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PRELIMINARY REVIEW OF THE MARCH 7, 1994 PARLIAMENTARY ELECTIONS IN KAZAKHSTAN February 10, 1994

This preliminary review is offered by an international delegation that visited Kazakhstan between January 25 and February 8, 1994 to examine the election process and the political environment leading up to the March 7 parliamentary elections. The delegation, organized by the National Democratic Institute for International Affairs (NDI), included elections experts and regional specialists. The delegation, which visited Kazakhstan at the invitation of the Central Election Commission and political parties, traveled to Almaty and the oblast capitals of Chimkent, Jambul and Karaganda. The delegation's work was made possible by a grant to NDI from the U.S. Agency for International Development.

This is the first of two international delegations to be organized by NDI prior to the upcoming elections. A more comprehensive report, based on the findings of the delegation, will be issued by NDI later this month.

The delegation was charged with the following tasks: 1) to examine the December 1993 election law as well as its implementation in light of international standards and practices for multi-party parliamentary elections; 2) to assess administrative preparations for the March 7 elections; 3) to evaluate the political conditions in Kazakhstan in the period immediately prior to the beginning of the official election campaign period; 4) to discuss, where appropriate, the roles of political parties, candidates, nongovernmental citizens' organizations, and election administration officials in the pre-election period; 5) to identify issues that should receive further attention by subsequent pre-election study missions and election observers; and 6) to identify areas where improvements in election procedures could be made prior to the March 7 polling. In pursuance of these tasks, the team met with election officials (including members of the Central Election Commission, territorial, area and district election commissions), oblast government administrators, political party leaders, party-sponsored and independent candidates, civic and trade union activists, journalists, students and other citizens.

The delegation offers this preliminary review in recognition of the enormity of the task facing the people of Kazakhstan as they prepare for their first parliamentary elections under the new constitution. In addition to helping to inform the international community, this review is offered in the hope that it may assist election officials and the political contestants in Kazakhstan to improve conditions during the official campaign period. As described below, the delegation noted positive developments in the



preparations for the March 7 balloting as well as serious shortcomings in the election process.

The delegation notes that there is more to evaluating an election system than merely comparing it with prescribed international norms. Popular confidence in the system is crucial if a democracy is to develop and survive. Thus, in certain instances, changes in the system may be necessary, not because they are required by an international norm but to increase public confidence in the election process. The delegation's observations and suggestions are offered with this view in mind.

The delegation wishes to highlight that its mission was conducted immediately prior to the beginning of the official campaign period and, therefore, does not draw any conclusions regarding the fairness of the campaign or the election process as a whole.

Substantive measures have been taken at this preparatory stage to promote popular awareness of the electoral process. The text of the election law was published in the state-run press, and copies were distributed to election officials at the republic, oblast and local levels. Most prospective voters with whom the delegation spoke appreciated that the upcoming elections, for the first time, present a choice of candidates. Election administrators appeared to be knowledgeable about the election law and to be undertaking their responsibilities in a conscientious manner. Moreover, numerous people reported that at the time of the delegation's visit there was relatively free political expression.

The delegation also noted that the December 1993 election law compares favorably in many respects to those of other transitional democracies. In particular, there is a guarantee of "universal, equal, direct electoral right by secret ballot" and the rule of "one person, one vote." These general provisions are elaborated in specific procedures requiring that voters must enter private voting booths in order to mark their ballots, that only one person may enter such booths at a time and that voters are prohibited from casting ballots on behalf of other individuals. The law also contains provisions aimed at preventing multiple voting by one person.

Further, the law specifically provides for representatives of candidates, news media and other "monitors" to observe the election process. The delegation was informed by members of the Central Election Commission and other election commissions that these provisions are being interpreted to allow candidate representatives, journalists, members of domestic civic (social) organizations and international election observers to attend meetings of the election commissions, to monitor the campaign period for any violations of the election law and to observe the balloting and counting at polling sites as well as the tabulation

of results at the district (uchastkovy), area (okruzhnoi), territorial (territorialny) and republic levels.

The delegation was encouraged to learn that the election commissions are providing a role for observers from domestic civic organizations that are not sponsoring candidates for parliament, even though the election law does not specifically mention such observers. Based on past experience in many countries, NDI firmly believes that the presence of nonpartisan election observers from domestic nongovernmental organizations increases voter confidence in the integrity of the election process and enhances voter participation.

Notwithstanding these positive developments, the delegation observed a number of serious shortcomings in Kazakhstan's election process. Following are the delegation's major concerns and recommendations.

1) Forty-two of the 177 seats in the new parliament will be occupied by persons elected from a state list nominated solely by the President of the Republic. Such a provision undermines the competitive nature of the parliamentary elections. The delegation is aware of no established democracy that makes use of such a list. Numerous individuals told the delegation that the state list undermines confidence in the pluralistic nature of the new parliament and creates cynicism about the nature of the election process.

2) The relatively short campaign period, the restrictive nature of authorized campaign activities and the limited amount of campaign resources provided to candidates by the government combine to hinder the electoral chances of new candidates and political organizations.

The delegation notes the provisions in the election law (Articles 35, 36, 40 and 42) prohibiting non-state financing of campaigns, providing for equal state funding to each candidate, providing complete control by election commissions over how candidates' funds are spent as well as setting forth an exclusive list of campaign activities. While it is important for governments to take steps that provide equitable opportunities for political contestants, the need to address historical imbalances must also be taken into account. By not doing so, the provisions that seek to guarantee equality in the election law tend also to weaken genuine political competition. This is due in large measure to: the degree of identity of the state and the ruling party; the electorate's familiarity with the names of candidates who held prominent positions in the prior state and/or party apparatus; the weakness of opposition parties and movements; and the limited amount of time (approximately six weeks) provided for candidates to create organizations and satisfy registration requirements.

The delegation hopes that finances for candidates will be increased so that the present one-time, 10-minute appearance on oblast television and radio as well as 100 lines in newsprint for each candidate may be expanded and that candidates be provided a sufficient amount of discretionary funds so that they can establish their own spending priorities for communicating with the electorate.

3) The dominance of state-controlled news media poses a particular problem. The provisions for candidate access to such media (noted above) are limited, making it difficult for them to present meaningful messages sufficient for the electorate to make informed choices. This concern is heightened by the view expressed by a number of candidates that the uniform number and format of campaign placards and the limited time to personally contact voters would not be adequate to communicate effectively with voters.

Election officials reported to the delegation that television not under direct state control would be prohibited from covering candidates and election issues. In addition, there appears not to be well-developed guidelines for fair and equitable coverage of candidates and election issues on state news media. This situation could lead to unbalanced or biased coverage of candidates and political organizations. The delegation hopes that strict guidelines for fair reporting on candidates and political organizations will be adopted and enforced during the election campaign.

The delegation received expressions of concern that state facilities may cease printing a number of newspapers for a substantial portion of the campaign period, due ostensibly to mechanical problems at printing facilities or to the lack of newsprint and other materials. The delegation hopes that the government will take decisive measures to ensure full and continued publication of all newspapers throughout the election campaign, free of political pressure or interference.

4) The delegation witnessed one example of attempted state control over the political environment. This was manifest by criticism directed at the delegation by administrators in one oblast because it met a registered opposition group that is fielding candidates in the elections. Subsequently, the administrators issued an invitation to the delegation for further visits to the oblast. The delegation hopes that the central administration will take steps to prevent state interference in the political process and that it will issue periodic statements that the election process is to be conducted in a free, open and transparent manner without administrative hindrances to legal electoral activities undertaken by anyone in Kazakhstan.

5) The election law provides for observers at polling sites, and election commission members assured the delegation that

observers would be allowed to monitor the tabulation of results at all election commissions. The election law, however, does not require immediate announcement and/or posting of results at the polling sites and at tabulation centers, nor does it require that copies of official vote tallies and protocols be provided to observers. From past experience, the delegation noted that the provision of vote tallies to observers and the posting of tallies at polling sites and other counting centers can deter misconduct and enhance confidence in the overall process.

In order to address this concern, the delegation hopes that election officials would announce additional procedures regarding the vote counting and tabulation process. Such procedures could include: providing signed and certified copies of vote tallies and protocols to election observers, including candidate representatives, present at the polling site and at all election commissions during the tabulation process; immediately announcing results and publicly posting tally sheets for several days following the election at the polling sites and at all election commissions; and allowing election observers to sign the protocols and to attach any comments or complaints regarding their observations.

6) The delegation noted that the law requires that election commissions at all levels be appointed cooperatively by the legislative and executive branches of government. However, due to the suspension of legislative bodies, election commissions were appointed solely by the executive. As a result, candidates and political organizations expressed concern about the credibility of election commissions. A number of candidates stated that they had received no response to complaints lodged with election commissions. While the delegation did not have the opportunity to monitor the electoral complaint process, it was concerned about perceptions that election commissions may not be able to act promptly and impartially.

The delegation hopes that the government and Central Election Commission will take steps to enhance the credibility of the election commissions. Requiring that election commission meetings at all levels be either open to the public or at least to all election observers and candidate representatives should aid this development. Representatives of the candidates and political organizations could also be named as members of the election commissions as has been done successfully in a number of transitional democracies.

7) The delegation examined the requirement that a candidate deposit, presumably from personal savings, five times his or her monthly wages as a condition of registration. This requirement appears to create a formidable barrier for prospective candidates lacking substantial financial resources -- thereby limiting choices for the voters. The delegation hopes that the government will

review this requirement for future elections. One alternative is to permit prospective candidates to raise funds for the deposit.

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The delegation notes that in newly independent countries emerging from long histories of one-party rule only the most aggressive reassurances by the government can overcome the people's reservations about new election processes. Such reassurances are necessary to allay suspicions and overcome apathy.

In this respect, the delegation hopes that election authorities will take active steps to prepare all officials to be vigilant against electoral abuses. Moreover, the delegation recommends that the government and election authorities mount a vigorous voter education campaign beginning immediately and lasting until election day. Such a campaign should address the importance of voting, the responsibility of voters to become informed about the different candidates, and the guarantee of a secret ballot. The campaign should also provide specifics of where, when and how to verify names on voters lists and where, when and how to vote (including new provisions such as the requirement that an election official sign the ballot when it is issued in order to validate it).

The delegation wishes to emphasize that this preliminary review is offered in support of the democratization process underway in Kazakhstan. We recommend that subsequent study missions and election observer delegations examine issues identified by this delegation in addition to the actual conduct of the election campaign as well as the balloting and counting process.

The delegation also stresses that its observations are expressed to the government, Central Election Commission and people of Kazakhstan in a constructive and supportive manner, and in a spirit of international cooperation. The delegation recognizes that the political reform process is complex and that the ultimate judgment of the electoral process will be made by the people of Kazakhstan. We offer our support to all those who are working to ensure that the electoral process contributes to Kazakhstan's democratic development and prosperity.

Finally, the delegation expresses its appreciation to the members of the Central Election Commission, government officials, candidates, representatives of political and civic organizations and other citizens who freely offered their cooperation and hospitality.