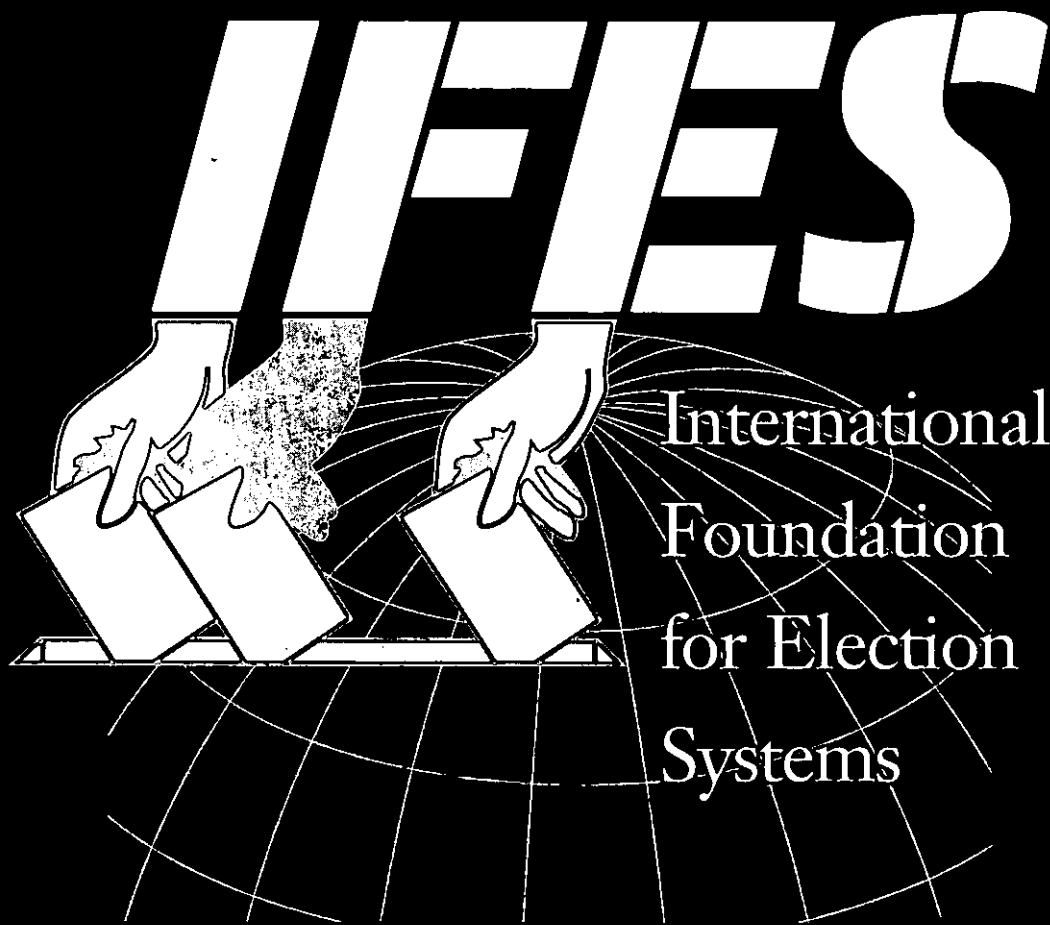
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# **KYRGYZSTAN TECHNICAL ELECTION ASSESSMENT**

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**KYRGYZSTAN**  
**TECHNICAL ELECTION**  
**ASSESSMENT**

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## *Contents*

<b>Introduction</b> .....	<b>4</b>
<b>Section I</b> .....	<b>5</b>
<b>I. Project Background</b> .....	<b>5</b>
<b>II. Country Background</b> .....	<b>6</b>
A. Parliamentary Crisis .....	7
B. Referendum and Local Elections-October 24, 1994 .....	8
C. Constitutional Session .....	11
D. The Mass Media .....	12
E. Local Officials and Clans .....	13
<b>III. Political Parties and Public Associations</b> .....	<b>14</b>
A. Political Parties .....	16
B. Public Associations .....	19
C. Electoral Blocs and Coalitions .....	20
<b>IV. Laws Related to Elections</b> .....	<b>21</b>
A. Law on Election of Deputies of the Zhogorku Kenesh and Presidential Decrees Amending It .....	21
B. Laws Concerning the Media and Public Associations .....	28
<b>V. Laws Related to the Central Election Commission</b> .....	<b>29</b>
A. Law on the Formation of the Central Election Commission for the Conduct of the Referendum and Elections in the Kyrgyz Republic .....	29
B. Recommendations Not Adopted Into Current Law .....	29
C. Problems Faced by the CEC in Preparation for February 5, 1995 Election .....	30
<b>VI. Proposed Program Recommendations</b> .....	<b>32</b>
<b>Section II</b> .....	<b>34</b>
<b>An Overview of the Kyrgyzstan Judicial System and Election Laws</b> .....	<b>35</b>
<b>I. Legal Framework for Elections</b> .....	<b>36</b>
A. Court System .....	36
B. Laws, Decrees, and Referenda .....	37
C. The Central Election Commission .....	38
D. Proposed Revisions to the Constitution .....	39
<b>II. Problems</b> .....	<b>40</b>
A. Date of the Run-off Elections .....	40
B. Enforcement Procedures and Court Jurisdiction .....	40
C. Campaign Finance .....	41
D. Freedom of Expression .....	41
<b>III. Conclusions and Recommendations</b> .....	<b>42</b>

<b>Voter Education and Motivation Program for Kyrgyzstan</b>	<b>43</b>
<b>I. Project</b>	<b>43</b>
A. Objectives	43
B. Analysis of Target Audience and Issues	43
C. Analysis of Available Resources	45
D. The Campaign	45
E. Campaign Schedule	48
<b>II. Analysis of Effectiveness of Project</b>	<b>49</b>
A. Success of Project	49
B. Obstacles to Project	49
<b>III. Recommendations</b>	<b>50</b>
A. Voters, New Voters, and Election Procedures Education Program	50
B. Training for Key Officials in CEC	50
C. Future Voter Education and Motivation Campaigns	50
D. Survey of Electorate	51
E. Western Exposure and Training of Key Media Personnel	51
<b>Election Day Observations</b>	<b>52</b>
<b>I. February 5, 1995 Elections</b>	<b>52</b>
A. Observation	52
B. Administration of Voting	53
C. Vote Counting Process	53
D. Conclusion	54
<b>Section III</b>	<b>55</b>
<b>I. February 19, 1995 Elections</b>	<b>56</b>
A. Observation	56
B. Meeting with the CEC "Working Group"	57
C. Evidence of Fraud and Official Misconduct	57
<b>II. Recommendations to the CEC Working Group</b>	<b>58</b>
<b>Section IV</b>	
<b>Conclusion</b>	<b>60</b>
<b>Appendices</b>	<b>61</b>
Appendix A Decree by the President of the Kyrgyz Republic on setting elections to the Jorgorku Kenesh of the Kyrgyz Republic	
Appendix B Decree by the President of the Kyrgyz Republic on several additions and changes to the election procedure of Deputies to the Zhogorku Kenesh following from the decision of the referendum (by nationwide voting) of 22 October 1994 on the creation of a two-chamber Zhorgorku Kenesh	
Appendix C Decree by the Kyrgyz Government on certain matters relating to the elections to the Supreme Council of the Republic of Kyrgyzstan	
Appendix D Post-election statement of international observers	

## INTRODUCTION

Prior to September 5, 1994, when the Parliament was dissolved and restructured by Presidential decree and referendum, Kyrgyzstan was considered the "bright light of democracy" in Central Asia. These seemingly undemocratic methods of governance by the president and his cabinet created the need for a reassessment of the course of democratic development and a determination of how best to serve the needs of the citizens of this country.

The controversial self-dissolution of parliament, a hastily called referendum establishing a bicameral parliament, a series of presidential decrees amending the election law and the increased assertiveness of Akims (heads of local state administration) pointed toward a shift from the democratic, reform-oriented policies of President Askar Akayev toward a reassertion of presidential power.

This report is divided into four sections. Section I presents the December 1994 pre-parliamentary assessment, which led to the Voter Education and Motivation Program. This section reviews political and electoral events from 1993 to the present with emphasis on the development of political parties, laws on media and public associations, and descriptions of laws and decrees governing the parliamentary election cycle. It is important to note that, based on the number of potential candidates running in each district and the need for a winner to receive 51 percent of a 50 percent voter turnout, runoff and re-elections were guaranteed.

Section II presents an overview of the Kyrgyzstan judicial system and election laws and describes the Voter Education and Motivation Program in detail. It also details the February 5, 1995 election-day observations and presents recommendations for further presence.

Section III provides details of the February 19, 1995 runoff elections and explains the complaint and violation process used by the CEC. In this section are highlights of alleged vote counting fraud and discussions of the effects of poor election-day worker training and inadequate ballot security procedures.

Section IV provides an evaluation of the February election observations and provides suggestions for further initiatives in Kyrgyzstan.



## SECTION I

### **I. PROJECT BACKGROUND**

At the request of USAID and the American Ambassador to Kyrgyzstan, IFES dispatched a two-person team to assess the political, legal and social situation and to determine what should or could be done to assist the government and the voters in Kyrgyzstan. They arrived in Bishkek in mid-December during the final days of candidate registration for ballot access to the February 5, 1995 parliamentary elections. The following were members of the team:

*Mrs. Gwenn Hofmann.* Mrs. Hofmann is the Central Asian Project Manager for IFES. She is an election expert with more than eighteen years of election law and management experience, including eight years as Public Information Specialist at the U.S. Federal Election Commission.

*Mr. Gregory Koldys.* Mr. Koldys is a former IFES staffer for the East-Central Europe and former Soviet Union program. A current IFES consultant, he is presently writing his Ph.D. dissertation on party system formation in Kyrgyzstan.

The IFES team reviewed all laws pertinent to election issues and conducted meetings with the Chairman and Deputy Chairman of the Central Election Commission (CEC) and many other representatives of political parties, media and NGOs. The team learned there were few revisions to the election law since passage in December 1993. The dissolution of the parliament and subsequent October 22, 1994 referendum establishing a bicameral parliament created the need to amend substantial sections of the election law, which was accomplished by Presidential decree (see Appendix).

The team uncovered troubling legal, procedural and constitutional issues relevant to the February 5, 1995 Parliamentary Elections. The worst of which was the fact that there was no constitutional or legal framework that established a bicameral parliament or the duties and power of each house. In addition, a Constitutional Committee had been created to revise the constitution and determine parliamentary functions, powers and responsibilities. The Constitutional Committee was to present its recommendations.

The IFES team uncovered many other issues relevant to the electoral process that will be addressed in Section I of this report. Although the IFES team concluded there were many serious anti-democratic elements attached to the parliamentary process, there was still a need for IFES Program intervention and the team recommended that a Comprehensive Voter Information and Education Project be created so the voting public could better understand the unique complexities of the scheduled elections.

In light of the new political circumstances in Kyrgyzstan, the two-person IFES team conducted a follow-up assessment to the May 1993 Pre-Election Technical Assessment as a preliminary step toward supporting the Government of Kyrgyzstan to prepare for its 1995 parliamentary elections. Much of the information in the 1993 PETA Report is still valid and, therefore, will not be repeated in this report. References will be made to the 1993 PETA Report with specific relevance to this project.

Many of the relevant political actors, including members of the Central Election Commission (CEC), political parties and public associations, were eager to meet with the IFES team, which arrived during the hectic period of candidate registration. IFES is grateful to the U.S. Embassy/Bishkek, USAID/Bishkek, and USAID/Almaty for their support of this project.

During their visit, the team met with the Chairman and Deputy Chairman of the CEC, Minister of Justice, Minister of Foreign Affairs, political parties, public associations, members of the mass media, and representatives of international non-governmental organizations (NGOs) working in Kyrgyzstan, including the National Democratic Institute (NDI), the International Republican Institute (IRI), and the American Bar Association (ABA). The team also participated in a group workshop sponsored by NDI and attended by political parties, public associations, human rights organizations, journalists, and representatives of the presidential apparatus.

The team collected data on issues such as ballot access; laws on mass media and public associations; presidential decrees on the election process; election day activities, including ballot security and tabulation; and voter information and education progress. Based on this information the following report was written.

## **II. COUNTRY BACKGROUND (since May 1993)**

President Akayev was able to maintain stability in Kyrgyzstan through a delicate coalition balancing various political forces in the country. Criticism of Akayev, however, increased with the evolution of an incipient opposition in late 1993. In November 1993, the Kyrgyz government launched a campaign against bribery and corruption, prompting direct confrontation between the Zhogorku Kenesh and the presidency. The most notable casualties of the anti-corruption campaign resulted from the Seabeco gold scandal, which forced the resignation of Vice President Feliks Kulov and the no-confidence vote by parliament on Prime Minister Tursunbek Chyngyshev in December 1993.

Even prior to the Seabeco scandal, relations between the Akayev and the parliament were nearing a standstill. Akayev's reform-oriented policies were met with calls from parliament for more gradual change and strong social safety guarantees. As a result, Akayev called a referendum on his presidency for January 30, 1994. The question asked:

"Do you confirm that the President of Kyrgyzstan, democratically elected on October 12,

1991, for five years is president of the Kyrgyz republic with the right to act as head of state during his term of office?"

On January 30, 1994, more than 95 percent of registered voters turned out to vote in the referendum. Akayev won the endorsement of nearly 97 percent of the voters. The result of the referendum was viewed as a mandate for Akayev's reforms and, in the eyes of presidential supporters, a justification to renew calls for the election of a new parliament.

#### A. Parliamentary Crisis

Through the summer of 1994, president-parliament relations in Kyrgyzstan deteriorated and eventually reached an impasse. One of the most confrontational issues was the scheduling of parliamentary elections. The parliament favored completing its term and holding elections as scheduled in March 1995. Akayev, on the other hand, pressed for elections to be held as early as the final months of 1994. He claimed the parliament lacked legitimacy because it was elected under the communist system.

On September 5, 1994, a generally pro-Akayev majority (168) of the 323 deputies of the Zhogorku Kenesh signed a document refusing to participate in the final parliamentary session scheduled for September 27, 1994. As a result, the government, led by Prime Minister Abbas Dzhumagulov, resigned stating that an inadequate parliament would make the Zhogorku Kenesh unqualified to take any decisions. Akayev, however, issued a decree asking the government to remain functioning until a new parliament is elected and a new government is formed. The decree set elections for December 24, 1994. By scheduling parliamentary elections before the scheduled completion of the parliamentary term, the president did not act in accordance with the constitution, which states early parliamentary elections only can be called by a two-thirds majority of the Zhogorku Kenesh or by popular referendum. Many groups protested holding elections at such an early date because political parties would not be allowed enough time to adequately prepare for the elections. On October 27, 1994, Akayev issued a decree in which he postponed the date of parliamentary elections to February 5, 1995. In the decree, Akayev stated that the aim of moving the elections back was to facilitate the participation of political parties, public associations, and other groups.

The presidium of the parliament scheduled an emergency session of the Zhogorku Kenesh for September 13, 1994, to discuss early parliamentary elections and to elect a Central Election Commission. Akayev opposed the emergency session because, according to him, it would only deepen the parliamentary crisis and because the CEC already legally existed, making it unnecessary for a new one to be elected. In the end, the emergency session was not held, since only one-third of the deputies were present.

Much controversy surrounded the "self-dissolution" of the parliament. A number of opposition newspapers and political parties claimed that many deputies were coerced by either representatives of the president or by their local akims into signing the document of refusal to

take part in the final session of parliament. These actions by Akayev have been labeled as attempts to move Kyrgyzstan toward presidential rule and authoritarianism. The accusations, along with the closure of three opposition newspapers, have prompted questions about the state of democracy in Kyrgyzstan.

Opposition groups immediately issued statements condemning the president's dissolution of parliament. On September 8, 1994, Erkin (Free) Kyrgyzstan, the Communist party, the Association for Progress and National Dignity, the Kyrgyzstan Eli (People of Kyrgyzstan) society, the Movement for National Unity, the Union of Students of Kyrgyzstan, the Free Information society, the Union of Builders, and the Kokjar (Blue Ravine) society issued a joint statement creating the Congress of Democratic Forces as the formal opposition to the president. In the statement, they asserted, "A grave threat is hanging over this little island of democracy."<sup>1</sup> The Congress gathered in Bishkek on September 12, 1994, and called for holding the final session of parliament under normal conditions, electing a new CEC, and simultaneous reelection of the president and parliament in March 1995.<sup>2</sup>

Centrist, pro-democracy parties, including Ata-Meken (Fatherland Party), the Republican People's Party, the Agrarian party, the Unity party, and the Democratic Movement Kyrgyzstan (DDK), walked out of the Congress of Democratic Forces. They protested the harsh criticisms made by the Congress toward President Akayev and formed a loose, centrist pre-election alliance behind the president. Also supporting the centrists were the Social Democrats and the Soglasie (Harmony) association of ethnic Russians. The pro-presidential party, Asaba, issued a statement endorsing Akayev's moves and denouncing the Congress of Democratic Forces.

## **B. Referendum and Local Elections - October 22, 1994**

On September 22, 1994, Akayev issued a decree on holding elections of deputies to the primary-level local councils and a nationwide referendum on amendments to the Constitution of the Kyrgyz Republic on October 22, 1994. The two constitutional amendments put to vote read:

Do you agree that the following clauses should be incorporated into Sections 1 and 2 of Chapter 1 (The Kyrgyz Republic) of the Constitution of the Kyrgyz Republic:

I. Amendments and addenda to the Constitution of the Kyrgyz Republic and to laws of the Kyrgyz Republic, as well as other important problems of state life, may be put to a referendum? Yes/No

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<sup>1</sup>Kyrgyzkabar, Bishkek, in Russian, 1125 GMT 8 September 1994; in Foreign Broadcasts Information Service, Daily Report, Central Eurasia (hereafter FBIS), September 9, 1994, pp. 62-63.

<sup>2</sup>ITAR-TASS World Service, Moscow, in English, 1550 GMT 12 September 1994.

II. Legislative authority in the Kyrgyz Republic is carried out by the Zhogorku Kenesh consisting of two chambers - the Legislative Assembly with 35 deputies, a standing body elected to represent the interests of the republic's entire population; and the Assembly of People's Representatives with 70 deputies, which works in sessions and is elected to represent territorial interests. Yes/No.<sup>3</sup>

Voters who favored the amendments were required to cross out the "No" box and the word "No" and leaving the "Yes" box unmarked. The constitutional amendments would be passed only if approved by more than 50 percent of those voting and if more than 50 percent of all eligible citizens voted.

The vague wording of the amendments and the generally unclear purpose of the referendum led to considerable confusion among voters before, during and after the plebiscite. First, the Constitution already had provisions for holding nationwide referenda. Second, the duties and responsibilities of each chamber of the bicameral parliament were not delineated. (While the IFES team was in Kyrgyzstan, the powers of each chamber still were not outlined.) In essence, the referendum was on the broad concepts of referenda and a bicameral parliament, without any specific details regarding either.

It is believed that the referendum was scheduled to further strengthen the powers of the president. A "yes" vote on the first amendment would have allowed the president to bypass parliament and use his populist appeal to amend the constitution. A "yes" vote on the second amendment would have given the president a free hand in determining the framework for holding the upcoming parliamentary elections. Furthermore, because the referendum and local elections were scheduled only one month in advance, opposition groups did not have enough time to prepare for either. The Congress of Democratic Forces appealed to the electorate to reject the proposed amendments claiming the federalization resulting from the proposed bicameral parliament would "split the state into the north and south, and kin communities [would] start to divide territories in the interests of camouflaged party apparatchiks."<sup>4</sup>

The Constitution of the Kyrgyz Republic, ratified in May 1993, states that a unicameral parliament shall be maintained but the 350-member Supreme Soviet shall be scaled down to a 105-member Zhogorku Kenesh. Akayev, on the other hand, called for a bicameral parliament consisting of a 35-member, full-time legislative chamber and a 70-member representative chamber of regional elites.

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<sup>3</sup>Kyrgyz Radio First Program Network, Bishkek, in Russian, 1500 GMT 23 September 1994; in FBIS, September 26, 1994, pp. 60-61.

<sup>4</sup>Mainayev, Boris, "ITAR-TASS Comments on Kyrgyz Referendum," TASS, October 22, 1994.

According to official results of the referendum, voter turnout was 84.5 percent. Nearly 85 percent of the voters voted for the first amendment, while 10.5 percent voted against it. On the second question, 84 percent voted for the amendment and 11 percent against it. Voter turnout was lowest in the city of Bishkek, where it was about 60 percent. Unofficial sources reported much lower turnouts nationwide and fewer "yes" votes for the amendments.

The elections to local councils held simultaneously with the referendum were not considerably different from previous local elections held under the communist system. Political parties were not listed on the ballots and elections in most constituencies (70.7 percent) were uncontested. Only 22.7 percent constituencies had two registered candidates, 4 percent had three candidates registered, and 2.6 percent had four or more candidates registered.<sup>5</sup> The results of the elections reinforced existing power structures.

Numerous minor violations were reported by international and local observers. Many accounts of improprieties were reported to the IFES team during the course of its interviews. The most common violations mentioned were proxy voting for one's family by a relative (a common practice under the Soviet regime) and voting by more than one person together in the same polling booth. One "trusted face"<sup>6</sup> for a candidate in the local elections said he witnessed elderly voters being offered som to vote for certain candidates. When he reported this to the precinct commission, it refused to take any action. Another incident recounted to the IFES team involved ballot stuffing in the so-called "mobile box" for sick and elderly voters who are physically unable to go to polling sites. Other incidents involved lax security regarding the requirement that voters present both their invitations to vote and identification cards or passports.

Erkin Kyrgyzstan issued a statement to the Supreme Court of Kyrgyzstan demanding the results of the referendum be annulled. The document asserted that during the voting "the basic principles of the Constitution and the laws of Kyrgyzstan, as well as elementary norms of democracy and justice, were grossly violated."<sup>7</sup> Along with a list of violations similar to those mentioned above, the writers of the document claimed that, since the CEC was appointed by the president and not elected by the parliament, the commission lacked legal authority; therefore, the referendum and local elections were unconstitutional. The document also challenged the official voter turnout statistics, alleging that the actual turnout was not more than 20-30 percent, hence, making the referendum invalid.

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<sup>5</sup>Kyrgyz Radio First Program Network, Bishkek, in Kyrgyz, 0000 GMT 22 October 1994; in FBIS, October 24, 1994, p. 55.

<sup>6</sup>"Trusted faces" is the term used to describe representatives selected by candidates to be official observers at polling sites.

<sup>7</sup>Res Publica, Bishkek, October 28, 1994.

### C. Constitutional Session

The ratification of the amendments - particularly those regarding the creation of a bicameral parliament- in the October 22, 1994 referendum, necessitated significant revisions to the constitution and election law. Several presidential decrees issued in late October and November amended the election law to provide an administrative framework for the conduct of elections to a bicameral parliament.

The president, however, does not have the power to revise the constitution by decree. The constitution can only be amended by the Zhogorku Kenesh or by popular referendum. On October 27, 1994, President Akayev issued a decree creating a Constitutional Session to prepare amendments and revisions to the constitution for consideration by the new parliament and the Constitutional Court by March 1, 1995.

The Constitutional Session is composed of the president, prime minister, chairman of the Supreme Council, former chairman of the presidium of the Supreme Council, chairman of the Council of Judges, state secretary under the president, heads of regional and Bishkek municipal state administrations, chairmen of regional and Bishkek municipal councils, and representatives from local communities, regions, the city of Bishkek, political parties, and public associations.<sup>8</sup> The total number of representatives allowed from political parties is fifteen. Political parties, public associations, and human rights groups not participating in the Constitutional Session expressed doubt that the session represented a broad spectrum of groups in and citizens of Kyrgyzstan.

The IFES team realized in late December that, after almost two months of meetings of the Constitutional Session, nonparticipating political parties, public associations, and human rights groups knew little about the work of the Constitutional Session. Periodic statements by Akayev and other government representatives have not revealed the deliberations of the Constitutional Session in detail.

The deputy chairman of the CEC, Aleksandr Moiseyev, informed the IFES team that the Constitutional Session is considering constitutional revisions regarding not only the rights and duties of each chamber of parliament but also other constitutional issues not related to the structure and organization of a bicameral parliament. Moiseyev emphasized that the Constitutional Session is meeting to provide *recommendations* regarding revisions to the constitution for the new parliament once it is elected. The parliament will then consider the

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<sup>8</sup>Akayev, Askar, "Edict by the president of the Kyrgyz Republic on the preparation of amendments and addenda to the Constitution of the Kyrgyz Republic in light of the results of the referendum and on forming a Constitutional Session," Kyrgyz Radio First Program Network, Bishkek, in Russian, 1400 GMT 27 October 1994; in FBIS, October 28, 1994, pp.30-31.

recommendations, and both assemblies will vote on the proposals. The amendments will pass by a vote of two-thirds in both chambers of parliament. If an agreement is not reached in parliament, the recommendations would then be put directly to the citizens of Kyrgyzstan for approval by referendum. In any case, elections to the new parliament will have been held prior to the creation of any constitutional framework for the two-chamber parliament.

At the time the IFES mission to Kyrgyzstan ended in early February 1995, those following the Constitutional Session's work expected that its proposals could profoundly alter the way in which the different branches of government operate and interrelate. Interestingly, however, the ability to change the constitution by referendum appears to give the president tremendous leverage to adjust constitutional provisions to the political winds regardless of what the Constitutional Assembly and Zhogorku Kenesh ultimately approve. Unless the constitution, itself, imposes some strictures on referenda, the president could presumably issue a decree establishing a referendum whenever he saw a need. If the referendum passed, the constitution would be amended.

#### **D. The Mass Media**

As reported by IFES in the 1993 PETA Report, Kyrgyzstan had by far the freest press in Central Asia. In 1994, however, the government began hinting at, and even threatening, restrictions on the freedom of the press. As relations between the president and parliament worsened, criticism of the government in the media increased. On July 15, 1994, President Akayev called for a new law on the mass media, which would include a system of "curbs" and "counterbalances" but not abandon the principle of freedom of the press.<sup>9</sup> He claimed that by acting with impunity and irresponsibility some elements of the press were becoming anti-democratic and unstable forces. These statements were met with protests from political parties, public associations, human rights organizations, and members of the media. A new media law was drafted, but it was severely criticized not only by the above organizations but also by legal experts from Kyrgyzstan and the international community, including the CSC.

Despite considerable protests, the government took steps to curb the freedom of the press. On August 15, 1994, legal action was taken against the parliamentary newspaper *Svobodnye Gory* (*Free Mountains*). The newspaper and its editor were accused of inciting civil and ethnic unrest and of insulting the leaders of foreign states. In a matter of days, *Svobodnye Gory* and *Politika*, a political supplement to the newspaper *Dela Nomer*, were shut down by the government. Publication of the supplement was halted because its first issue did not list the issue number on the cover (one of many requirements by law) and because the supplement was not registered. Other incidents of intimidation of the media included two cases when members of the media were attacked and beaten up by security personnel in September 1994.

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<sup>9</sup>Shishlin, Vladimir, ed., INTERFAX, Moscow, in English, 1526 GMT 20 July 1994; in FBIS, July 21, 1994, p. 63.



Upon arrival in Bishkek, the IFES team was warned that, though there is no overt, prior censorship of the media in Kyrgyzstan, the closing of newspapers and attacks on journalists might have prompted members of the media to exercise "self-censorship" to avoid after-the-fact retaliation. The state of freedom of the press in Kyrgyzstan was an important issue discussed in the IFES team's meetings with members of the media. The interviewed members of the media agreed that closing the newspapers in August was anti-democratic and clearly not progress in the right direction of guaranteeing the freedom of the press in Kyrgyzstan. However, the editors of pro-government and opposition, Russian and Kyrgyz, urban and rural, independent newspapers and the director of an independent radio station asserted during interviews that they were not being subjected to any censorship by the government, nor did they feel any pressure from the government to conduct any kind of self-censorship. Those interviewed agreed that members of the media are free to print or say whatever they want within the bounds of their personal or moral values. Though the government still holds a monopoly of the means of production of print media, it does not exercise any censorship of the media, according to the IFES team's interviews.

#### **E. Local Officials and Clans**

As pointed out in the 1993 PETA Report, substantial power is concentrated in the hands of Akims (heads of local state executive administration or mayors). Akims are appointed by the president, with the exceptions being in Bishkek and Osh where Akims were to be elected on February 5, 1995, along with other local positions and parliament. The Akimat (akim office) structure generally reflects the clan structure in the region; hence, pre-existing power relations among clans are reinforced. An akim is generally a prominent figure from the dominant clan in the region.

Contributing to the power of the exempt has been the on-going delegation and devolution of power from the center to local state executive bodies. This decentralization is a result of efforts by the president to cut the central budget deficit and increase the efficiency of funds allocated to localities. However, the increased authority designated to Akims has lead to greater abuses of power, including of the long-common practice of nepotism. The most flagrant violations were evident in early September 1994, when Akims used their influence to pressure deputies into boycotting the final session of parliament. It has been reported that some Akims threatened deputies from their oblasts with retaliations against deputies' families, while other Akims promised deputies government positions in local administration after parliament disbanded. These allegations were reiterated by a number of representatives of public associations with which the IFES team met.

Backed by the dominant clan and the authority of state administration, Akims have been able to wield considerable influence over the local population. Through the course of its interviews, the IFES team was made aware of instances where Akims pressured voters or offered inducements to voters in exchange for "yes" votes to the referendum questions. Also contributing to the influence of Akims is the respect for figures of authority, in general, that is ingrained in Kyrgyz political culture and is attributed to Akayev's continued popularity among many Kyrgyz.

The influence of the exempt is a major concern to political parties and public associations in the upcoming elections. Though deputies in the new parliament will not be allowed to hold posts of state executive administration simultaneously with their parliamentary mandates, it is feared that Akims will find ways of bypassing this provision of the law or that they will campaign for candidates using state administration funds or exposure. (Issues regarding deputies' conflicts of interest and indirect campaigning are discussed in greater detail below.)

Choltonbek Abykeev, the editor of *Aalam*, the largest Kyrgyz-language, republic-wide independent newspaper, offered a differing position regarding the influence of the exempt and clans. He claimed that residents generally feel considerable dissatisfaction and even "hatred" toward the exempt. Akims had promised that short-term sacrifices would yield considerable economic improvement; however, improvements in living standards have not been forthcoming. According to Abykeev, the Kyrgyz are disgruntled and not likely to support Akims or candidates associated with them.

Abykeev also discredited the impact of clan voting. In his opinion, the plethora of deputy candidates and the large number of clans has diluted clan influence. For example, he stated that a candidate supported by one clan probably would win in the precinct where that clan is most prominent, but another candidate backed by a different clan may win in the precinct where his/her clan is dominant. As a result, within districts, which include several precincts, clan votes would offset each other.

### III. POLITICAL PARTIES AND PUBLIC ASSOCIATIONS

The political arena in Kyrgyzstan has passed through an evolution similar to that of other states in the former Soviet Union. Toward the end of the Gorbachev period, independent political expression was channeled through large anti-communist organizations known as popular fronts; in Kyrgyzstan the popular front was the Democratic Movement Kyrgyzstan (DDK). The DDK served as an umbrella organization uniting diverse political forces under the banner of democracy and anti-communism. As in other former Soviet republics, the popular front in Kyrgyzstan was not able to preserve its coalition once the communist government was overthrown and a multi-party system was established. Though the DDK is still a political force in Kyrgyzstan, the breakaway of several political parties and public associations and the emergence of other political parties have significantly broadened the political spectrum in Kyrgyzstan. After the blossoming of political parties in Kyrgyzstan and other post-communist states, a new phase has begun -- the rise of non-governmental organizations (NGOs) or public associations. Public associations, which generally represent special interest groups such as veterans, youth, and the elderly, are entering the political arena to ensure direct representation of their constituents.

The Constitution of the Kyrgyz Republic gives political parties the right "to participate in the affairs of the state only in the following forms: to nominate their candidates for the election to the Zhogorku Kenesh, state posts and to bodies of local self-government; to form factions in

representative bodies."<sup>10</sup> Likewise, the Law on Public Associations, which applies to political parties, trade unions and other public associations, only refers to political parties as having the right to nominate candidates to parliament.<sup>11</sup> However, in decrees issued after the October 22, 1994 referendum, President Akayev extended this right to public associations as well. As a result of the decree, nonpolitical organizations can field candidates in the upcoming parliamentary elections and, hence, not be distinguished from political parties.

The Minister of Justice expressed to the IFES team that, in his opinion, the decree extending to public associations the right of nomination of deputy candidates was unconstitutional. As cited above, the Constitution grants this right to political parties; public associations are not mentioned in that context. The Minister believes that a productive parliament and a democratic Kyrgyzstan depend on the development of strong political parties. The extension to public associations of the right to nominate candidates weakens political parties by removing their special status of being the only public organizations allowed to nominate candidates, thus diluting their strength by adding competition from organizations not solely concerned with politics. It retards the development of political parties by undermining parties' efforts to unite similar political and ideological interests.

Public associations also are weakened because they may be forced to compromise their specific goals in efforts to gain votes. Public associations may begin to seek alliances with political parties and/or other public associations representing other particular interests. Forming alliances requires organizations to make compromises accommodating interests of the alliance or coalition. As the evolution of new political parties in developed democracies has shown, a party's *raison d'être* shifts from one of constituent representation to one of party competition and vote maximization. When public associations begin to concentrate on vote maximization, their function of protecting the particular interest of their constituents is diluted. For instance, if a public association devoted to the rights of orphans fields candidates in elections, it must divert funds to election campaigns and attention to efforts to gain votes. On the other hand, finding a balance between defending a broad platform of many interests and maximizing votes is the primary concern of political parties. When public associations are allowed to compete with political parties in elections, the best interests of both are compromised.

Prior to the presidential decrees amending the parliamentary election law, candidates were allowed to be fielded by labor collectives, by meetings of electors at their place of residence, or

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<sup>10</sup>Article 8, Paragraph 2, Constitution of the Kyrgyz Republic.

<sup>11</sup>The Law on Public Associations in effect during the course of February 5, 1995, election campaign and elections was ratified by parliament on February 1, 1991, while Kyrgyzstan was part of the Soviet Union. The law is currently being revised, causing considerable confusion among the political parties and public associations involved in the election process. The Law on Public Associations is discussed in greater detail below.

by self-nomination in addition to by political parties. Competition from these groups does not have the same negative effect on political parties as does competition from public associations, since public associations are national organizations whereas the other groups generally relate only to specific localities. Associated with the extension to local communities (local keneshes) of the right to nominate candidates to the Zhogorku Kenesh is another problem, whereby Akims and bodies of local state administration can extend their power to the national level.

#### **A. Political Parties**

The political spectrum in Kyrgyzstan has undergone numerous fluctuations since 1991. Mergers and breakups have become commonplace in Kyrgyzstan as they have in most post-communist states. Likewise, the political parties in Kyrgyzstan have not evolved yet into the mass-membership parties of developed democracies. Though the parties remain centered around personalities, they have developed regional branches and internal organizational structures. In addition, most parties in Kyrgyzstan already have survived an important test of the viability of incipient political parties -- the succession of leadership.

Adding to the development of parties in Kyrgyzstan is the holding of the country's first parliamentary elections. Elections thrust political parties into the competitive arena for which they exist. During the course of an election campaign, parties refine their platforms, develop campaign tactics, enhance the political skills of their candidates, and are continually exposed to the public. All are important steps in the development of political parties. Though the majority-type electoral system, as in Kyrgyzstan, is not as conducive to political party development as are proportional-representation systems, parties in Kyrgyzstan, nonetheless, have their first chance to compete with one another in an electoral arena. This competition provides invaluable experience to the neophyte parties in Kyrgyzstan. The results of the February 5, 1995, parliamentary elections in Kyrgyzstan are likely to separate the parties which will dominate Kyrgyzstani politics into the twenty-first century from the ephemeral parties of the immediate post-independence period.

As of December 21, 1994, the last day that the nomination of candidates was allowed, there were twelve political parties registered in Kyrgyzstan. Those parties are listed as follows.

Democratic Movement Kyrgyzstan In May 1990, the Democratic Movement Kyrgyzstan (DDK) united several opposition (anti-communist) groups, including Ashar and the Asaba party. The DDK emerged as a multi-ethnic movement serving as a political umbrella for the various nyeformaly (informal associations) in Kyrgyzstan. With membership estimates as high as 30,000 in 1990, the DDK quickly became the largest independent organization in Kyrgyzstan.

Once the republic gained independence, the DDK's active membership decreased ironically due to the movement's success. The loss of a common goal --overthrowing communism-- eliminated the factor keeping the diverse groups united. The DDK soon became one of many political actors in Kyrgyzstan. As a result, the DDK sought to build a constituency by stressing the

interests of ethnic Kyrgyz, thus further alienating groups representing Russians, Uzbeks and other non-Kyrgyz. However, in the opinion of Ashar, Asaba and Erkin, the DDK did not shift far enough toward becoming a more nationalist organization, thus resulting in further splits to the DDK.

The movement was registered as a political party on July 16, 1993. With the more radical elements breaking from the DDK and under the leadership of a moderate, Zhepar Zhekhsheyev, the DDK has undergone a number of changes in policy and structure. The DDK is reorienting itself toward once again being a multi-ethnic organization. In his interview with the IFES team, Zhekhsheyev stressed that the DDK is a party for all citizens of Kyrgyzstan. He explained that the party's new platform included a demand for the abolishment of the Soviet practice of requiring one's nationality to be listed on passports.

Zhekhsheyev related to the IFES team that the party's new slogan is "Everything for the people!" The platform calls for equal responsibility of everyone, including the president, which according to Zhekhsheyev, does not exist today. The party supports an active social policy, private ownership of land and entrepreneurship. The DDK has categorized itself as a centrist party and is considered pro-government.

Asaba (Party of National Revival) Asaba began as a Kyrgyz nationalist movement in April 1990. It was one of the founding-member organizations of the DDK. Frustrated that the DDK was not nationalist enough, Asaba split from the DDK to form a separate party. Asaba emphasizes the need for a revitalization of Kyrgyz culture and language. Asaba, a pro-presidential party, has continually supported Akayev's policies and reforms, though it has criticized his personnel policy for lack of discipline. The party strongly supported the president's actions during the parliamentary crisis in September 1994 and the closure of the newspaper *Svobodnye Gory*, which it considers a "mouthpiece for pro-communist, pro-Soviet forces calling for the restoration off the USSR."<sup>12</sup>

Erkin Kyrgyzstan (Free Kyrgyzstan) Erkin emerged from the association Civic Initiative and was led by members of the DDK calling for a more radical and nationalist DDK. When a radical-nationalist shift by the DDK was not forthcoming, Erkin broke away from the movement and registered as a political party on October 4, 1991. The party differs from Asaba in Erkin's position as a staunch opposition party. Though Erkin's platform advocates "the observance of all rights of all ethnicities," ethnic Kyrgyz comprise nearly all of the party's membership, which at its highest reached 35,000.<sup>13</sup> In 1992, a group of more moderate members split from Erkin to

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<sup>12</sup>"Statement by the Asaba Party of National Rebirth," *Slovo Kyrgyzstana*, September 14, 1994; in FBIS, September 20, 1994, p. 61.

<sup>13</sup>International Republican Institute, "Charting the Mergers and the Breakups: Political Parties in Kyrgyzstan," p. 20.

form the Ata-Meken party. Erkin Kyrgyzstan remains especially strong in Bishkek, Osh, Jalalabad, and Naryn. Along with the Communist party, Erkin has been the most adamant critic of President Akayev's involvement in the dissolution of parliament in September 1994. It demands that the president respect the principle of separation of powers between executive, legislative, and judicial branches.

Ata-Meken (Fatherland) Espousing a centrist, pro-Western agenda, Ata-Meken broke from Erkin Kyrgyzstan and registered as a political party on December 15, 1992. Ata-Meken opposes both a radical and a piecemeal pace of reform. The party supports the existence of a strong social safety net, including guarantees of health care and living facilities. The generally pro-government party's multi-ethnic membership consists of mainly young intellectuals and businessmen. Ata-Meken endured a relatively uninterrupted change in leadership when Chairwoman Kamel Kenenbaeva passed the chairmanship of the party to Omurbek Tekebaev. The party has a well-developed internal structure, which includes a business department.

Communist Party of Kyrgyzstan Though the Communist party was banned in Kyrgyzstan following the August coup in 1991, its structure and assets remained basically intact when it reemerged as a "new" party in March 1993. As in most former Soviet republics, the Communist Party in Kyrgyzstan is the largest and most organized party in the republic. Until the dissolution of the Zhogorku Kenesh, the Communists controlled the parliament, elected in 1990 under the Soviet regime, which allowed them to block efforts of reform. As President Akayev was attempting to reassert his power in 1993 and 1994, the Communist Party portrayed itself as an opposition party though it controlled parliament. Considerable wealth and experience combined with a highly developed organizational structure and significant popular support (especially in rural areas) give the Communist Party a distinct advantage over the incipient parties that comprise the rest of the political spectrum in Kyrgyzstan.

Other parties Several other small, young political parties are registered and active in Kyrgyzstan. The Republican People's Party, which formed in 1992; the Republican Party of Unity, which broke away from the former in the summer of 1993; and the Social-Democrats, which split from the Communist party and were registered in October 1993, are centrist, pro-government parties with multi-ethnic memberships consisting of intellectuals and government personnel. The Agrarians, also a centrist, pro-government party, formed in May 1994 in support agricultural reforms, particularly private ownership of land. The Agrarian-Labor Party is composed of workers in the agro-industrial sector. The party favors protectionist policies, the development of a state regulated market economy and different forms of property ownership. Little is known about the other parties: the Democratic Women's Party of Kyrgyzstan, the Democratic Party for the Economic Unity of Kyrgyzstan, and the Ecological Party. The Women's Party, registered in October 1994, is pro-government and demands equal rights for women. The newest party, the Democratic Party for the Economic Unity of Kyrgyzstan, was founded in November 1994 and is sponsored by two private companies. It calls for an overhaul of the country's tax system. The Ecological Party has not been active since its founding in February 1994. It did not nominate candidates to the Zhogorku Kenesh as a political party and may no longer be registered.

## B. Public Associations

Public associations are organizations with formal internal structures, unlike movements, and whose activities are not limited to electoral-political competition, unlike political parties. In developed democracies public associations generally are considered part of civil society, whereas in Kyrgyzstan, by being allowed to field candidates in elections, public associations also have become part of political society. Public associations tend to represent one specific interest group, such as veterans or entrepreneurs or an ethnic group. Public associations generally are independent of the state and perform such functions for their constituents as facilitating communication, providing services, and lobbying. In Kyrgyzstan, political representation in parliament has been added as another function of public associations.

Since public associations are the newest actors in Kyrgyzstan's arena of political competition, they have little experience in electoral campaigning and politicking. Public associations were well represented at the NDI seminar on local election observers. At the seminar, the IFES team was able to hear the concerns of public associations competing in the upcoming parliamentary elections, including those representing ethnic groups (Dungans, Uighurs, Kazakhs, and {Anatolian} Turks), families with multiple children, and young people. Since many of the non-Kyrgyz ethnic groups (except Russians) are clustered each in one or two particular areas, the ethnically oriented public associations may have a chance of gaining parliamentary seats only in the regions where their ethnicity is dominant. Countrywide public associations, such as youth or women's groups, have regional branches throughout the republic and will most likely field candidates in many districts.

The Slavic Fund was established in June 1990 in an effort to preserve Slavic culture and to protect the rights of Russian-speakers in the republic. Russians and Ukrainians make up the largest groups of Slavs in Kyrgyzstan (about 25% of the entire population), but there are also smaller numbers of Poles and Byelorussians. Members of the Slavic Fund included several deputies in the former parliament and about 3,000 dues-paying members. The Slavic Fund is potentially a powerful political force in Kyrgyzstani politics.

The Kyrgyz-American Bureau on Human Rights and Rule of Law, directed by Natalia Ablova, is a very active "watchdog" organization. During the election campaign period, it has taken on the role of ensuring that political parties' and public associations' concerns are heard and addressed by the government or by the CEC. During the IFES team's visit, the bureau had submitted to the presidential apparat and the CEC a document drawn up at the NDI seminar voicing concerns regarding contradictions and inconsistencies in the electoral law. Though the bureau, due to its nature as a human rights group and its role of assisting parties and public associations, did not nominate candidates to the February 5, 1995, parliamentary elections, it is an important player in the political evolution of Kyrgyzstan.

### C. Electoral Blocs and Coalitions

Through the many splits and breakups that marked the development of Kyrgyzstani political parties, coalitions between parties have been difficult to maintain. They have been plagued most by personality conflicts between leaders. Likewise the majority-type electoral system in Kyrgyzstan is not conducive to Western-style electoral blocs common among parliamentary democracies with proportional-representation systems.

The parliamentary crisis in September 1994, however, fostered a new sense of cooperation among some parties. On September 12, 1994, the Congress of Democratic Forces was organized by the opposition, bringing together over 300 delegates from various political parties. Disagreeing with the confrontational stance purported by the Communist Party and Erkin Kyrgyzstan at the Congress, a group of centrist parties, led by the DDK, Ata-Meken, and the two Republican parties, walked away from the Congress and held their own conference. Supporting the centrist conference were the Agrarian Party and the Social Democratic Party. Presently, it appears that two very loose coalitions, one of the radical opposition and the other of moderate centrist parties, have formed.

As explained to the IFES team by DDK chairman Zhepar Zheksheyev, these loose "alliances" have taken an interesting form to offset the advantages of candidates supported by local state administration and to prevent the vote from being diluted by many parties competing against each other. Candidates were nominated by each party separately, but some parties, including even the Communists, are working collectively in certain districts to keep candidates of different parties from running against each other in the same district. There are 105 electoral districts, yet most parties have nominated not more than about twenty candidates each. (Only the Communist party had more, with forty candidates registered.) A type of agreement was arranged between parties whereby a candidate would be nominated from only one "bloc"-member party per district. It was not clear to the IFES team, however, how prevalent this type of arrangement was or how many and which parties specifically participated. It was also unclear how many districts were involved, because the team heard other reports that in some districts fifteen or more candidates were nominated. The high figure, however, includes candidates nominated not only from political parties but also from public associations and local communities and independent candidates.



#### IV. LAWS RELATED TO ELECTIONS

##### A. Law on Election of Deputies of the Zhogorku Kenesh and Presidential Decrees Amending It<sup>14</sup>

The law guiding the administration and conduct of the February 5, 1995 elections was ratified by the parliament in December 1993 and by President Akayev in January 1994. There have been no revisions to the law except for the decrees issued by Akayev following the October 22, 1994 referendum establishing a bicameral parliament. Since a bicameral parliament is not created by the Constitution of the Kyrgyz Republic and a Constitutional Session presently is meeting to consider constitutional amendments, it is possible President Akayev might issue other decrees revising the election law.

The existing law generally meets the commonly accepted international standards for democratic elections. However, it is important to note a number of concerns held by the IFES team regarding the presidential decrees amending the election law. First, as noted earlier, the bicameral parliament does not have any legal or constitutional foundation other than the October 22, 1994, referendum approving, in general, the creation of a two-chamber parliament. Second, the amendments to the election law are being issued by presidential decree, without any ratification by parliament (which has not existed since its dissolution on September 5, 1994). President Akayev was unchecked in determining the specific framework upon which the elections would be conducted.

The most common change resulting from the "Decree on several additions and changes to the election procedure..." is the rewording of articles so that they apply to a two-chamber body by referring to "Legislative Assembly" and "Assembly of People's Representatives" instead of

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<sup>14</sup>The electoral law and decrees affecting the conduct of the February 5, 1995, parliamentary elections are: the "Law of the Kyrgyz Republic On Election of Deputies of the Zhogorku Kenesh of the Kyrgyz Republic," January 12, 1994; the presidential decrees: (1) "On appointment of elections to the Zhogorku Kenesh in the Kyrgyz Republic", October 27, 1994; (2) "On several additions and changes to the election procedure of deputies to the Zhogorku Kenesh following from the decision of the referendum (by nationwide voting) of 22 October 1994 on the creation of a two-chamber Zhogorku Kenesh", October 27, 1994; (3) "On approval of lists and borders of electoral districts for election of deputies to the Legislative Assembly Zhogorku Kenesh in the Kyrgyz Republic", October 31, 1994; (4) "On approval of lists and borders of electoral districts for election of deputies to the People's Representatives Assembly Zhogorku Kenesh in the Kyrgyz Republic", October 31, 1994; and (5) "On certain matters of organization of work of the Kyrgyz Republic District Commissions for Legislative Assembly deputies and People's Representatives Assembly Zhogorku Kenesh deputies election", November 1994; and the decree of the Kyrgyz Government "On certain matters relating to the elections to the Supreme Council of the Republic of Kyrgyzstan."

simply the Zhogorku Kenesh. Another common change is adding "public associations" and "local communities" to "political parties, their factions, and assemblies of voters..." in regards to the nomination and election process. The most significant change is the redivision of the territory of Kyrgyzstan into voting districts that accommodate a two-chamber parliament.

Direct, universal suffrage is granted to all citizens aged eighteen or over, except those found disabled by a court decision or those deprived of the right to vote by a court decision. Elections are based on the premise of free, popular, and equal suffrage by secret ballot, and the principle of "one voter, one vote" is guaranteed. Restrictions of the right to vote based on sex, ethnic origin, political views, social and property status, language, and religion are prohibited.

Deputies are elected from one mandate election district for a period of five years. To be elected, a candidate must win no less than 50 percent of the votes cast. For the elections to be valid, more than 50 percent of the registered voters must participate. If both of the above stipulations are not met, a runoff election must take place within two weeks. Only the two highest vote getters are allowed to take part in the runoff election. The 50 percent turnout requirement is maintained for the runoffs. If less than 50 percent of the registered voters participate in the runoff, a third-round election will be held with completely new candidates taking part. The election law stipulates that a candidate may not run again for office in a district where less than the minimum number of registered voters turn out for a runoff election, although they are permitted to run in a different district in this type of situation.

Election Commissions The election of deputies is organized by election commissions composed of representatives of political parties, labor collectives, meetings of voters at the place of their residence and, by presidential decree, public associations and local communities. Election commissions are organized into three hierarchical levels: the Central Commission, district commissions and precinct commissions. Electoral commissions are required to inform the public of their work and to provide candidates for deputies and their agents ("trusted faces") and representatives of the mass media the right to be present during commission meetings, as well as during the registration of candidates, the voting and calculation of votes at election precincts, the determination of election results of an election district, and the summing up of the general results of elections. Other persons are not allowed to interfere with the work of election commissions.

Creation of Election Districts The election law stipulates that the republic shall be divided into 105 election districts with an equal number of voters, and that the divisions should take into account the existing administrative and territorial demarcation. The establishment of a bicameral parliament with chambers consisting of seventy and thirty-five members after the October 22, 1994, referendum rendered moot the provision calling for 105 equally sized election districts. Maintaining 105 equally sized districts would create considerable confusion regarding the determination of which districts would elect representatives to which chamber. Therefore, the boundaries of election districts were redrawn according to the presidential decrees on approval of lists and borders of electoral districts for election of deputies to the Legislative Assembly and to the People's Representative Assembly. Districts electing deputies to the representative chamber

were drawn by dividing the territory of Kyrgyzstan into seventy districts with approximately equal numbers of voters. Two adjacent, representative chamber districts then were combined to create thirty-five districts for the election of deputies to the legislative chamber. One district commission was created by the CEC for each of the two representative chamber districts and one for the legislative chamber district.

When asked by the IFES team about the procedure used to demarcate district boundaries, the chairman of the CEC, Markil Ibrayev, explained, first, the existing administrative and territorial divisions were looked at, and, then, population centers and their surrounding areas were considered with the aim of creating seventy territorially compact districts consisting of about 34,000 (the total number of registered voters in Kyrgyzstan divided by seventy) registered voters each. In an effort to determine whether any manipulation or gerrymandering of district boundaries took place, the IFES team pressed Ibrayev for further details. The chairman, however, did not understand the team's concern regarding the district boundaries and did not see how he could elaborate on the procedure any further.

Nomination of Candidates According to the election law, political parties registered with the Ministry of Justice, factions of those parties, labor collectives, and meetings of voters at their place of residence have the right to nominate candidates. Self-nomination as a candidate also is allowed.

Labor collectives with at least fifty members can nominate deputy candidates; otherwise, smaller labor collectives, with the approval of the corresponding election commission, can conduct joint meetings with other labor collectives. A nomination is valid if the meeting is attended by more than half of the members of the labor collective, or if not less than two-thirds of the delegates participate in the conference. According to the election law and the decree on the work of district commissions, work collectives are allowed to nominate only one candidate per every electoral district within populated locality borders where they are situated.

Nominations from meetings of voters at the place of residence shall be valid if the meeting is attended by at least fifty voters residing within that electoral district and approved by more than half of the meeting participants. Decisions on the nomination of a candidate shall be taken by open vote or by secret ballot. Meetings of electors at their place of residence can nominate one or more candidates. A member of the relevant district commission must be present at the meeting.

Political parties and their factions registered with the Ministry of Justice nominate candidates to specific districts during the parties' national conferences.<sup>15</sup> A representative of the CEC or a district commission must be present at each conference to address issues which might arise

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<sup>15</sup>The wording in the election law which reads "registered with the Ministry of Justice" is omitted from the decree on additions and changes to the election procedure, but it is retained in the decree on the work of district commissions.

regarding the nomination of candidates. Previous drafts of the election law, including the one used in the 1993 PETA Report, included a provision requiring political parties to nominate candidates from the parties' regional branches to the electoral districts where the branches were located. Parties without regional branches would be required to submit their lists of nominated candidates to the members of the CEC, who then would decide in which districts the candidates would run. This provision, criticized by IFES in the 1993 PETA Report, was included subsequently in the final draft of the election law. However, from the interviews in December 1994 with the chairman and deputy chairman of the CEC and with political party leaders, it appeared to the IFES team that political parties, regardless of their internal structures, determined to which districts their candidates would be nominated. The presidential decree on work of the district commissions states that political parties without territorial divisions must specify the district to which their candidates are nominated. The decree on additions and changes to the electoral procedure entirely removes the reference to parties without regional branches.

The right to nominate candidates to the Zhogorku Kenesh was extended to public associations by presidential decree following the October 22, 1994 referendum. According to Akayev's decree on the work of district commissions, public associations follow the same nomination procedure as political parties. The implications of extending to public associations the right to nominate candidates to the Zhogorku Kenesh are analyzed in the following pages, in the section on political parties and public associations. It is important to note once again that the Minister of Justice expressed to the IFES team that, in his opinion, the decree is not in accordance with the Constitution of the Kyrgyz Republic.

In addition to public associations, the presidential decrees also granted "local communities" the right to nominate candidates to the Zhogorku Kenesh. Candidates from "local communities" are nominated by the local keneshes (the representative organs of local self-governing bodies). Over half of the members of the body must be present at the meeting in which candidates are nominated. The procedure, a common practice among other former Soviet republics particularly in Central Asia, increases the ability of local governments, dominated by akims, to exert their influence nationally.

All candidates, regardless of nominating body, are required to collect in their support 500 signatures of voters from the district in which they are to be nominated. In addition, a candidate must submit to a special fund of the CEC a deposit in the amount of five minimum monthly salaries (in December 1994 this amount was 340 soms or about 33 dollars). The deposit shall be returned if the candidate receives at least ten percent of the votes cast in that district.

Registration of Candidates Candidates must be at least twenty-five years of age and have resided in the republic at least five years prior to the elections. Those convicted by court decision may not be elected deputies. A candidate can be registered in only one election district. Members of the CEC, a district commission or precinct commission nominated as candidates must resign from their posts on the election commission.

Registration of a candidate will be denied if the candidate collected less than 500 signatures or if the nomination procedure was not followed. In addition, a random selection of 10 percent of the submitted signatures must be verified. If a doubt arises or a complaint is made, the entire list of signatures may be checked. According to Deputy Chairman Moiseyev, the signatures are verified against voter lists and by volunteers conducting door-to-door checks. Decisions regarding the registration of candidates can be appealed to the CEC within three days.

Campaign Funding Election campaigns are funded by the district commissions. Funding from other sources (including personal assets) is precluded. To use personal or other funds a candidate must submit all non-official campaign funds to the district commission, which then disburses the funds equally amongst all candidates in that district. For example, in order for a candidate to purchase additional television time for his/her campaign, the candidate must submit funds to the district commission in the amount that would allow all other candidates to purchase equal, additional television time as well.

The above campaign funding provisions and restrictions can easily be manipulated or bypassed and are, therefore, one of the main concerns of political parties, public associations, and human rights groups. Several candidates expressed to the IFES team a number of concerns regarding the issue of campaign funding. First, they believe candidates will disregard the law and use personal funds, thus giving themselves an unfair advantage over those adhering to the law. Second, they objected to the law as a whole, because it would result in limited funds losing their effectiveness by being diluted among the candidates. The third and most pressing concern regarded indirect campaigning, particularly by candidates associated with state administration. Candidates who hold government posts but are not required to relinquish those posts (see below) will gain additional exposure in the media due to their occupation. The costs of this type of exposure are not included as campaign funding, thus allowing such candidates unlimited exposure. Even the candidates forced to vacate their government posts would still be "in the news" and also benefit from indirect exposure. The above issues voiced by candidates regarding campaign funding are valid concerns and should be addressed directly by the CEC.

The editor of *Aalam* expressed to the IFES team another concern regarding campaign funding. Since candidates are precluded from using funding other than that provided to them by the district commission, the only financial commitment a candidate needs to run for a parliamentary seat is the amount needed for nomination (five minimum monthly salaries). The inexpensive election campaign encourages numerous candidates to run in each district. As a result many of the candidates may not be qualified. Furthermore, the high number of candidates and the lack of information about the candidates may confuse voters.

An example of the controlling and restrictive nature of the campaign was the often criticized, officially designated campaign leaflets/posters. The leaflets were drab-colored and unflattering to the candidate. Candidates could not create different leaflets since it would require additional campaign funds. Candidates requested funds in exchange for the leaflets, but, their appeals were denied.

In addition to the leaflets, candidates were allowed equal air time on television and radio. Political parties, candidates, the human rights bureau, and members of the media have expressed concerns regarding who will determine and what procedure will be used in making the determination of when a candidate's advertisement will be aired. Many of those interviewed believe that candidates favorable to state administration would be given "prime time."

Deputies' Conflicts of Interest As mentioned above, many candidates are concerned about the unfair advantages associated with candidates from state administration. A subparagraph in Article 30 of the election law vaguely addresses the issue:

Persons holding positions in executive and judicial bodies shall resign from the day of their registration as candidates for deputies.

The lack of specificity in the law and the increased assertiveness of the akimat led to considerable confusion about who would be allowed to run as deputy candidates.

A previous draft devoted an article with a broader though just as general restriction solely to this issue:

Article 10. Incompatibility of the People's Deputy status with other activity or full-time activity/position.

The People's Deputy of the Republic of Kyrgyzstan cannot occupy any other positions in the state administration, courts, or business.

The replacement of "positions in state administration" for "positions in executive ... bodies" contributed to the concern that akims potentially also could be elected deputies, thus, extending their influence nationally.

The decree on additions and changes to the electoral procedure devotes an article entirely to the issue of deputies' conflict of interest. The article refers to the election law stating:

Article 11. In accordance with article 30 of the Law of the Kyrgyz Republic "On the Elections of Deputies to the Zhogorku Kenesh," persons holding positions in bodies of executive and judicial authority give up their powers from the day their candidacy for deputy to the Legislative Assembly or the Assembly of Peoples Representatives is registered to the moment their authority as deputies is recognized, or, in the case of not being elected for deputy, up to the moment the count of the votes is completed.

The issue was further clarified on November 4, 1994, when the Kyrgyz Government adopted a resolution, guided by the presidential decree issued on October 27, 1994, specifying which posts of state executive authority must be given up by the holders of those posts upon registration as candidates to the Zhogorku Kenesh. The edict lists among other posts :

- Members of the Kyrgyz Government and their deputies;
- Heads of regional, district, and municipal state administrations (akims) and their deputies;

- Heads of administrative departments of the Kyrgyz Republic, state commissions, funds, business projects by the Kyrgyz Government and their deputies.<sup>16</sup> (See Appendix.)

Those affected by this stipulation must take a paid leave of absence from their positions during the campaign. If elected they must officially resign from their posts, if not they can return to their positions.

Election Observers The election law stipulates that the only observers allowed at polling sites will be candidates' "trusted faces", members of the mass media, international observers, and CEC monitors. "Independent" domestic observers will not be allowed to be present at polling sites. Instead candidates are recommended to find reliable "trusted faces". Candidates to the Legislative Assembly are allowed ten "trusted faces" and candidates to the Representative Assembly are allowed five. At the NDI seminar, Natalia Ablova mentioned the importance of candidates and "trusted faces" getting to know and becoming friends with members of the polling-site commissions.

A major concern voiced by many participants in the NDI seminar centered on whether the lists of "trusted faces" submitted by candidates would have to be approved by an election commission, thus giving members of the commission the power to dismiss "unfavorable" or "disliked" persons from the lists. Adding to the controversy was an apparent conflict between articles seven and twenty of the election law. Article 7 gives agents ("trusted faces") of candidates "the right to attend meetings of electoral commissions as well as to be present during the registration of candidates for deputies, during voting and calculation of votes at an election precinct, during the determination of the results of elections in an election district, and during the summing up of general results of elections." Article 20, which outlines the powers of precinct commissions, states in Paragraph 9 that a precinct commission has the power to "decide matters concerning the representation of ... agents... at a precinct." The IFES team asked the deputy chairman of the CEC to clarify the issue. He attested that there is no approval process for "trusted faces"; all would be accepted. The deputy chairman did emphasize, though, that "trusted faces" are the responsibility of the candidate.

Another concern voiced at the seminar was whether observers would be taken seriously and their complaints heard. A number of "trusted faces" during the October 22, 1994, local elections referred to instances where the polling site commissions ignored complaints made by "trusted faces." The Minister of Justice assured the IFES team that, due to the representation of political parties and public associations on election commissions and to the large number of observers and "trusted faces" present at each polling site, the fairness of the elections would be assured. He estimated that there would be about 400 candidates to the Legislative Assembly and 700 to the

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<sup>16</sup>Kyrgyz Radio First Program Network, Bishkek, in Russian, 1200 GMT 4 November 1994; in FBIS, November 7, 1994, p. 52.

Representative Assembly with 4,000 and 3,500 "trusted faces" respectively.

In separate interviews Natalia Ablova, director of the Kyrgyz-American Bureau on Human Rights, and Omurbek Tekebaev, chairman of the Ata-Meken party, emphasized the role candidates themselves play in ensuring the fairness of the elections. Ablova stressed that candidates should be very active during the campaign, making it clear to the members of their district and precinct election commissions that they know the law and will demand that it be adhered to. Tekebaev stated that the competition between candidates would necessitate that they monitor each other for violations. He added that candidates must make themselves known not only to the commissions but to the voters as well. Zhepar Zhekhsheyev, chairman of the DDK, was confident that the presence of representatives of political parties on election commissions, though it would not necessarily preclude violations, would ensure that complaints be heard and addressed by the respective commissions.

Since members of the mass media were allowed to participate as election observers, the IFES team wanted to get an impression of their view of this role that they play in the election process. The reactions were mixed. Some saw their role as an integral part of informing the population about the elections and ensuring their validity. On the other hand, some downplayed their role as observers, referring to it as a political role which, therefore, should be the responsibility of candidates, their agents, and political parties. It is important that the media take seriously its role as observers since the media, not candidates, have the readily available means to inform the population of improprieties found or of the validity of the elections.

#### **B. Laws Concerning the Media and Public Associations**

During the course of the IFES PETA team's visit to Kyrgyzstan the media law and the law on public associations both were under revision. Just prior to the team's arrival, draft laws of each were the subject of a joint Ministry of Justice and CSC sponsored seminar entitled "Free Media and Free Association" in Bishkek on December 7 and 8, 1994. At the seminar, both draft laws were harshly criticized by members of the media, representatives of public associations and human rights groups, and jurists from the United States, Spain and Poland. As a result, the drafts required substantial revision and were not likely to be in final draft form before the February 5, 1994 elections.

Issues addressed regarding the media law included ownership of media, censorship, access to government officials and freedom of speech. Presently, the government owns Kyrgyzstan's two publishing houses and subsidizes a number of newspapers. Representatives of the media emphasized that the media must be financially independent in order to have an independent editorial position. Also criticized in the media law was a provision on suspending publications, which was viewed as a means of censorship and as too ambiguous. Limitations regarding "invasion of privacy," "honor and dignity," and "intolerance" lent themselves to a variety of interpretations. In Kyrgyz culture, criticism is viewed as impinging upon one's honor. The draft law on public associations received considerable criticism at the conference.



Particularly stressed was the need to distinguish between political parties, trade unions, and other public associations. The importance of differentiating between parties and other public associations also was mentioned in the IFES 1993 PETA Report. In addition, some parts of the law were criticized for being excessively restrictive.

## **V. LAWS RELATED TO THE CENTRAL ELECTION COMMISSION**

### **A. Law on the Formation of the Central Election Commission for the Conduct of the Referendum and Elections in the Kyrgyz Republic.**

Based on a Presidential Decree dated September 21, 1994, a 12-person Central Election Commission (CEC) was established to conduct the October 1994 Referendum and subsequent elections to the newly constituted bicameral Zhogorku Kenesh. This commission was established in compliance with the December 18, 1993 law Concerning the Central Commission for Elections, which stipulates a term of five years and four months for its members. The basic law establishing the CEC and defining its duties has not been changed or amended since its adoption.

The proposed law in its draft form is explained in great detail in the IFES PETA of 1993. The final version of the CEC law is substantially the same as the draft with a few exceptions. During the 1993 PETA, the IFES team made several recommendations for changes in that law, some of which were incorporated, most of which were not.

### **B. 1993 Recommendations Not Adopted Into Current Law**

Institutional Memory of Election Commissions The CEC is formed four months before the election for a five-year period. Since elections to the Zhogorku Kenesh are supposed to be held every five years, a new CEC will be chosen for each election. Furthermore, District and Precinct Commissions also dissolve after candidates are recognized as deputies. It is not inconceivable that some of the 12 members could be reappointed, but there is no provision for any of the members to stay in any capacity either as advisors or ex officio members. This leaves a new CEC without any knowledge of prior problems, issues or administrative solutions. In addition, there is no continuity of knowledge or expertise, no standards of professionalism and no system for accountability on a consistent basis.

A final note on this subject deals with issues of ethical behavior on the part of commission members on all levels. The present law does not specifically stipulate high standards of ethical behavior, nor does it provide for mechanisms of guaranteeing the democratic rights of franchise of the citizens of Kyrgyzstan.

Local Officials and the Election Process Currently the CEC laws say very little on this subject. The laws state that only "persons allowing direct or indirect use of their ministerial positions

during preparation and management of the election shall be liable as provided by law." Hence, many areas are left open to interpretation and the personal discretion of each election district. As a result, local officials more likely will be tempted to use their positions to discretely intimidate candidates, parties, organizations and voters.

Adjudication of Grievance The final version of the CEC law does not outline any procedures for adjudication of grievance. Although the current Presidential Decree stipulates that grievances will be handled according to the law, the law includes no procedures. The potential for problems such as unfair decisions and arbitrary procedures arises out of this inadequacy in the law.

Process of Delimitation The law states that electoral districts will have equal numbers of voters but does not specify any procedures for drawing district boundaries. When asked by the IFES team about the procedure used to demarcate district boundaries, CEC Chairman Markil Ibrayev, explained that, first, the existing administrative and territorial divisions were looked at, and, then, population centers and their surrounding areas were considered with the aim of creating seventy, territorially compact districts consisting of about 34,000 (the total number of registered voters in Kyrgyzstan divided by seventy) registered voters each. In an effort to determine whether any manipulation or gerrymandering of district boundaries took place, the IFES team pressed Ibrayev for further details. Not understanding the IFES team's concern, he answered convolutedly,

"There were 105 parliamentary districts prior to the institution of the Bicameral parliament. When it was determined on house would have 35 seats, and one house would have 35 seats, and one house would have 70, it was easy to collapse 105 first into 70, then combine the two 70's to make 35."

The answer was similarly vague to the question of who determined these new districts. But, there were rumors that a small group of specially selected officials drew all the new district lines.

Ballot Security Part of the original recommendation concerning ballot security was adopted and written into both the CEC and election laws. The ballots were going to be marked with a seal of the district commission and delivered in packages to each election precinct. The precinct chairperson will note the number of ballots received on election day; however, a written, formal procedure for ballot security at the polling place on election day does not exist. In addition, there is no procedure for actually counting and verifying the number of ballots received from the district commissions. This has the potential to create many opportunities for vote fraud and vote counting manipulation at both the precinct and district levels.

### **C. Problems Faced by CEC in Preparation for February 5, 1995 Election**

Candidate and Campaign Funding The CEC has full responsibility for funding the campaigns of all candidates who gain ballot access. In preparation for this election, a presidential decree expanded ballot access to any group or individual who wanted to run for the office of Zhogorku Kenesh. The potential number of candidates expressing interest in the election was staggering.

Based on current fiscal and economic conditions in Kyrgyzstan, it would be difficult for the CEC to run a thorough and informative political campaign. As a result, all candidates suffered. Political parties and members of organized campaigns stated prior to the elections that they would use their own money and resources to print "underground campaign literature, purchase TV and radio time and campaign independently of the CEC." This potentially puts those with financial resources at a great advantage politically. However, campaigning independently of the CEC violates the election law places candidates at risk of being removed from the ballot.

Voter Information and Education The CEC is responsible for educating voters about election day procedures, ballot styles, ballot colors and various races on each ballot in each district. Other responsibilities include coordinating and disseminating information about new election districts and the duties and responsibilities of the new, bicameral parliament.

In preparation for the February 5, 1995 election, this was an enormous task because there were local races in all districts and mayoral races in two districts. Voters were given a minimum of three different ballots of different colors to denote different races. And in two of the cities, voters had four different ballots on which to vote. The CEC had a legal mandate to inform voters about election day procedures, and readily admitted they have limited resources for this project. At the time the CEC was counting on the candidates and political parties, the election districts and the local administrations to educate voters and encourage voter participation.

Commodities and Financial Needs The CEC is not prohibited from receiving financial and commodities assistance from foreign NGO groups and governments, and has asked several western countries for financial and commodities assistance. The CEC needs this help to supplement the work it is required to do by law. While the law provides the CEC with a separate budget for election campaigns and implementation of required programs, there are limitations on the amount of money available to the CEC for all of its requirements.

When a new parliament is elected, many areas of the present CEC law should be reviewed with revision in mind. This is especially true in the area of CEC's responsibility in candidate campaigns. If the CEC is not responsible for conducting candidate campaigns, political parties and candidates are allowed more freedom to develop a campaign style and strategy for themselves, and the CEC saves precious resources and time. There are many unclear and inconsistent areas of this law, and the need for further clarification will probably become apparent in future elections.

## **VI. PROPOSED PROGRAM RECOMMENDATIONS**

Based on our initial data collection and analysis, the following programs were recommended to IFES Washington Program Manager for review and consideration. These suggestions are listed in order of priority based on what the observation team determined to be the most critical needs in the February 5 election cycle.

1. A three-week voter information and education program focusing on the development of radio, newspaper and possible television public service announcements of a nonpartisan, nonpolitical nature. In general, 30, 60 and 90 second information spots and newspaper ads could be developed to run at appropriate intervals prior to election day. They would focus on topics relevant to the parliamentary election:

Definition of a bicameral parliament,

Each house race will have a different color ballot,

Casting a vote will make a difference in the election outcome, and

Your vote does count, one person - one vote. If you want to count you must vote; your voice is your vote.

These same types of messages can be converted into quarter page ads in local newspapers. For this program, IFES consultants and/or staff should

Assist in the development of the informational messages,

Develop media contacts,

Assist in the production of the radio and newspaper ads, and

Advise the CEC and media outlets when to run each targeted spot.

USIS/Bishkek was asked to assist in this program with a small grant used to translate the informational spots into Russian and Kyrgyz and to defray some of the costs of production. It is possible the voter information messages should also be translated into the Uzbek language since Uzbeks make up a substantial portion of the population in the south of the country.

2. IFES could assist the CEC and Minister of Foreign Affairs in the training of international observers and provide at least 500 official observer badges for use on election day. The training could consist of an overview of the election law, the races on the ballots and some of the issues of voting and vote counting. IFES might consider holding a one or two-hour training session for the observers prior to election day.

3. Provide special training job aid documents to local election-day workers regarding issues of multiple ballots and voting on ballots of different colors. It will be important for election-day workers to be able to explain to voters how to cast their votes appropriately as voters understand how to vote in all of the races of their choice. A job aid of this type could also be handed out to voters to read as they enter the polling station. This type of program will provide an additional information source for voters if they do not hear or see other public service announcements.

Based on these recommendations, IFES decided to assist the CEC in the development of a comprehensive Voter Education and Motivation Program in Kyrgyzstan. This project is described in Section II.

## SECTION II

The contents of this section depict the legal framework under which Kyrgyzstan's parliamentary elections were held, recommendations for creating a more effective legal framework, the IFES Voter Education and Motivation Program created to help the citizens of Kyrgyzstan understand this legal framework, and, finally, on-site observations of the election itself. Accompanying Gwenn Hoffman on-site in Kyrgyzstan to undertake these initiatives on behalf of IFES were

*Daniel Blessington.* Mr. Blessington is a legal consultant in Washington, D.C., and has served the Federal Election Commission as a staff attorney. In addition to his on-site observation and legal analysis of the February 5 elections, he has served as an election law and process expert for IFES technical election assistance and voter information projects in Uzbekistan and Kyrgyzstan.

*Henry Valentino.* Mr. Valentino served as the mass communications specialist responsible for designing a voter-information campaign for IFES' parliamentary election support project in Kyrgyzstan. He has more than 30 years of experience in telecommunications and public, media and press relations.

The IFES team also attributes much of the success of the project to Bruce McGowen and the USIS team, who not only helped fund the project but also supported IFES' efforts as it developed and delivered the project package.

## AN OVERVIEW OF THE KYRGYZSTAN JUDICIAL SYSTEM AND ELECTION LAWS

Two points should be addressed in attempting to describe and analyze Kyrgyzstan's laws relating to elections. English language translations might not adequately convey the intended meaning in the Russian and Kyrgyz "originals;" nor is there a substitute for seeing the actual implementation of the written law.

The clarity of a law depends on the quality of its drafting - the use of language. In American law, the lack of a punctuation mark can conceivably change the legal meaning of a writing. Translating law adds another dimension to the language problem. In Russian, for instance, there are no articles equivalent to "the" and "a" in English; neither is the verb "to be" generally expressed in the present tense. When analysis of a Russian-language election law is based upon an English-language translation of that law, misunderstandings could develop.

*Ad hoc* translations also introduce an additional element of uncertainty. When analyzing laws, it is important to obtain the very best translations possible in order to focus on substantive legal issues rather than translation-driven misconceptions. In this regard, the source of the translation should be identified, and the date established. The date is particularly important to insure that the law being reviewed is not a draft. In Kyrgyzstan, sources and dates of the translations to which the international community had access were not easily discernible; and, a general casualness with respect to the handling of election-related legal material prevailed. The government published the various laws in Russian and Kyrgyz. English translations were apparently done by staff of various international organizations operating in the area and passed around informally. While this might suffice for a basic understanding of what the various laws generally provide, it is not a sound basis for a legal analysis.

Even assuming the best possible translation, analyzing mere words is not enough. In order to evaluate a law's efficacy, it is essential to see how that law is implemented. Kyrgyzstan's election laws were untested until the Zhogorku Kenesh elections were held on February 5, 1995, and subsequently. As of this writing, the election "cycle" remains incomplete. Elections are still being held, and the Central Election Commission is still considering cases. Some of the problems that ensued could have been predicted simply by looking at the relevant laws; however, to obtain a complete and accurate view of the laws' impact, it is essential to follow closely the various decisions and actions still taking place.

## **I. LEGAL FRAMEWORK FOR ELECTIONS**

The legal framework under which Kyrgyzstan's parliamentary elections were held consists of the country's court system, the various laws and decrees relating to the elections, proposed revisions to the Constitution and the role of the Central Election Commission (CEC). Prior to the first round of elections, there was considerable confusion in both the international and domestic communities over various provisions in the election law, as well as the respective roles of the courts and the Central Election Commission. The general agreement was that the legal structure supporting the elections and their administration was characterized by uncertainty and improvisation.

After the first round of elections on February 5, 1995, the Organization for Security and Cooperation in Europe, whose Office of Democratic Institutions and Human Rights had organized the international monitoring effort, noted a number of problems concerning the elections. It also made recommendations for improvements. A written statement dated February 6, 1995, included a recommendation for "efficient judicial review of election commissions' decisions," and called for the public disclosure of such decisions. Also included in this statement was the following observation:

"The lack of a clear legal framework for these elections...  
was also perceived as a real obstacle to a genuinely free and fair election."

### **A. Court System**

Kyrgyzstan's pre-1995 Constitution provides for a judicial system consisting essentially of three courts.

The Supreme Court is the court of general jurisdiction for both civil and criminal matters. There is a high court, as well as regional and local courts within the Supreme Court System.

The Arbitration Court hears economic disputes between business entities. Within this system are regional arbitration courts.

The Constitutional Court consists of nine members. As its name implies, it determines the constitutionality of laws and has other significant powers. No lower constitutional courts exist.

These three court systems comprise the fundamental judicial structure of Kyrgyzstan. In addition, the Constitution provides for local courts of elders and arbitration to settle relatively minor matters, including some family and property disputes.



## B. Laws, Decrees and Referenda

Laws relating to elections are meant to include presidential decrees and popular referenda, as well as enactments of legislative bodies. Given this definition, there are two broad categories of laws relevant to the elections held on February 5, 1995: those providing the authority for the holding of the elections and those that govern their administration. Some have questioned the constitutional and legal bases for the elections. Nonetheless, they have taken place. What is important at this juncture is what lessons can be learned.

Referendum of October 22, 1994 - The parliamentary elections, whose first round was held on February 5, 1995, were authorized by a referendum approved by the voters on October 22, 1994. On September 22, 1994, after the controversial "self-dissolution" of the previous unicameral parliament, the President issued a decree authorizing a referendum on the creation of a bicameral legislature (Zhogorku Kenesh). The referendum provided for a full time Legislative Assembly consisting of 35 deputies and a part-time Assembly of Peoples Deputies consisting of 70 members. The referendum question was very brief and did not elaborate on the respective responsibilities of the two chambers. Based on both logic and informed speculation, most believed that the smaller chamber was intended to be a professional standing legislature; while the larger one would convene for limited sessions on limited questions. Ultimately, the new Constitution was expected to delineate the responsibilities, presumably after having been approved by the new parliament.

Decrees of October 27, 1994 - After the approval of the referenda questions, the President issued a decree conforming the referendum results to the existing law on election to the unicameral parliament (Zhogorku Kenesh). This had been enacted by the previous parliament on January 12, 1994. The decree also addressed the creation of legislative districts and other important details, such as the very liberal procedures for gaining ballot access.

A companion decree was issued on the same day scheduling the elections for February 5, 1995. (The President previously had established a tentative date of December 24, 1994, which had been the subject of criticism for not allowing sufficient time for campaigning.)

Law on Election of Deputies of the Zhogorku Kenesh - This is the main law on elections to the legislature. It received its final approval from the previous parliament in January of 1994, and addresses the following areas:

General principles of voting, such as universal suffrage and a secret ballot

Creation of election districts and precincts

Organization of the election, including the structure and powers of the Central Election Commission and its subordinate bodies

Compilation and publication of voting lists

Nomination of candidates

Rules for campaigning

Procedures for voting, vote counting, and establishment of run-off elections

This law established a 105-member unicameral legislature with a five-year term of office. The term of office remained unchanged by the subsequent referendum and decrees; however, the unicameral legislature was replaced by the two chamber body, as described above. The government published this law together with the modifying presidential decrees of October 27, 1995, in a Kyrgyz/Russian language pamphlet.

Decree of September 21, 1994 - In issuing this decree in advance of the October 22, 1994, referenda, the President established a Central Election Commission to supervise the referenda vote and subsequent legislative elections (assuming approval of the referenda questions). The legislatively enacted election law of January, 1994, described above, provided that parliament appoint members of the Central Election Commission (CEC) several months in advance of the elections. In the absence of a parliament, presidential decree established the CEC..

### C. The Central Election Commission

The Central Election Commission was created by the Presidential Decree of September 21, 1994. A Chairman, Deputy Chairman, Secretary and twelve other members comprise the CEC. The Commission is responsible for administering the Law on Election of Deputies of the Zhogorku Kenesh (January 12, 1994), as well as the Presidential Decree of October 27, 1994, modifying that law. The CEC is not a permanent body. Its members, such as the Deputy Chairman, can be "detailed" to the Commission from other government jobs. The CEC is at the top of a three-tiered system of election commissions. Under the CEC, and created by it, are the district commissions. District commissions, in turn, create precinct commissions. Decisions of precinct commissions can be reviewed by district commissions. District commission decisions are subject to review by the CEC.

One area of the CEC's powers that was of particular concern before the elections was how it handles disputes, complaints and violations related to the campaign and election administration. The law is not entirely clear on this, nor is it clear regarding the role of the courts.

On the basis of the existing written law, it is impossible to describe definitively each aspect of CEC jurisdiction, procedures and appellate provisions. There is no question,

however, that the CEC is a very powerful body. For instance, Article 23 of the 1994 Law on Elections states that CEC decisions will be final. Article 23 of the Decree of September 21, 1994, notes consistently that the CEC has the right to annul decisions of subordinate committees. Beyond this, however, there was considerable confusion prior to the elections. For instance, the law seems to contemplate, and the CEC acknowledged in a public statement, some undefined role for the courts in the election process.

#### **D. Proposed Revisions to the Constitution**

Four questions were approved by the voters on October 27, 1994. One question asked the voters to confirm that a referendum question would be deemed valid if 50 percent of the electorate participated in the referendum, and 50 percent of those participating voted in favor. All four questions were approved.

The other three questions dealt with the constitution and resulted in the following:

One - Addenda and amendments to the constitution could now be accomplished by referenda.

Two - As described earlier, the constitution would now provide for a 105-member bicameral parliament.

Three - The new parliament would be required to make amendments and additions to the present constitution consistent with the referendum results.

To accomplish the changes to the Constitution, the president issued a decree on October 27, 1994, establishing a Constitutional Assembly that would propose revisions and submit them to the new parliament. The Constitutional Assembly was convened on December 6, 1994. Working groups were established and various drafts were scheduled for presentation. Ultimately, the Constitutional Assembly was expected to present its recommendations to the newly elected parliament. Interestingly, the draft amendments and additions to the constitution would have to address the responsibilities of each of the two chambers of parliament. Prior to the enshrinement of specific responsibilities of the two chambers in the constitution, the two chambers of the new parliament would presumably have to improvise their respective roles in approving the constitution itself.

At the time of the IFES mission to Kyrgyzstan ended in early February of 1995, those following the Constitutional Assembly's work expected that its proposals could profoundly alter the way in which the different branches of government operate and interrelate. Interestingly, however, the ability to change the constitution by referendum appears to give the president tremendous leverage to adjust constitutional provisions to the political winds

regardless of what the Constitutional Assembly and Zhogorku Kenesh ultimately approve. Unless the constitution itself imposes some strictures on referenda, the president could presumably issue a decree establishing a referendum whenever he saw a need. If the referendum passed, the constitution would be amended.

## **II. PROBLEMS**

There is insufficient documentation available on which to base a full description of the Kyrgyz election experience under the legal environment described above. The following descriptions of some of the problems encountered are based on a combination of news reports and descriptions from individuals observing the process. There is no known body of law describing the legal and factual bases for decisions of the CEC or the courts available to IFES on which to base a complete and reliable legal analysis. While the following descriptions serve to illustrate the type of problems encountered under existing law, they cannot remotely be considered as definitive descriptions of those problems.

### **A. Date of the Run-off Elections**

Prior to the first round of elections scheduled for February 5, 1995, there was a general belief that a second round of voting would have to be conducted in many of the districts. (This belief was based on the large number of individuals on the ballot in many districts, and the rule requiring a winning candidate to receive more than 50 percent of the votes of those participating.) Two provisions of law addressed this situation. Article 46 demands that the CEC publish election results within 10 days of the election, while Article 48 mandates that a second round of voting be held within a two week period. The international observers were particularly interested in the timing of the second election and sought to clarify it with the CEC. If the CEC is unable to publish the results of a close or disputed election until 10 days after the election (as permitted by law), would the two week requirement for the second round run from the day of the voting or from the day the results were published? The written law is not explicit on this point, and a reasonable reading would set the date from the day the results are official. At a briefing for international observers and the press just before the election, however, the CEC Chairman surprised many observers by stating that the law clearly required the second round to be held two weeks from election day. This reading of the law raised the prospect that there could be a second round campaign period of less than four days.

### **B. Enforcement Procedures and Court Jurisdiction**

In January of 1995, the CEC issued a statement in response to a published request by human rights activists for clarification of a number of points involving the campaign and the administration of the elections. Specific clarification was requested on the status of observers, enforcement procedures for violations of law and details concerning financing of campaigns.

The Commission statement, published in the press, did attempt to clarify the status of observers. However, it did not address either the campaign finance or enforcement questions in a meaningful way. Moreover, it introduced some additional confusion on the enforcement question by announcing that local law enforcement agencies and the courts would be open throughout the voting day to receive complaints. No details regarding the courts' jurisdiction, or how the role of the courts differed from that of the election commissions, were available; nor did any guidelines exist on how the courts would attempt to resolve the matters brought before them.

### C. Campaign Finance

The law provides for equality of funding among all candidates in an election district, and seems to prohibit all private funding of campaigns except through the CEC. During the campaign, this provision apparently led to numerous complaints of campaign finance violations by candidates and local election officials. Ultimately, the complaints reportedly were dismissed after the CEC apparently had been overwhelmed with appeals from district election commissions. Private funding did indeed enter the campaign in some ways not contemplated by the law, although the extent of it could not be determined.

The law is clearly inadequate in the area of campaign finance because it offers virtually no guidance to candidates on the permissibility of certain expenditures. If the government wants to enforce equality of expenditures and to limit expenditures and contributions from non-government sources, the government has to spell out how it will accomplish this. Otherwise, some candidates will seek to fill a vacuum, thus placing others who are uncertain of the rules and their enforcement at a disadvantage. Moreover, the involvement of the government in the actual disbursement of campaign funds and in the production of campaign materials can lead to serious abuses in terms of favoritism and curtailment of free expression.

### D. Freedom of Expression

One candidate in Bishkek took out a newspaper advertisement showing a sample ballot for his district. The sample showed the names of his opponents crossed out, signifying a vote for him. The election in this district was postponed, and the candidate who took out the ad reportedly was removed from the ballot before the election was eventually held because of the disrespect shown to his fellow candidates. While no specific provision in the election law cites such a violation, a possible basis might be found in the principle of equality among candidates that underlies Kyrgyzstan's election law. Conceivably, the advertisement could have been a violation of the campaign finance provision.

Here the content of political speech apparently resulted in a candidate's removal from the ballot, whatever reasons might have been cited. As was also seen in Uzbekistan's

parliamentary elections a few weeks earlier, candidates need protection under law in order to be able to express themselves freely during the course of a political campaign.

### **III. CONCLUSIONS AND RECOMMENDATIONS**

The existence of a clear legal framework for the holding of elections is no guarantee of that elections will be free and fair. However, the absence of such a framework is a virtual guarantee that election results will be tainted and that democracy will fail. Those in power must demonstrate their commitment to democracy by creating a legal system that provides a worthy support for its electoral activities. The specific approach to various issues, such as campaign finance and some of the mechanics of voting, is less important than a dependable legal system that provides general guidance and a mechanism for resolving disputes.

An effective legal framework for holding elections in Kyrgyzstan (and elsewhere in the region) should include the following components:

**First** - The laws governing elections must be stable in order for them to be taken seriously and to work effectively.

**Second** - Laws governing elections should establish clear, fundamental principles that will guide the regulators.

**Third** - The laws should provide for definitive procedures and areas of jurisdiction among election commissions and the courts.

Stability - It remains to be seen whether the laws governing elections in Kyrgyzstan will achieve stability. This depends on changes to the constitution, legislation and actions of the president.

Guiding Principles - No election law, regardless of how ambitious or extensive, can anticipate every question that might arise. A gray area always will exist in any body of law. Some might try to exploit it, while others might be harmed by it. There is no way, however, to completely eradicate the problem.

Good procedures - Clearly articulated procedures that provide for a full and fair consideration of the issues are an essential part of any legal framework supporting democratic elections. Procedures should include a description of the areas of jurisdiction, time frames for resolution of disputes, parties who have standing to file complaints, appellate provision and provisions for making decisions available to the public. Good procedures make good law and inspire confidence in the system.

## **VOTER EDUCATION AND MOTIVATION PROGRAM FOR KYRGYZSTAN**

The development of democracy in Kyrgyzstan has many obstacles, which include the lack of democratic traditions and lack of experience with democratic practices. In addition, the people are faced with growing economic inequality and poverty. While they have a tendency to defer to authority, the ethnic, regional, and clan loyalties and self-serving actions of former government officials challenge the momentum of continued democratic reforms.

Thus as democratic elections occur in Kyrgyzstan, it is important that the people recognize and understand the process and the progress being made, and how it will affect their country, their region, their families and their lives. The voter education program aims to promote that understanding and, in turn, the development of democracy.

### **I. PROJECT**

#### **A. Objectives**

1. Develop a basic voter education and motivation program to reach the Kyrgyzstani population with essential information about democracy, voting procedures and the issues facing the electorate in the February 5, 1995 parliamentary and local government elections.
2. Meet with U.S. Embassy/Bishkek representatives, key participants in the electoral process and leaders of civic education and other groups to determine the appropriate medium and message to reach the voter.
3. Design video, audio, and print educational and motivational materials for use in the government's civic education and voter motivation campaign.
4. Evaluate the effectiveness of the program to include any constraints or barriers to the full accomplishment of the objectives.

#### **B. Analysis of Target Audience and Issues**

Because of the short time available to prepare and implement an effective voter education and motivation campaign, it was necessary to utilize existing research concerning problems and issues facing the voters and their attitude toward these matters. The basic document used for this information was the USIA Research Report, *Kyrgyzstan in a Time of Change, A Report on Ten Focus Groups in 1994*, by Richard B. Dobson, Office of Research, October 1994, R-3-94.

Other information was obtained from the draft (undated) IFES technical assistance report from Mrs. Gwenn Hofmann and Mr. Gregory Koldys as a result of their visit to Bishkek on December 15, 1994, and from numerous RFE/RL Daily Reports, FBIS-SOV summaries, government documents including the Kyrgyz Constitution, election laws and presidential decrees, newspapers, informal discussions with members of the Central Electoral Commission (CEC), and informal interviews with local citizens.

Additional background information was obtained through discussions and briefings from Mr. Bruce McGowen, members of the U.S. Embassy/Bishkek staff, representatives of the USAID regional mission in Almaty, Kazakhstan, Mrs. Gwenn Hofmann, Central Asia Project Manager (IFES), Dan Blessington, IFES Election Law Consultant, and representatives of the National Democratic Institute (NDI), and International Republican Institute (IRI).

The information gleaned from these sources indicated it would be necessary to design a multi-media campaign that would provide specific messages for diverse audiences. Most of the people knew how to vote since there were few procedural changes from previous elections. Key differences were: (a) the number of candidates contesting the elections, (b) a bicameral parliament was established and voters would be selecting representatives for both chambers, (c) local government offices were also on the ballot, (d) Bishkek and Osh would have ballots for mayoral candidates, (e) multiple ballots with different colors were being used, (f) family voting, a tradition for many years, was not legal, (g) local and international observers would be present. Therefore the media campaign would, at a minimum, have to address these points.

In assessing the mood of the electorate, IFES found that many Kyrgyzstanis felt that they were better off prior to major democratic reforms. While they felt that they had more freedom and more opportunity now than in the 1980s, they were troubled by a perceived increase in economic inequality. Relative prosperity and stability were seen as things of the past. Nonetheless, most believed that a democratic form of government would be best for the future of Kyrgyzstan.

The dominant medium would have to be radio since it was available to all citizens. Television was estimated to cover between 40 percent to 60 percent of the population. Newspapers did not have universal coverage, but did have readership in the populated or urban areas. Nine television, eight radio and three newspaper spots were developed and targeted to various age and ethnic groups.

Based on the demographic and ethnic distribution of the population, it would be necessary to produce the multi-media campaign in three languages--Kyrgyz, Russian and Uzbek. Because of the limitations of television coverage and the fact that most of the Uzbek population could also understand Kyrgyz or Russian, it was decided that the television portion of the campaign would be only in Russian and Kyrgyz. The focus of the campaign was based on a theme "The Future of Kyrgyzstan Is In Your Hands" and the following issues were addressed: 1)Vote for two representatives for parliament 2) What races the different color ballots represented 3) Everyone is



responsible for building democracy 4) Pertinent information about the election such as the time the polls opened, steps taken by CEC to try to ensure honest and fair elections and the role of domestic and international observers.

### **C. Analysis of Available Resources**

Financial Funding for the technical assistance program was provided by USAID, while a grant for radio, television, and print production costs was made by USIA. The Central Electoral Commission (CEC) and government arranged for the media to use the materials produced for the campaign free of charge. This included State Radio and TV as well as private or commercial radio and TV and newspapers.

Technical Radio production could be accomplished by a number of studios. The major problem was the time required to produce the spots in three languages. Cost was a secondary factor. The time required for television production would be the controlling element in the campaign. There were limited facilities available to handle the type of production envisioned for a national media campaign. The spots would have to be designed for the limited technical equipment available. Only one TV producer said he was able to produce the quantity and type of spots desired within the time constraints. Initially cost was also a major factor, but ultimately a production company was found that agreed to produce the spots for \$2,500 (U.S.). Production of the materials for the newspapers was not a problem. Several graphic artists were available within the budgeted amounts for this medium.

Media State radio covered the entire country. Commercial or private radio stations were available in the major population areas. In Bishkek, at least three radio outlets were available--State radio, Radio Pyramida, and Radio Almas. Two TV outlets were available in Bishkek--State TV and Pyramida TV. Two daily and several weekly newspapers were also available.

Time Because of the difficulties encountered in locating a qualified TV production facility, it was determined that the maximum time available for the media campaign would be ten days.

### **D. The Campaign**

Strategy Since each candidate was allotted five free minutes of time on State TV, the campaign focused on general non-partisan items. A basic strategy with a common theme was developed for the campaign. It was decided that because of budget limitations and the limited time for production, and in order to reinforce the TV messages in the campaign, the radio spots would mirror the television spots where possible. Because the campaign had to appeal to all citizens who were eligible to vote, four different approaches were used in developing the spots: Some spots were designed to appeal to young voters. A second category of spots was designed to appeal to voters between the ages of 35 to 50. The third category of spots was designed to appeal to those over the age of 50. The

fourth type of spot was general in nature designed for all voters. The spots were supported by appearances on interview shows by the Chairman or Vice Chairman for five to 30 minutes discussing the importance of the election. The in-person appearances by senior members of the CEC were designed to appeal more to the potential voters who were undecided about participating in the election. The Chairman also reiterated all the key items specifically mentioned in the spots. The print media ads supported the broadcast spots with the same theme.

Television Nine spots were developed. The length of the spots ranged from 30 seconds to 60 seconds. After translation some of the spots ran a little longer than originally planned. Copies of the finished TV spots are available on video cassette from IFES, VHS format.

(a) The first spot, identified as "Hands," was designed to appeal to all categories of voters. It is a series of quick shots, 2 to 3 seconds each, of persons working with their hands. It showed hands working at baking, cooking, carpentry, rug making, typing, computer operation, surgery, etc. The narrator, off camera, announced the election date and the fact that it was a new step in building the democratic process, that each person may vote for two representatives in the new Parliament and representatives for local government. The narrator cautioned not to let "some other person make this important choice." The purpose was to counter the prevailing practice of "Family Voting" which is now illegal. The spot ended with both visual and audio saying the theme of the campaign, "The future of Kyrgyzstan is in your hands. VOTE on February 5."

(b) The second spot was called "Infants." It was designed for all voters. It played on the theme, "The Future of Kyrgyzstan is in your hands." This showed a variety of close-up shots of children, infants through toddlers, doing a variety of things. Each shot was approximately 2 to 3 seconds. The narrator, off camera, emphasized the fact that this was their first opportunity to select representatives for the new Parliament. The narrator encouraged participation in the election and ended with the standard theme.

(c) The third spot, entitled "Cafe," was designed for the younger voters, 18 to 35 years of age. It gives the viewer the opportunity to eavesdrop on a conversation between two women having tea in a cafe. Women were chosen to have this conversation to emphasize the point that they should be interested in the election and cast their own vote. The fact that different color ballots would be used for different offices was introduced for the first time. The dialogue also created a degree of excitement about the election and mentioned how easy it was to vote.

(d) The fourth spot, entitled "Shepherd," was also designed for the younger voters, 18 to 35. It was intended to inject some humor into the campaign, but the spot was not produced as written. The spot as written envisioned a shepherd in the field with his flock walking briskly. The faint sound of a telephone ringing is heard in the background. As the shepherd approaches a tree the sound of the telephone becomes louder. The shepherd then answers a telephone which is located on a branch of the tree. A voice on the phone says, "We're calling to remind you to vote on the fifth of

February." It goes on to say voters will select two representatives in the new Parliament. It mentions there will be different color ballots for each contested office. It also covers the subject of "vote your own ballot." The concept of the telephone in the tree was incomprehensible to the TV producer and he refused to shoot it as written. It was changed to have the shepherd listening to a radio and hearing the same information.

(e) The fifth spot was designed for the 35 to 50 age group, but also had a spillover impact on the 18 to 35 age group. It was called, "Family." One of the popular TV programs on local TV was a soap opera so this spot and the next were designed to take advantage of that interest. The object was to introduce a typical family environment of two couples with the husband of one and the wife of the other being brother and sister. One couple is visiting the other. When the subject of the upcoming election is discussed, the host male starts with a negative attitude and in the end begins to change, but is still not convinced the election will benefit him personally. The two women strongly support the election and mention that they plan to vote for themselves. All the pertinent points about the election are covered in the dialogue. This spot was changed to a different environment for the Kyrgyz version, but the same information is covered.

(f) The follow-on spot, called "Street Scene," was targeted for the same age group as the fifth spot. This spot picks up where the previous one ended. However this time the same two men are walking to work and discussing the election. The host male has apparently thought more about the election and now believes it is good. He agrees with his wife and brother-in-law that this is a good step forward on the path toward democracy. This was the first time it was mentioned that the elected officials would represent the interests of the individuals, families and all people in the district.

(g) The seventh spot, called "Ballots," was designed for older voters, but had a secondary target of all other voters. It discussed in more detail that there would be two chambers in the new Parliament and that different color ballots will be used for each contested office. A close-up of sample ballots was shown for the first time. Also, specific mention was made of the fact that voters in Bishkek and Osh will also be electing a mayor. The point was made again that "these are very important elections."

(h) The eighth spot was a general, direct announcement about the election. It is titled, "Election," and covers the pertinent information about the election. It mentioned the date of the election and the time the polls are open. It also mentioned the mayoral elections in Bishkek and Osh.

(i) The ninth spot was also a general spot aimed at all voters. It was titled, "Integrity." The purpose of the spot was to increase voter confidence in the electoral process. It outlined the steps the CEC has took to ensure citizens that their votes would be counted. It made reference to the international media covering the elections and the national and international observers. It explained how poll workers have been trained to administer the elections and the comprehensive voter

information program undertaken by the CEC. It replayed the message of encouraging voting in person and the importance of the election. As with the other spots, it ends with the theme, "The future of Kyrgyzstan is in your hands."

Radio All of the TV spots except the "Shepherd" were converted to a radio format for broadcast. The eight radio spots were translated to Kyrgyz, Russian, and Uzbek. Copies of the radio spots are available from IFES on cassette.

Print Media Three ads were selected; each with the theme, "The future of Kyrgyzstan is in your hands." The ads have the admonition to vote one's own ballot and also included the date of the election. The CEC distributed "official" posters of the candidates. All the posters were identical in format. In addition to the posters distributed by the CEC, many candidates supplemented their campaigns with posters of their own creation. These were seen on entrance doors to various apartment buildings. Many candidates were very creative in their ads. We understand one candidate was admonished because he published an ad in a newspaper with a sample ballot showing how to vote for him.

Approval All materials used in the campaign were approved by the CEC. Each radio and television spot had a tag saying, "This message was brought to you by the CEC." A similar tag was included in the print media ads.

#### **E. Campaign Schedule**

General The campaign was designed to be released in three waves. The first wave of three spots would begin as soon as possible, the second wave of three spots would begin two days later and the third wave would begin three days before the election. The newspaper ads would begin three days before the election with a different ad each day. The CEC made arrangements for use of the materials by the media, state and private, at no charge. All cooperated.

Radio Only nine days were available for the campaign. The radio spots began airing on January 28, 1995. Ten broadcast availabilities a day on each radio outlet were allocated to support the campaign. The spots were rotated in sequence throughout the day. When the second wave was introduced after three days, the rotation sequence remained constant by rotating the total of six spots. The same procedure was followed when the last wave of two spots was introduced on February 2.

Television The television spots began airing on January 30 with the release of the first wave of three spots. The second wave of three spots was introduced on February 1. The third wave was released on February 3. Five broadcast availabilities a day were allocated to the campaign by both the state and commercial TV outlets. On February 3 and 4, they were running an average of one spot each hour.

Print Media The newspaper ads began on February 2, with the daily newspapers carrying one ad each day. Only one weekly newspaper was able to use a print media ad.

## II. ANALYSIS OF EFFECTIVENESS OF PROJECT

### A. Success of Project

Given the short time available to conduct a program of this magnitude, overall the Voter Information and Motivation Campaign was successful and effective. The objectives of the project were accomplished. Voters were informed about the electoral process and had confidence in the results. Participation in the election, approximately 73 percent, was higher than expected. More interest in the elections was generated among many target groups who were considered to be apathetic. Also, citizens became more aware of their responsibility in building democracy and making government responsive to their concerns.

The cooperation received from the CEC and the media contributed to the success of the campaign. A comprehensive multi-media campaign was developed and implemented within an extremely limited budget for this type of undertaking. The return for the money invested was extremely high.

Because of the nature of the election, i.e., the large number of candidates contesting each seat and the legal requirement that the winning candidate receive more than 50% of the votes cast, it was inevitable that there would be a number of runoff elections. Arrangements were made for adjustments to the materials produced so they could be used for the runoff elections.

### B. Obstacles to Project

The short time available to plan, produce and implement a campaign of this magnitude was the biggest obstacle to the success of the project. If more time were available, the impact of the campaign would have been greater. This campaign was produced and conducted within 10 days. Normally a national multi-media campaign of this type should be planned several months in advance. In the U.S. planning begins one year before the start of the campaign. Ideally, production of the materials for the campaign would begin three months before its start.

A longer campaign period of at least 30 days would increase the probability of a more successful campaign voter information and mobilization campaign. The short campaign period posed a great risk to conducting a successful program. Because we were able to obtain sufficient availabilities on both radio and TV, yet because IFES was the project team was able to overcome the obstacle of the short campaign period.

Access to production facilities with better technical equipment was a limiting factor. Most of the production facilities with good equipment were booked or had other commitments and were not

available for use. The final technical quality of both radio and television spots could have been better. Synchronized audio and video enhanced the impact of the message.

The limited availability of funds required sacrifice of production quality. A budget for production costs of \$8,000 to \$10,000 would have improved the technical quality of the final spots.

### **III. RECOMMENDATIONS**

#### **A. Voters, New Voters and Election Procedures Education Program**

Emerging democracies need a continuing program of civic or democracy education, which includes voters, new voters and election procedures. The program should be long term to cover a generation and institutionalize the process. The precarious position of emerging democracies requires this to be the priority if support is to be provided. This does not mean that funding support is required for a generation or 20 years, but certainly it is required for three to five years. The program should involve the educational system and include primary, secondary and college or university students. Complementing this educational process should be one of direct and indirect support through the media and through direct actions by the government. The recent parliamentary elections are one example of a direct action by the government. The private sector must also be involved in the support of democracy. Programs for involvement of the private sector are essential to the success of the overall objectives. In the final analysis every element of the society must be involved in this program.

#### **B. Training for Key Officials in CEC**

The key officials in the CEC, particularly those in permanent positions, should be exposed to the electoral process in other democratic countries. Training programs of two or three months should be established where key officials could sit and work with election officials abroad. This should be done prior to elections in those countries so they can be involved in the planning and execution of the elections. In addition, management development and election administration seminars should be conducted for key officials and upper echelon staff members of the CEC.

#### **C. Future Voter Education and Motivation Campaigns**

Planning for future voter education and motivation campaigns should be initiated approximately one year before the election. Production of approved materials should begin approximately three months before the intended release date. The multi-media campaign should run for a minimum of 30 days before the election.

#### **D. Survey of Electorate**

Approximately six to nine months before the election, a survey should be conducted of the electorate to determine attitudes and concerns. The survey should be comprehensive and include all segments of the population. The cost of the survey will be more than offset by the ability to tailor the various programs of support provided to the government. Proper use of the results of the survey can improve the effectiveness of other programs.

#### **E. Western Exposure and Training of Key Media Personnel**

A regular program of exposure and training of key media personnel in Western countries should be expanded. Some media personnel have received this exposure as was noted in an interview by one with members of the IFES team. The result was a better understanding of the objectives and mission of the voter education and motivation project. An expanded program of this type would be extremely beneficial to all future projects undertaken in Kyrgyzstan.

## **ELECTION DAY OBSERVATIONS**

### **I. FEBRUARY 5, 1995 ELECTION**

#### **A. Observation**

Given the difficult and confusing procedural, legal and constitutional circumstances surrounding this election, election day had the potential to be a state of chaos and confusion. To add to the difficulties, in most election districts there were three different color ballots, voters were voting in new election districts and there were unusually large numbers of candidates on the ballots. Prior to election day, the CEC made several administrative rulings that made an impact on campaign practices and complaint and violation procedures. Also, the role that the court system would have in the process was unclear.

Although the extensive voter information and motivation campaign was designed to inform voters about some of the new aspects of this particular election, it did not adequately prepare them or the election-day workers for the large number of domestic and international observers or some of the problems and reported violations that were observed and reported on election day. None of the pre-election information addressed voter intimidation, vote fraud or potential pressures put on voters by local election officials, candidates and political parties.

Based on personal observation of the February 5, 1995 election, it appears election day procedures relative to identifying and processing voters, maintaining the secrecy of the ballot, making certain voters vote in the correct election district, allowing domestic and foreign observers in the polling sites and the ability of election-day workers to guarantee impartial and unrestricted franchise to voters went reasonably well. There were, however, many areas of concern, which will be presented in this section.

Election day observation included the following areas:

**Opening the Polls:** Procedures for ballot security  
Protocol information and accuracy  
Voter registration and supplemental list process  
Lay-out of voting areas and observer areas  
Ballot box security measures

**Processing Voters:** Methods used to identify voters  
Voting procedures  
Multiple voting (family voting)  
Ballot and ballot box security



Voter turnout  
Candidate and domestic observers  
Unusual activity outside voting areas

**Counting Ballots:** Overall procedures  
Justifications of numbers of voters and voted ballots  
Procedures and methods of tallying votes  
Recording vote counts on protocols

## **B. Administration of Voting**

Procedures for opening the polls, setting up the voting area and checking the ballot boxes appeared to be accomplished according to the methods required by the CEC. However, the IFES observation team noted two problem areas. One was determining the numbers of ballots actually received at each polling site, and the second was a misunderstanding of what domestic observer rights and responsibilities were and what to do with such a large number of observers.

Processing voters during the voting day was accomplished by identifying them by using their passport or invitation to vote. In some cases, if a voter was known to the poll workers, the voter was not required to present identification. After voters were identified and asked to sign the registration list, they were given a ballot and sent to an empty voting booth. This part of the process seemed to go well, and there were few problems associated with the actual voting procedures. In fact, most election-day workers went to great lengths to ensure that all voters could vote, and in many cases allowed "family voting". When the IFES team asked about this practice, the team was told it was illegal. But when election workers knew it would be a hardship for people to come to the polls, they allowed someone from the family to vote on their behalf.

During the voting day, the IFES observation team heard complaints and stories about domestic observers not being allowed inside the voting area. Voters told IFES team members of discrete intimidation by candidate and political party workers. In all cases, the team advised these people to file formal complaints with the CEC, the Election District Offices and the Human Rights Commission.

## **C. Vote Counting Process**

The IFES team spent several hours observing the vote counting procedure at the University of Bishkek, Election District 11. The team saw a variety of poor ballot processing procedures, possible vote fraud and vote counting procedures that could not be considered valid. Because the vote counting process was done in a state of chaos, this area must be revised in the future if there is to be any sense of integrity in the election process in Kyrgyzstan.

Overall, the IFES team believes the CEC did a credible job training election-day workers, allowing domestic and international observers to participate and processing voters. The real problems exist in the opening, closing and vote counting functions. All of these areas need new administrative procedures, training and legislative revision to help resolve the problems and make the election process credible and accountable.

#### **D. Conclusion**

The CEC was pleased with the outcome of the Voter Education and Motivation Program and said it was indeed a helpful supplement to their voter information effort. They were helpful in IFES' efforts to develop and produce the program and supportive in IFES' efforts to ensure appropriate airing of all materials.

Based on the projected effectiveness of this program, IFES Central Asia Regional Manager will recommend to IFES Washington, and to USIS, that a more in-depth effort of this nature be undertaken in preparation for the 1996 Presidential Election.

During the development and delivery of this program, IFES consultants uncovered the need for election law review and revisions in the areas of ballot access and political campaigning issues, election-day procedures development and clarification of proposed constitutional issues with regard to future elections. Once new laws are written, procedures developed and constitutional matters clarified, there will be a need for a more in-depth new voter education program to supplement a voter information effort.

In this regard, it will be recommended to IFES Washington that IFES election specialists undertake projects that will lead to appropriate election law and procedure development and corresponding voter education and information programs.

### SECTION III

Based on the enormous number of runoff election after the February 5 first-round balloting, IFES decided to send a one-person observer mission to Bishkek for the February 19 runoff elections. The main activities of the observer, Barnabas Johnson, as agreed with the CEC, would focus on complaint-response activities by the local, district and central commissions, as well as the courts. IFES sought to determine whether these activities would reflect a genuine concern for the legality, freedom and fairness of the second round of parliamentary elections.

*Barnabas D. Johnson.* Mr. Johnson, who is a U.S. lawyer and expert on comparative jurisprudence, was sent as an IFES consultant to Bishkek to observe the February 19 runoff elections. Previously, he has worked on election reforms in Kazakhstan, Tajikistan and Kyrgyzstan and has observe elections in Lithuania and Kazakhstan.

## I. FEBRUARY 19, 1995 ELECTIONS

### A. Observation

On February 19, IFES project members and consultants observed the opening of polls, voting activity and the closing of polls, and one consultant, Barnabas Johnson, engaged in discussions with the CEC's "Independent Working Group of Experts to Ensure Election Legality" (herein, "Working Group"). Observations are based on visits to seven polling sites, but, in particular, site 11 located in the main building of the University of Kyrgyzstan and site 100. Both sites are in the UH-6 voting district, which has boundaries that coincide closely with the boundaries of Pervomaisky District.

The following is a general overview of how the election was organized.

1. Gennady Schelochkov was the incumbent deputy, representing (former) parliamentary district 69 (which, according to a presidential decree, is now Lower House District 69, herein LH-69); Savetbek Toktomyshev, who is the rector of the university, and Deputy Schelochkov were listed as competing candidates on white ballots. The Lower House, or People's Assembly, will have 70 part-time deputies; 12 had been elected in the first round, having received an absolute majority of votes cast in their districts. Fifty-six Lower House races were to be decided in this run-off process, which in each case pitted against each other the two highest vote-getters from the first round.
2. By decree, LH-69 had been combined with LH-70 to create Upper House District 6 (UH-6). The Upper House, or Legislative Assembly, will have 35 full-time deputies. All LH ballots were white, and all UH ballots were blue. In the first round of elections, two Upper House deputies had been elected outright; 28 remained to be elected in this run-off process on February 19.
3. Voting-site 11 is one of several located in LH-69; voting-site 100 is one of several located in LH-70. Almost the only thing these two voting sites had in common on February 19 was that the names on the blue ballots were the same - Nikolay Balo, the Deputy Chairman of the Communist party, and Oktyabr Masulmankulov, the Akim of Pervomaisky Rayon.
4. The vote in LH- 70 pitted Gany Asanaliyev, assistant to President Akayev's chief of staff, against Victor Apolinsky, an independent newspaper editor. These candidates' names were on white ballots throughout voting sites in LH-70, including site 100.

The morning's observations yielded little controversy. However, one problem appeared at all sites. That is, native observers - usually about four - were restricted to standing or sitting in one place. Unlike in Kazakhstan's March 1994 parliamentary elections, Kyrgyzstan did not allow native observers to walk around unobtrusively; therefore, they could not truly observe. Nor were

the ballot boxes easily observable by native observers; two were not even in their line of site.

Although it is hearsay, the point was made to IFES consultants that a majority of voters were university students who were required to vote. At a foreign-observers' briefing the next day, an American observer said two students told him of being visited three times on election day and being informed that they had not yet voted and ought to. It was also heard that students at site 11 were coerced by university officials into voting for Rector Toktomyshev.

Finally, no instances of one person voting for others were seen. Several attempted to do so and were surprised and angered when told that this was not allowed or condoned. One interesting point that kept surfacing before and during the election was that President Akayev was dissatisfied with the first-round voting, in which many initially-preferred candidates were eliminated; therefore, he was urging strict compliance with the one-person-one-vote requirement - except where initially-preferred candidates had survived the first round and had a good chance of winning.

Political parties did not play much role in these elections. The "powers that be" - led by President Akayev - clearly played a major role, but this role was "extra-party" or, indeed, extra-legal and extra-constitutional. This is not the same as saying that this "presidential-party" role was anti-party, or illegal, or contrary to the constitution. Rather, it means that parties, laws and the constitution were used as convenient but were otherwise molded and manipulated to suit Akayev's overriding purpose.

#### **B. Meeting with the CEC "Working Group"**

A meeting was held at 10 a.m. February 19 at the White House, which houses the parliament and the government, with the Independent Working Group of Experts to Ensure Legality. This group is composed of leading lawyers and political scientists who, very recently, had been asked to help the CEC in an advisory capacity. Its chairman is Zainidin Karpekovich Kurmanov. During the meeting a wide range of issues was addressed: the Election Law was discussed in regards to its ordinance that deems elections be annulled if irregularities occur in the voting procedure, and a discussion also ensued about interpreting the law. In general, the Working Group agreed that the Constitution of the Kyrgyz Republic, its election law and regulations issued thereunder must be interpreted rationally. The Working Group agreed that, in advising the CEC, it would seek to uphold such an elevated interpretation of all applicable law.

#### **C. Evidence and Observation of Fraud and Official Misconduct**

An instance of potential election fraud was brought to light by a native observer at voting-site 11. The observer issued a formal complaint at UH-6 against a commission member, who had been observed about to stuff white and blue ballots into the site-100 ballot box. The commission

member, who was present at UH-6, claimed he was innocent, and that the contested ballots were on a table. All blue ballots had been identically marked for Akim Masulmankulov, and white ballots had been identically marked for president-assistant Asanaliyev.

The commission chairman supervised the formal taking of written statements. The accused asserted that he had not been seen stuffing the ballot boxes; he had merely had the ballots in his possession, having just received them from a boy outside the polling site, and was about to hand them to the chairman. Written statements were received by the UH-6 commission chairman, but no action was taken while the IFES consultant, Barnabas Johnson, was present.

At voting-site 11, observers were purposefully seated at the front of a room to watch the counting. The chairman proceeded to discuss at great length every step with the observers. After counting unused ballots, it was established that out of 2,600 blue and 2,600 white ballots received by this voting site, 292 of each color had not been used. In other words, 2,308 persons had voted at site 11, and each had cast one blue ballot and one white ballot.

However, an irregularity was noticed during the counting. Because each person had cast two ballots, the ballots should have been appearing together- one white and one blue folded together. But, as the ballots tumbled out of the box, large clumps of blue ballots fell, and independent wads of white ballots fell. The irregularity presented itself as evidence of election fraud. When this was brought to the attention of the commission members counting votes, the members shuffled the ballots to eliminate the phenomenon. Nonetheless, a sampling of blue ballots that remained clumped together revealed that the ballots had been marked identically, with the same pen, in favor of Akim Maulmankulov. However, when this was offered as proof of fraud, the chairman refused to accept it as proof, and it was dismissed. Fraud was being condoned by the very officers whose job it was to recognize it, report it and put a stop to it by ensuring that everything possible would be done to preserve the record, identify the guilty and count only the valid ballots of voters at this site. Despite these obvious intransigents, the election-day voting process by and large remained relatively free and fair in most locations.

## **II. RECOMMENDATIONS TO THE CEC WORKING GROUP**

1. Laws currently governing the creation and regulation of political parties should be included in a general Law on Elections governing presidential, parliamentary, sub-parliamentary and other elections, including referenda; political parties should not be governed under a general Law on Public Associations.
2. Kyrgyzstan should eliminate the requirement of a 50 percent turnout to make an election valid. Many stable democracies have a low turnout; voters "self-select" based usually on their age and consequent knowledge of issues and candidates, etc. This is not necessarily bad, and

indeed might be good. The 50 percent rule invariably focuses attention upon the quantity rather than quality of election participation and often leads to wrong-doing on the part of election officials who view their success almost solely in terms of whether they meet their 50 percent turnout quota. It was found last year in Kazakhstan that election officials had little knowledge of election law and cared little about having a free and fair election; they cared only about one thing: they had to meet the 50 percent turnout quota or they would be considered incompetent.

3. One person casting several ballots must be regulated by laws that require "proxy voters" to obtain, and to bring to the election site, written permission from those whose proxies they will exercise. There are even better solutions to this problem. The Swiss model of "family voting", for example, has many commendable features.

4. Every candidate should be allowed his or her own observer at each voting site. Observers should be allowed to genuinely observe and even to ask questions where appropriate. While this can get out of hand, it is unlikely to do so - especially if election officials manifest a genuine interest in ensuring a free and fair election. Ballot boxes must be in clear view of any election observer who desires, at any time, to determine whether the ballot box is being tampered with.

5. The voting-site protocol of results should be reported in indelible ink.

6. The district protocol should, with respect to every candidate, provide both total count and per-voting-site counts.

7. No result should be nullified due to minor irregularities that do not raise a serious question as to whether the result is correct. The corollary is that major irregularities that call the result into substantial question must be taken seriously and should always result in new elections.

The Working Group responded to these suggestions by expressing the desire for it and the CEC to receive assistance in analyzing the current election process and drafting a new election law (and regulations thereunder). The best approach in response to this need requires proposing several changes to the Constitution of the Kyrgyz Republic. In fact, areas that need improvement, such as the issues outlined above, have already been mentioned to the CEC by IFES. Moreover, several members of the Working Group did agree that the Constitution is inadequate in regards to clarifying these issues.

## **SECTION IV**

### **CONCLUSION**

The development of democracy and free elections in Kyrgyzstan faces many obstacles, which include the lack of democratic traditions and lack of experience with democratic practices. In addition, the people are faced with growing economic inequality and poverty. The fact is, Kyrgyzstan must fight its reform battles against the backdrop of a terrible legacy of lawlessness - an insufficient constitution; a tangle of legislation and decrees that ordain mere bureaucratic obfuscation; and a legal culture that was never held in high esteem and did not deserve to be. It is not enough for those in power to invoke democratic principles. They must demonstrate their commitment to democracy by creating a legal system that provides meaningful support for electoral activities.

The government should take a look at its current law, consider its recent experience under that law and accept legal reform assistance in order to correct any deficiencies. More importantly, the people of Kyrgyzstan must be confident in their system. To achieve this, voter education and increased access to information is needed. The CEC, political parties and mass media do not have the funding or experience to alleviate the problem of voter confusion on their own. It is here that the services of IFES and other assistance organizations can be most useful.

Informing and educating voters will provide Kyrgyzstani citizens with an understanding of the meaning of participatory democracy and of competitive elections, which, in turn, could stimulate a much needed grassroots push for democratization. Generally, a well-informed electorate tends to be more engaged. Finally, a grassroots campaign of voter education will safeguard the right of all voters to understand the election process and the right to access information that will help them make informed decisions on election day.

In light of the 1995 election cycle, IFES has continued its mandate on Kyrgyzstan to promote election law reform and to assist in facilitating the running of elections in a more credible manner. Based on events from the 1994 pre-election environment and extending through the February 5 and February 19 election campaigns, IFES has determined that additional work in the form of election law round tables and electoral law revision working groups be implemented to further promote the evolution and formation of a free and fair election system in Kyrgyzstan.



## **APPENDICES**

**A. Decree by the President of the Kyrgyz Republic on Setting Elections to the Jogorku Kenesh of the Kyrgyz Republic**

**B. Decree by the President of the Kyrgyz Republic on Several Additions and Changes to the Election Procedure of Deputies to the Jogorku Kenesh Following from the Decision of the Referendum (by nationwide voting) of 22 October 1994 on the Creation of a Two-Chamber Jogorku Kenesh**

**C. Decree by the Kyrgyz Government on Certain Matters Relating to the Elections to the Supreme Council of the Republic of Kyrgyzstan**

**D. Post-Election Statement of International Observers**

**DECREE BY THE PRESIDENT OF THE KYRGYZ REPUBLIC**

**On setting elections to the Jogorku Kenesh  
of the Kyrgyz Republic**

With the goal of ensuring the necessary conditions for participation of political parties, public associations and movements, work collectives, local associations, and individual citizens (by way of independent candidates) in the elections to the Jogorku Kenesh, and taking into account the time for election campaigns as stipulated in the law "On the election of deputies to the Jogorku Kenesh of the Kyrgyz Republic," I decree:

The election to the Legislation Assembly and the Assembly of People's Representatives of the Jogorku Kenesh shall be set on Sunday, 5 February 1995.

President of the Kyrgyz Republic A. AKAYEV  
Bishkek, House of Representatives  
27 October, 1994

**DECREE BY THE PRESIDENT OF THE KYRGYZ REPUBLIC**

**On several additions and changes  
to the election procedure of deputies to the Jogorku Kenesh  
following from the decision of the referendum  
(by the vote of all persons) of 22 October 1994  
on the creation of a two-chamber Jogorku Kenesh.**

In accordance with the decision of the referendum (by the vote of all persons) of 22 October 1994, legislative power in the Kyrgyz Republic will be exercised by a Jogorku Kenesh, consisting of two chambers:

The Legislative Assembly, consisting of 35 deputies, acting continually and being chosen on the basis of the representation of the interests of the entire population of the republic:

The Assembly of People's Representatives consisting of 70 deputies, working in sessions and being chosen on the basis of representing territorial interests.

Considering that individual articles of the Law of the Kyrgyz Republic "On elections of deputies to the Jogorku Kenesh" of 12 January 1994 are in need of concrete clarification in accordance with the decisions of the referendum, I decree:

I. To establish the following additions and changes in the procedure of elections of deputies to the Jogorku Kenesh, rendering concrete articles 3, 6, 8, 11, 14, 17, 19, 29, 30, 32, and 36 of the Law of the Kyrgyz Republic "On elections of the deputies to the Jogorku Kenesh."

1. Every voter in the election of deputies to the Legislative Assembly and in the elections of deputies to the Assembly of People's Representatives has one vote.

2. Deputies of the Legislative Assembly and Assembly of People's Representatives are elected by citizens directly.

3. The conducting of elections of deputies to the Legislative Assembly and election of deputies to the Assembly of People's Representatives is provided for by the Electoral Commission, which is formed from representatives of political parties, public associations, local associations, work collectives and assemblies of voters according to their place of residence.

4. The right to nominate candidates for deputy to the Legislative Assembly and candidates to the Assembly of People's Representatives belongs to the political parties, their factions, public associations, local associations, work collectives and assemblies of voters according to their place of residence.

Any citizen of the Kyrgyz Republic having, in accordance with article 2 of the Law of the Kyrgyz Republic "On the elections of deputies to the Jogorku Kenesh," the right to be elected deputy to the Legislative Assembly and for deputies to the Assembly of People's Representatives has the right to nominate himself as candidate for deputy.

5. For the organization and conducting of elections of the deputies to the Legislative Assembly, the territory of the Kyrgyz Republic is divided into 35 voting districts with an equal number of voters as a rule.

One deputy to the Legislative Assembly shall be elected from each voting district.

6. For the organization and conducting of elections of the deputies of the Assembly of People's Representatives, the territory of the Kyrgyz Republic is divided into 70 voting districts with an equal number of voters as a rule and taking into account the borders of administrative-territorial units: oblasts, regions and cities (article 3 and 77 of the Constitution of the Kyrgyz Republic).

One deputy to the Assembly of People's Representatives shall be elected from each voting district.

7. Lists of voting districts for the election of deputies to the Legislative Assembly and for the election of deputies to the Assembly of People's Representatives with regard to their borders, location, and district commissions, should be published by the Central Voting Commission for the Conducting of a Referendum and Elections in the Kyrgyz Republic (Central Commission) not less than 90 days before the election.

8. The Central Commission conducts the elections of deputies to the Legislative Assembly and elections of deputies to the Assembly of People's Representatives, as confirmed

by the Decree by the President of the Kyrgyz Republic of 21 September 1994, and in the same way the District Commissions for the election of deputies to the Assembly of People's Representatives and common Precinct Commissions for the election of deputies to the Legislative Assembly and the Assembly of People's Representatives are formed.

District Commissions are formed by the Central Commission consisting of a chairman and ten members three months before the beginning of elections.

Representatives of District Commissions are nominated by political parties, public associations, local associations, Work collectives and assemblies of voters according to their place of residence.

District Commissions cease their activity after the recognition by the Legislative Assembly and Assembly of People's Representatives of the authority of the elected deputies:

9. Precinct Commissions are formed jointly by a District Commission for the election of deputies to the Legislative Assembly and by a District Commission for the election of deputies to the Assembly of People's Representatives, consisting of the chairman and not less than three members 45 days before the beginning of the election

Representatives making up the Divisional Commissions are nominated by political parties, public associations, local associations. Work collectives and assemblies of voters according to their place of residence.

The period of authority of Precinct Commissions ends at the same time as the termination of the period of authority of the District Commissions.

10. The nomination of candidates for deputy of the Legislative Assembly and for deputy of the Assembly of People's Representatives begins three months and end 50 days before the elections.

The nomination of candidates for deputy from political parties and their factions, and also from public associations are carried out by their higher bodies at their own meetings, where participation of the members of the District Commission or Central Commission is mandatory.

Meetings of the higher bodies of the political parties and public associations for nominating candidates for deputy are considered valid if they are attended by more than half of the general number of members of these bodies.

Political parties and public associations may nominate one candidate for each voting district.

The nomination of candidates for deputy from local associations is carried out by members of bodies of local government at their own meetings with participation of not less than

one half of the members of the representative body.

11. In accordance with article 30 of the Law of the Kyrgyz Republic "On the Elections of Deputies to the Jogorku Kenesh," persons holding positions in bodies of executive and judicial authority give up their powers from the day their candidacy for deputy to the Legislative Assembly and the Assembly of People's Representatives is registered to the moment their authority as deputies is recognized, or, in the case of not being elected for deputy, up to the moment the count of the votes is completed.

12. Political parties, their factions, public associations, local associations and assemblies of voters nominating their candidates for deputy, have the right at any time, by not later than ten days before the election, to cancel their decision on the nomination of a candidate.

If no candidate remains in an electoral district after the completion of registration, the District Commission consults the political parties, their factions, public associations, local associations and assemblies of voters with the request to nominate new candidates for deputy.

13. Political parties, their factions, public associations, local associations which nominate candidates for deputy, and other person are given the right to agitate for their own candidates.

II. The presented additions and changes of the present Decree on the procedure of elections in the Jogorku Kenesh are valid only in relation to the elections of deputies to the Legislative Assembly and elections of deputies to the Assembly of People's Representatives set on 5 February 1995.

III. The present Decree comes into force from the day of its publication.

The President of the  
Kyrgyz Republic A. Akayev

Bishkek, House of Representatives  
27 October 1994

## DECREE BY THE KYRGYZ GOVERNMENT

On certain matters relating to the elections to the Supreme Council of the Republic of Kyrgyzstan

[FBIS Translated Text]

The Kyrgyz Government has adopted a resolution on certain matters relating to the elections to the Supreme Council of the Republic of Kyrgyzstan.

In accordance with Article 30 of the law on elections of deputies to the Supreme Council of Kyrgyzstan, the Government of Kyrgyzstan resolves:

1. Being guided by sub point 2 of point 1 of the Kyrgyz presidential edict issued on 27 October 1994 on certain amendments and alterations to the procedure for elections of deputies to the Supreme Council resulting from the decision of the nationwide referendum of 22 October 1994 on creating a bicameral Supreme Council, it is established that persons who are in the following posts on bodies of executive authority will give up their authorities and discontinue carrying out their duties at work on the day of their registration as candidate-deputies for the Supreme Council:

- Members of the Kyrgyz Government and their deputies;
- Heads of regional, district, and municipal state administrations and their deputies;
- Heads of administrative departments of the Kyrgyz Republic, state commissions, funds, business projects by the Kyrgyz Government and their deputies;
- The prosecutor general, regional, district and municipal prosecutors and persons equal to them in position and their deputies;
- Heads of regional, district, and municipal national security bodies and their deputies;
- Heads of regional, district, and municipal bodies of internal affairs and their deputies;
- Heads of regional, district, and municipal military commissaries and their deputies;
- Heads of republican and local customs, tax inspections and tax police and their deputies;
- The commander of the Kyrgyz national guard and his deputies;
- Commander of the Interior Ministry troops of the Kyrgyz Republic and his deputies.

The officials mentioned above, from the day of their registration as candidate-deputies for the Supreme Council, will present a statement to this effect to the state body that appointed them to their posts and from that moment they will cease carrying out their official duties until their deputies' authorities are confirmed or the results of the elections announced.

People who violate these requirements will be called to account in the manner established by legislation.

2. People who are in posts in bodies of executive authority, from the moment they are elected deputies of the Legislative Assembly of the Supreme Council of the Kyrgyz Republic, will be relieved from their posts.

3. In accordance with Article 118 of the Labor Code of the Kyrgyz Republic, candidate deputies to the Supreme Council are guaranteed that their post will be preserved and an average salary in accordance with the reasons and instructions envisaged by this resolution.

The resolution was signed by Prime Minister Abbas Dzhumagulov.

## Office for Democratic Institutions and Human Rights

### POST-ELECTION STATEMENT OF INTERNATIONAL OBSERVERS

International observers from OSCE countries monitoring the first round of parliamentary elections in Kyrgyzstan of February 5, 1995 - fully aware that the democratization process is in general a long-term goal and is a step-by-step approach - agree in principle that, on the basis of preliminary results and partial observation reports, these elections were relatively well organized. There appears to be no willful attempt to prevent the free expression of people's will.

Observers understand also that current economic conditions have impaired the ability of elections officials to ensure optimal administration of electoral procedures, despite modest bilateral assistance.

Obviously, Kyrgyzstan does not appear to be a police state, and freedom of information and of association are guaranteed. People and political parties in general feel free to speak and to communicate with international observers.

Observers noted the genuine willingness, on the part of authorities, to implement democratic rules of elections. The comparatively high turn-out, the great number of candidates in most districts, the equal access to media albeit belated and the active presence of domestic observers are an encouraging sign of the opening-up of the political system.

Observers did however note areas for improvement, especially in view of the second round:

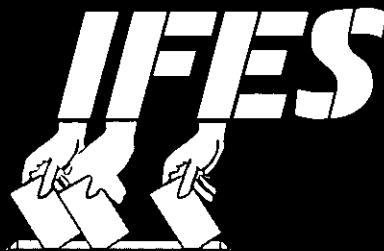
- family voting or proxy voting should be discontinued or allowed only through a set of procedures;
- an efficient judicial review of election commissions' decisions and of violations must be made available to all voters and candidates;
- candidates and voters registration should be improved;
- counting procedures should be more thoroughly and professionally implemented;
- greater voter education should be carried out as voters often appeared confused and undecided in the face of so many types of ballots and candidates.

Observers were under the impression that election officials had worked hard to deliver a 50 percent turn-out in their own polling stations while at the same time they were supposed to prevent family voting. The active involvement of local officials in many polling stations and at many stages of the election procedures as well as reported cases of pressure on candidates and voters at local levels raise some concern among foreign observers.

The lack of clear legal framework for these elections (called by presidential decree on the basis of an extra-constitutional referendum ) was also perceived as a real obstacle to a genuinely free and fair election.

Finally, observers wish to underline the importance of international monitoring of the second round due on 19 February 1995, as most constituencies will have a run-off election.





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