

# Law-Making in Kazakhstan

## *A Baseline Analysis of the Supreme Soviet*

STANLEY BACH

As social science, what follows should best be understood as a series of linked hypotheses about law-making in the now-independent Republic of Kazakhstan. In fact, this article is primarily an assemblage of impressions and putative facts that the writer gathered in the capital Alma-Ata (now Almati) during July-August 1992.<sup>1</sup> Almost all of the information presented here comes from meetings with legislative, presidential, and other government officials, and with a smaller number of leaders of opposition movements and other organizations. In all cases, the information the writer received was from respondents whose candor he could not judge with certainty, and it was filtered through interpreters whose competence and accuracy he could not evaluate with confidence. In most cases, the information comes from a single source and has not been confirmed or independently verified. Having said this at the outset, most qualifications from the description and analysis have been omitted in order to avoid littering the text with repetitive caveats.

The justification for this exercise is that something is better than nothing. Throughout east-central Europe and the former Soviet Union, an extraordinary political transformation has been undertaken. It may not succeed or even progress very far in all cases. In light of the political and governmental experiences of Kazakhstan and the life experiences of its people, for example, it requires extraordinary optimism to expect to witness a smooth and steady transition in this country from bureaucratic totalitarianism to something we would recognize as pluralistic democracy. Yet failure is no more guaranteed than success. And in any event, this process of change presents an equally extraordinary opportunity for observation and analysis on which, one could argue, American social scientists have failed to capitalize fully.<sup>2</sup>

For one of the very few times in our lives, we are witness to attempts to create new political systems in many nations, some established, others embryonic, with different cultures and traditions but with the shared experience of having been subject to Communist dictatorships. For those interested in the systematic study of political life, this is an opportunity for inquiry that already is beginning to escape us and that we will lose completely if we do not begin to focus on it our attention and intellectual energies. So this is written knowing that much of it is undoubtedly incomplete and misleading and that some of it may simply be wrong. Yet there is almost

---

Stanley Bach is a senior research associate at the Congressional Research Service, U.S. Library of Congress.

nothing else on the subject. And believing in the importance of the effort, the writer hopes that others will take this as a starting point, however modest, for more sustained and careful research.

This article focuses largely on the formalities of the law-making process in Kazakhstan today, though it also attempts to take account of political realities that shape theory in practice. In the reasonably near future, the government of Kazakhstan may adopt a new constitution—the Supreme Soviet already has tentatively approved one on first reading—in which case these formalities will become a baseline for comparisons between the old and new systems. Under the present constitution, however, new elections are not scheduled to be held until 1995. And even if the new constitution is approved much sooner, it is quite possible that they will not be held before then. If so, the current president and legislature will remain in power for several more years, barring a revolution from the Left or Right (terms which lend themselves to several contradictory and confusing interpretations in postcommunist societies), and during that time, they are likely to continue governing in much the same way they do today.

### **Organization**

The Supreme Soviet of Kazakhstan today is a unicameral body of 360 deputies who were elected in 1989 to begin serving their five-year terms in 1990, before the disintegration of the USSR and the declaration of national independence. Unlike the now-defunct bicameral Russian and USSR Supreme Soviets, Kazakhstan has had no Congress of People's Deputies with ultimate legislative and constitutional powers from which the deputies of the Supreme Soviet were selected. Instead, under the election law in effect then and now, three-quarters of the deputies were directly elected from single-member districts in which they either lived or worked. According to Eric Johnson, "the remaining 90 deputies represent various state enterprises and collective farms."<sup>3</sup> The publicly elected candidates were "nominated" by public petition, "social organizations" or "labor collectives" within each district. If no candidate received an absolute majority of the votes cast, there was a runoff election within two weeks between the top two contestants, with the winner being whichever candidate received a plurality of the votes. The head of the Electoral Commission, K. Tukenov, asserted in 1992 that many of the 1990 elections had been seriously contested, but any such contests took place within the context of Communist Party dominance.

In focusing on what has changed in Kazakhstan and the other nations of the former Soviet Union since the collapse of the empire, it is equally important to bear in mind what remains the same. The deputies of the Supreme Soviet, who today are approving laws on privatization, market reforms, foreign investments, and free elections, are the same deputies who, in almost all cases, came to office with the support or at least the acquies-

cence of the Party apparatus. Most of them were and remain amateurs as deputies in a democratic milieu. Furthermore, they were not elected as reformers or even as legislators, and it would be too much to say that those roles now have been thrust on them. Instead, both roles are available to them to a much greater degree now than before 1992. But with contemporary legislatures having to struggle to preserve their powers against a seemingly inexorable and universal trend toward the aggrandizement of executive power, it will be easier for Supreme Soviet deputies in Kazakhstan to remain passive and subservient than to transform themselves and their institution into a functional and independent law-making body.

The effective governing body of the Supreme Soviet today is its Presidium, comprising the chairman (presiding officer or speaker), two deputy chairmen, and the chairmen of the Supreme Soviet's 17 standing parliamentary committees.<sup>4</sup> Most of the committees are subject-related, focusing, for example, on transportation and communication, agriculture, construction and building, youth affairs, environment, local government, and economics, budget, and finance. In addition, there

---

***“Political parties do not organize in the Supreme Soviet as they do in most functioning national parliaments.”***

---

is a Committee on Legislation with broader responsibilities to be discussed later. Most if not all deputies serve on one and only one committee. For reasons to be developed, however, most deputies are not actively or at least continuously involved in committee work.

Political parties do not organize in the Supreme Soviet as they do in most functioning national parliaments. As of the summer of 1992, only three party groups, one of them being the former Communist Party recast as the Kazakhstan Socialist Party, were formally recognized in the Supreme Soviet. According to the leaders of some opposition movements, they have their sympathizers among the deputies, but they are not grouped into organized, much less recognized, parliamentary fractions. In light of how the current deputies came to be nominated and elected, it is hardly surprising that most of them have not associated themselves publicly with movements, and certainly not with formally organized and registered parties that oppose President Nursultan Nazarbayev and his government.<sup>5</sup> Indicative of the absence of political organization within the Supreme Soviet is the fact that seats in the session hall are assigned to deputies according to the regions they represent.

The law-making process and political life in general are dominated by President Nazarbayev, formerly the first secretary of the Kazakhstan Communist Party and chairman of the Presidium of the Supreme Soviet. In 1991, Nazarbayev was elected president in a direct election in which he was unopposed. While it is doubtful whether an effective opposition candidacy

would have been permitted, there probably was no figure who could have mounted such a campaign in any case. The opposition to his government has remained fragmented and divided largely along ethnic lines, making it difficult for any potential opposition leader or group to appeal effectively to both the roughly 42 percent of the population who are ethnic Kazakhs and the 37 percent who are ethnic Russians. Perhaps because of this emphasis on ethnic concerns, there appears to have been no coherent critique to date of the policies of Nazarbayev's government, especially concerning transitions toward democratic politics and market economics, around which an opposition in the Supreme Soviet could unite and organize.

The staff of the Supreme Soviet is concentrated in the Apparatus, a centralized legislative bureaucracy that reports to the Presidium and has responsibility for most parliamentary support activities. Of the Apparatus's nine departments, only one is responsible for legislative and legal support; the others are concerned with such matters as financial management, press relations, legislative publications, and inter-parliamentary affairs. Of the Apparatus's total complement of 160 persons, 20 professionals undertake the work of its Department of Legislative and Legal Expertise and Analysis, which in turn is divided into four groups concentrating respectively on civil, criminal, and administrative law, and on the codification of the laws. As this organization indicates, the Department supports the Supreme Soviet's legislative activities and is responsible for codification of laws after they are enacted.<sup>6</sup>

The Supreme Soviet's current work schedule remains appropriate for its former functions as a ratifying and legitimizing body, but not for a law-making body of a large and diverse nation. It is expected to meet only twice a year for sessions of one to two months each, although the president or one-fourth of the deputies may call extraordinary sessions. Under the Communist regime, of course, the parliament did little more than give prompt and unquestioning ratification to decisions that Party officials already had made, so brief biannual sessions were sufficient.

Until the Supreme Soviet expands its schedule of sessions, its capacity to shape national policy obviously will remain very limited. Furthermore, that capacity is unlikely to change fundamentally unless and until new elections bring to the Supreme Soviet a new generation of deputies who contemplate a more autonomous role for themselves and who envision a more active role for the Parliament in developing legislation or at least subjecting presidential proposals and actions to more searching scrutiny. If and when that time comes, the Supreme Soviet undoubtedly will have to reconsider all aspects of its organization, procedures, and staff and information resources.

### **Procedure**

Although the standing committees of the Supreme Soviet have the authority

to originate legislation, as do certain other officials such as the procurator general and the chairman of the Constitutional Court, most significant bills are drafted and presented to the Supreme Soviet by the president or by the Cabinet of Ministers, acting with presidential guidance and concurrence. The presidency and the Cabinet of Ministers are formally separate institutions, but the president's dominance of all the "executive organs" is reflected in the fact that there is now one Apparatus serving both the president and the Cabinet of Ministers. As one official of the Apparatus explained, this consolidation simply recognizes that, for all practical purposes, the president is the head of government, not the prime minister.

The consequence is a single staff organization that concentrates in the president's hands (and those of his agents) ministerial participation in proposing, formulating, and evaluating legislation. Such a system is defensible during a period of intense economic and political strain, but it also severely limits the number of access points for political influence in what is inescapably a heterogeneous society, even if the diversity of economic, social, and cultural interests is not yet accepted as legitimate and if these interests are not yet organized for effective expression.

The president effectively controls most matters on the Supreme Soviet's legislative agenda and his proposals define the terms of debate on them. Moreover, the Supreme Soviet's limited resources, the attitudes of most of its members, and their lack of relevant policy expertise and political experience, all combine to constrain its capacity to develop its own alternatives. It is equally clear, on the other hand, that the "executive organs" of government, including the president, cannot take the Supreme Soviet for

---

***"In fairness, the Supreme Soviet of 1992 should be judged on how far it has come, not on how far it still has to go before it can claim to be an effective counter-weight to presidential power."***

---

granted to the extent they could several years ago. The chairman of the Committee on Legislation, N. Akuyev, cites recent instances in which his committee or others initiated significant legislation or revised or even rejected government drafts. In fairness, the Supreme Soviet of 1992 should be judged on how far it has come, not on how far it still has to go before it can claim to be an effective counter-weight to presidential power.

The transitional condition of the Supreme Soviet seems to be reflected in its procedures for the initial review and evaluation of bills proposed by the president or the Cabinet of Ministers. Upon receipt, each bill is referred to the appropriate legislative committee; at the same time, it also is sent to the Apparatus's Department of Legislative and Legal Expertise and Analysis. The committee makes an assessment and evaluation of the bill which sometimes is searching and at other times superficial, depending on the diligence and

interest of the participating committee members. The committee can draw on its small staff and also is likely to turn to outside consultants from, for example, Kazakh State University and the institutes of the Academy of Sciences. The Apparat's legislative department does not serve as an adjunct staff for the committee. Instead, according to the head of this department, G. Hasanov, the staff undertakes its own independent review of each bill.

Although the committee and the Apparat department may communicate and consult with each other, each reaches its own judgment and the two have sometimes arrived at conflicting conclusions. The fact that the parliamentary staff is empowered to report its own legislative recommendations and that this staff assessment is made independently of the recommendations of a committee of deputies would seem to be a holdover from the old regime in which the parliamentary *apparatchiki* exercised more de facto power than the deputies themselves. That condition has not yet been fully reversed; at least, the parliamentary staff is not unequivocally subordinate to the deputies and their committees. This state of affairs also is reflected in the working conditions of the Supreme Soviet; the heads of the Apparat and its departments occupy offices in the parliament building that are as commodious as those of committee chairmen, while most deputies have no offices at all. According to one close observer, however, the influence of the Apparat may actually be greater in appearance than it is in practice because its staff lacks the necessary competence and qualifications to effectively dominate the law-making process within the Supreme Soviet.

In assessing the role of Supreme Soviet committees, it is important to bear in mind that committee work begins and largely ends before the Supreme Soviet convenes for one of its biannual two-month sessions. In practice, therefore, the number of deputies who actually participate in committee deliberations is severely limited. Although all (or almost all) deputies are members of a committee, the committees' effective memberships are limited to the minority of deputies for whom parliamentary service is a full-time occupation, and those who live in or near Almati and can combine some parliamentary work with their regular professions. Johnson reports that, in total, only 70 people's deputies "work full-time on various committees."<sup>7</sup> In the same vein, the chairman of the Committee on Legislation observed that almost all of his committee's work was performed by himself and two or three other members, even though 22 deputies formally are members of that committee.

The committees and the Apparat department submit their reports on legislation to the Presidium of the Supreme Soviet which then develops a proposed agenda for the forthcoming parliamentary session. The Presidium prepares this agenda in the form of a resolution which not only lists the matters to be taken up but also specifies the order in which they are to be considered. In the process, the Presidium has the options of scheduling a bill

for plenary action, deferring it until a later session, or returning it to the president's office or the Cabinet of Ministers for further work if the Presidium finds that it is seriously deficient, technically or politically. In addition to this gate-keeper role, the Presidium also has the authority to amend the legislation before it is presented to the Supreme Soviet for plenary consideration.

The Presidium's agenda resolution and the legislation it proposes for plenary consideration are to be distributed to deputies two weeks before the Supreme Soviet meets. However, there is no equivalent of U.S. congressional committee reports to which deputies can turn for an analysis of the issue and the new legislation they are about to consider. When the Supreme Soviet meets, the agenda resolution is naturally among the first matters to be considered. It is amendable, both with respect to the matters on the agenda and the order in which they are listed for consideration. However, the way in which this process is organized strongly militates against major agenda changes, especially in the face of a united Presidium. As a de facto steering committee of all formal parliamentary leaders, the Presidium is not a body to be challenged casually.

The Presidium's power derives in part from the vacuum that continues to exist during the eight months or more of each year when the Supreme Soviet is not in session, and from the need for some person or body to make legislative preparations for the Supreme Soviet's periodic sessions. According to some deputies, however, the Presidium already has become more of a coordinative and less of a directive body than it had been under the Soviet regime, indicating that the Supreme Soviet's committees are exerting somewhat greater influence and assertiveness.

If and when there are elections that bring to the Supreme Soviet a new membership with a stronger and more widely shared commitment to activism and democratic norms, these new deputies may take control of the selection of the Supreme Soviet's chairman and his deputies as well as the committee chairmen. Even so, power and influence within the Supreme Soviet are likely to remain centralized so long as the membership and authority of the Presidium remain essentially unchanged. A steering committee so constituted is an open invitation to log-rolling in which all leaders (belonging to the same party or faction) are more likely to achieve their objectives more often by supporting a negotiated agenda resolution than they are by defecting and seeking support to amend it in plenary session. On the other hand, a full-time Supreme Soviet will have less need and reason for delegating so much authority to any group of its members, no matter how they are chosen. And the Presidium is unlikely to function as effectively if and when the deputies are more distinctly and formally divided into parties or stable factions.

Unlike the U.S. Congress as Woodrow Wilson saw it, the Supreme Soviet in public session is not the Supreme Soviet on public display. The semi-

circular session hall is surrounded by an elevated gallery with relatively few seats in relation to the size of the hall, and the sessions are open to visitors, including reporters, only by invitation. Although television cameras are present, sessions of the Supreme Soviet are not routinely and fully broadcast. Television coverage is brief and selective and since the government controls the local TV channel, the people of Kazakhstan apparently see of their Supreme Soviet only what their leaders want them to see.

When the Supreme Soviet is in session, it meets twice a day, morning and evening. During debate on a bill, a "major speaker" is allocated one hour, with 20 minutes given to a "co-speaker" and ten minutes each for other deputies. More often than not, the two primary speakers are the concerned minister and committee chairman, who most often join in supporting passage of the bill. The president, prime minister, and chairman of the Constitutional Court have the right to speak at any time. Other deputies wishing to participate must be on a list of speakers (which should effectively foreclose truly interactive debate in favor of serial prepared speeches). Although debates on major bills can consume two or three days, these debate arrangements would seem to allow proponents to dominate the proceedings, especially because the debate can be ended at any time by simple majority vote. In fact, all questions are decided by simple majority votes, even votes on adopting a new constitution.

---

*"Television coverage is brief and selective and since the government controls the local TV channel, the people of Kazakhstan apparently see of their Supreme Soviet only what their leaders want them to see."*

---

In case of serious disagreement about the merits of a bill, the Presidium can take it back from the plenary session and commit it to an ad hoc commission that is responsible for seeking a compromise among the opposing positions. This procedure gives the parliamentary leadership a way to cope with rank-and-file opposition without losing control over policy outcomes. Rather than face the risk of defeat in the form of successful "floor amendments" that contradict committee and Presidium preferences, the Presidium can turn the matter over to a commission the membership of which it presumably can control. When that commission brings the bill back to a plenary session with its recommendations, the pressures to accept the proposed "compromise" must be similar to the pressure on the U.S. House of Representatives and Senate to approve the reports of its conference committees.

Evidently the opportunity to participate in debate is not always limited to deputies themselves. One person who, in the American context, would be described as an interest group leader, explained that representatives of his organization had been allowed to speak about one bill at a meeting of the

Presidium and about another during a plenary session. It is not surprising that Presidium meetings may be informal enough to permit outside participation, and some meetings even may take on the characteristic of hearings. But it is a very unusual parliamentary practice for persons other than ministers, deputies, and perhaps certain other government officials to participate in plenary sessions themselves. This practice, if widespread, suggests a lack of institutionalization, one distinguishing characteristic of which is supposed to be a clear demarcation of institutional boundaries that separate its members, organization, and operations from its governmental and political environment.

In addition to the president's political influence in the Supreme Soviet, the legislative process is arranged to give him an opportunity to exercise that influence in a timely and formal way. After the Supreme Soviet approves a draft bill on first reading in plenary session, it is sent to the president, who then has two weeks

---

*"If the Supreme Soviet fails to accommodate the president's preferences, he may veto the bill. . . and that veto is absolute."*

---

within which to convey his comments in writing. He can either express his intent to approve or disapprove the bill or convey the amendments he considers necessary. If the Supreme Soviet fails to accommodate the president's preferences, he may veto the bill after its passage on second reading and that veto is absolute. The Supreme Soviet may not override it. Thus, not only does the legislative process in Kazakhstan give the president an opportunity to exercise formally an influence that American presidents exercise informally, it gives him far greater influence in the form of his absolute veto. Up to now, President Nazarbayev has not exercised this veto power. If so, that is attributable not only to his political strength but probably also to this institutionalized process of consultation and the impossibility of legislative override.

### Resources

Ironically, a condition limiting presidential and ministerial control of the legislative process is the dearth of people competent to draft effective legislation. Several deputies and consultants volunteered that the scarcity of skilled lawyers in all organs of government, executive and legislative, impedes the process of developing laws that are coherent, internally consistent, and compatible with existing laws, as well as laws that are formulated clearly and sensibly enough so that they can be implemented effectively if there is the political will to do so. Perhaps this was less of a problem when government could be more overtly arbitrary and when, as one observer described it, most of the legislative process consisted of taking Union laws from Moscow and replacing references to the USSR with references to Kazakhstan.

Now that Kazakhstan must make its own decisions and now that it is important at least to create the appearance that it is governed by laws of general applicability, the lack of legal experience and talent has become a practical problem. One result is that legislative drafts often reach the Supreme Soviet from the Cabinet of Ministers or the president's office in rough form. This in turn creates opportunities for Supreme Soviet committees to make constructive changes in them, perhaps without appearing to be directly challenging presidential policy. Even so, several participants in the work of the Supreme Soviet complained that too many newly passed laws were largely statements of good intent lacking effective provisions for implementing and enforcing them.

This deficiency also may account for the unusual and powerful role assigned to the Committee on Legislation. Like other committees of the Supreme Soviet, this committee has jurisdiction over legislation on certain subjects, especially the organization of government, elections, criminal and civil law, and constitutional amendments (its full title is the Committee on Questions of Legislation, Legality, and Law and Order). In addition, however, the Committee on Legislation also has the authority to review legislative drafts on other subjects. It may interject itself at various stages of the legislative process—at the committee stage, during plenary consideration, or before bills are finally presented to the president for his approval or veto. Even if the ostensible purpose of this authority is to ensure that new laws are well-drafted, its practical effect is to extend the committee's authority to embrace the substance as well as the form of all legislation, making it first among equals of the Supreme Soviet's committees.

Thus, the Committee on Legislation is the Parliament's source of legal expertise, playing a useful role in this regard at least until the body of deputies becomes more knowledgeable about existing law and policy as well as more professional and experienced as legislators.<sup>8</sup> The Supreme Soviet also has an Information Center with a staff of roughly 20 people working in five sections including a small parliamentary library, translation and automation services, a survey research unit, and a group that provides some social, economic, and political information. Although the Center's resources—in personnel, equipment, and information—are severely limited, at least it has the advantage of being able to concentrate its efforts in support of a limited legislative agenda set by the president's initiatives and the Presidium's agenda resolution.

In addition, the Supreme Soviet enjoys some resources that are more plentiful than what were available in most central and eastern European parliaments when they began to emerge from Soviet repression. For example, it possesses roughly 150 IBM compatible personal computers linked in a local area network. Available through this system is an automated file of laws enacted since the 1990 elections purportedly containing the full texts

of those laws as well as the Constitution. There also are recently installed simultaneous translation and electronic voting systems stations at each deputy's desk and computer terminals at the rostrum in the session hall as well as equipment for bilingual transcription of plenary sessions.<sup>9</sup>

### Prospects

As of this writing, the Supreme Soviet is likely to remain much as it is until the new parliamentary elections that may not take place until 1995. Before that time, a new electoral system and election law are likely to be adopted, but more important may be the legal and constitutional requirements for recognition of political parties. At present, parties must meet formal registration requirements, including the submission of the names of party members, without which they cannot legally function—for example, by holding public meetings or engaging in necessary financial transactions. The Ministry of Justice also can refuse registration to any party it contends is engaging in nationalist criticisms and promoting nationalist programs. Although officials of the Electoral Commission and the Ministry of Justice have denied that these requirements impose undue burdens at a delicate period in national development, leaders of opposition movements consider them to be elements in a deliberate effort to suppress organized alternatives to the present government.

There is some truth on both sides of this argument. The government undoubtedly can, and quite possibly is, using excessive and arbitrary legal requirements to frustrate development of organized opposition forces. On the other hand, some of the most visible opposition groups (Alash, Azat, Zholtoksan, and Yedinstvo) have as the center-

---

***“The government undoubtedly can, and quite possibly is, using excessive and arbitrary legal requirements to frustrate development of organized opposition forces.”***

---

pieces of their programs, such as they are, ethnic nationalist concerns, favoring either ethnic Kazakhs or ethnic Russians, that are hardly likely to promote social peace. Even some opposition leaders acknowledge that, were new parliamentary elections to be held in the near future, the result would be to exacerbate ethnic/nationalist tensions.

To the extent the existing opposition forces were to succeed in electing organized groups of followers to the Supreme Soviet, their parliamentary fractions would likely be so consumed by irreconcilable differences over the respective rights and grievances of ethnic Kazakhs and Russians as to endanger any prospects for agreement on broader programs of economic and political development. However, artificial suppression of very real ethnic tensions does nothing to resolve them. And citing these tensions as a justification for postponing new and open parliamentary elections also

happens to be a convenient excuse for perpetuating the power of the pre-independence Supreme Soviet, which is a more compliant supporter of the president than any successor parliament is likely to be.

Yet even if the next parliamentary elections in Kazakhstan bring to Almati a new roster of deputies, the political traditions of the region and its experiences under the Russian and Soviet empires suggest that a powerful presidency may continue to dominate political life in Kazakhstan, no matter what the formal, constitutional allocation of powers may be. If this result would jeopardize or even preclude the emergence and maintenance of a regime we would be prepared to call democratic, what can be done to encourage the strengthening of the Parliament as a counter-weight to presidential power?

### **Perspectives**

It is risky at best to expect politicians to invest real resources, including their own time and effort, in supporting or strengthening institutions in the interest of abstract constitutional principles. We need look no further than Washington where liberals saw profound virtues in a strong presidency during a period when the “conservative coalition” often could determine congressional decisions, only to re-discover the wisdom of protecting Congress’ constitutional co-equality when conservatives began to win the White House consistently and became the new advocates of presidential power. And more recently in Moscow, it is the “conservatives,” or at least those who present themselves as protectors of Russian traditions, who have emerged for the moment as the guardians of parliamentary authority against excessive executive power in the country of tsardom and Stalinism.

In these two instances, politicians have tended to line up in support of institutions whose leaders have supported their policy agendas. In presidential regimes, however, such associations of policies and institutions—of conservatives and the American presidency, of Westernizing reformers and the Russian presidency—can change as quickly as the next round of elections. Another and more promising approach to promoting parliamentary development, then, lies in harnessing individual interests to institutional interests.

If we accept that individual ambition and self-interest are powerful and universal motives for politicians, we cannot expect them to be attracted to, and certainly not to invest their careers in, weak and ineffectual institutions. But once politicians decide that membership in an organization can bring them influence and that increasing the strength of that organization will increase their own power, then they develop a personal stake in preserving and promoting it. In nations with no historical experience, this in itself would seem to be an argument in favor of a presidential system in preference to a parliamentary regime that draws them toward one or the other. The

individual influence of backbench deputies and the constraints that a parliament imposes on the prime minister and cabinet in a Westminster-style system by and large are subtle and normative, depending more on customary relationships and anticipated reactions than on the constitutional mechanics of power. This should make backbench parliamentary service less satisfying to an ambitious and self-interested politician than membership in a congress in a checks-and-balances system in which the legislature and individual legislators exercise more autonomy.

This perspective suggests an emphasis on strengthening individual incentives for institutional support by increasing the opportunities for people's deputies (and prospective people's deputies) to satisfy their ambitions within the parliament. It also reminds us that adding to a parliament's constitutional powers may be a necessary but insufficient condition for increasing its actual powers. The members of parliament must be willing and able to exercise those powers; otherwise they mean little. New nations can find wonderful democratic models in constitutions that were

---

***“Even when such constitutions are adopted with the best of intentions, a parliament that is ill-equipped and ill-prepared to exercise its constitutional powers effectively and responsibly presents an open invitation to a coup if the society has not yet accepted constitutional regularity as a higher political value than short-term satisfaction with the regime performance.”***

---

never worth much more than the paper on which they were written. Even when such constitutions are adopted with the best of intentions, a parliament that is ill-equipped and ill-prepared to exercise its constitutional powers effectively and responsibly presents an open invitation to a coup if the society has not yet accepted constitutional regularity as a higher political value than short-term satisfaction with the regime performance. So it is essential that the capacities of a parliament and its members be commensurate, relatively and absolutely, with their expected constitutional role.

From this perspective, for example, a parliament that is expected to play an active part in policy-making would want to seek effective protections—in constitution, statute, or rule—against de facto law-making powers being exercised by the president or even its own presidium.

A developing parliament, whether in Kazakhstan or elsewhere, also would be encouraged to do more than establish a series of subject-matter committees; it would give them the authority to initiate legislation and, what is more, provoke committees to become involved in evaluating prospective legislation, for example by requiring them to report on bills before they become eligible for plenary consideration. For committees to exercise these responsibilities effectively, they also would have to enjoy a minimal quantum of professional

and clerical staff and sufficient influence over ministry budgets to convince ministers to comply with committees' requests for information. In addition, it would be important for the parliament to assure itself of some stability in committee membership, not only to promote the development of specialized expertise within committees but also to give individual committee members an incentive to make an investment in mastery of their committees' jurisdictions.

By the same token, this perspective focuses attention on the importance of developing parliamentary resources, not only those resources that are allocated to each member of parliament individually but also collective resources on which each one of them can draw. The reasons for providing attractive salaries, adequate office space and equipment, and at least some personal staff, lie not only in what they contribute to the members of parliament and their ability to concentrate on their parliamentary duties and fulfill them effectively. They also bring prestige and the appearance of power to the office, both of which are necessary to attract to parliament ambitious politicians who may well have other appealing options. And recognizing that shortages of resources or just concerns about appearances may limit how much parliaments can invest in individual members' benefits, there is even more reason to encourage developing parliaments to invest in collective services—such as central staff offices providing, for example, information and research, budgetary and economic analysis, legislative drafting assistance, and ombudsman/casework service—on which all members can draw, or by allocating resources among party fractions so they can provide shared services for their members.

In Kazakhstan, for example, it probably is unrealistic to expect many of “the best and the brightest” among the next generation of political leaders to choose parliamentary service and to develop Parliament into an institution that is both able and willing to counterbalance presidential power, unless the constitution is revised to increase parliamentary power and unless the Parliament equips itself with new rules and resources that enable its members to exercise these powers in ways that bring to its individual members public visibility, respect, and approbation. By themselves, constitutional reforms are too likely to be stillborn.

But if our concern is with the long-term viability of new parliamentary institutions, we must look beyond the constitutional arrangements of government and the internal organization, procedures, resources, and even membership of the Parliament itself. The reason lies in the sad irony that creating a strong parliament to ensure effective limits on presidential power actually can undermine popular support for the practice of democratic government.

The consequences of a regime-imposed ideology on people's modes of thinking is likely to persist even after the regime's institutions of state have

disintegrated or been recreated into more benign forms. Whatever the content of that ideology may have been, whether Marxism-Leninism or something else, it almost certainly posited the existence of a Truth—that there were correct and known answers to the defining questions of social, economic, and political organization. The demolition of the ideology does not necessarily also destroy the assumption that a Truth exists; it only may cause people to look elsewhere for that Truth. It is far easier to write a new constitution than to bring people to accept as premises of political life that law-making inescapably involves a process of compromise among legitimately different social and economic interests that deserve respect or at least tolerance and are supposed to be advocated, weighed, and balanced through the process of parliamentary deliberation.

Absent such an understanding of the political process, there is a serious danger the very success of a new democracy in debating hard policy choices fully and openly in parliament may give rise to public impatience and disgust with politicians who seem to do nothing but talk as the nation slides deeper

---

*“ . . . unless our concern with the institutional development of parliaments is coupled with equal attention to public education about the premises and practices of pluralistic, representative regimes, . . . we soon may find ourselves studying the failure of democratization.”*

---

and deeper into social and economic crisis and when what needs to be done should be obvious to anyone who understands the Truth. For people who have been unaccustomed to knowing how their laws were made, much less watching the process in action, the laborious and disputatious nature of parliamentary proceedings can be disconcerting at best and severely disillusioning at worst. In light of the low state of

public esteem in which the U.S. Congress and other well-established national assemblies usually are held, it would be surprising indeed if this were not the case. And when the parliament appears to revise, delay, or block the program of a president who presents himself successfully as a strong, patriotic leader with a program essential to national reconstruction, parliamentary activism can come to be viewed as an obstacle to democratic reform, not an embodiment of it.

To make this argument is not to support Chairman Khasbulatov's Supreme Soviet or the former Congress of People's Deputies against President Boris Yeltsin, for example, nor to favor President Lech Wałęsa in his recurring disputes with the Sejm and Senat. Neither president nor parliament will consistently be on the side of the angels, wherever that may be. But unless our concern with the institutional development of parliaments is coupled with equal attention to public education about the premises and practices of pluralistic, representative regimes, they may fall victim to a rapid

decay of public support before they fully take root, and we soon may find ourselves studying the failure of democratization.

## Notes

<sup>1</sup> This article was originally prepared for presentation at the Conference on "The Role of Legislatures and Parliaments in Democratizing and Newly Democratic Regimes," Paris, May 1993, sponsored by the Association Française de Science Politique and the Research Committee of Legislative Specialists of the International Political Science Association. I am grateful to the United States Information Agency for sponsoring my activities in Kazakhstan, to the officials and staff of the United States embassy in Almaty for their hospitality and assistance, and to the officials of the Supreme Soviet for arranging most of my meetings. Nothing in this paper should be construed as reflecting a position of any of these organizations or of the Congressional Research Service or the Library of Congress.

<sup>2</sup> One particularly relevant exception is the work in progress by Remington, Smith, and Davidheiser on the Supreme Soviet of Russia. For similarities and differences between the Russian and Kazakhstan legislatures, see Thomas F. Remington, Evelyn Davidheiser, and Steven S. Smith, "The Early Legislative Process in the Russian Supreme Soviet," a paper presented at the 1992 annual meeting of the Southern Political Science Association. On Ukraine, see my paper, "From Soviet to Parliament in Ukraine: The Verkhovna Rada in Transition," presented at the 1993 annual meeting of the American Political Science Association.

<sup>3</sup> I am grateful to Eric Johnson for sharing his brief manuscript on "The Supreme Soviet of the Republic of Kazakhstan: In Detail" that is based on his research in Almaty in early 1993.

<sup>4</sup> Interestingly, the chairman of the Supreme Soviet does not seem to be the kind of pivotal figure that his counterpart, Ruslan Khasbulatov, became in the Russian Supreme Soviet.

<sup>5</sup> One of the impediments to political reform generally and parliamentary development specifically throughout the former Soviet Union and Soviet bloc has been the understandable suspicion of the concept of "party." Note, for example, how many of the key political organizations in the region have called themselves something other than parties—e.g., forums, alliances, unions, movements, such as Sajudis in Lithuania, Rukh in Ukraine, Civic Union in Russia, the UDF in Bulgaria, Civic Forum in Czechoslovakia, and the Alliance of Free Democrats in Hungary—even after they were beginning to function as parties.

<sup>6</sup> The Supreme Soviet publishes documents roughly equivalent to the U.S. *Statutes at Large*, and some laws also are printed in topical collections. However, Kazakhstan does not yet have a systematic codification akin to the *United States Code*.

<sup>7</sup> Johnson, *op. cit.*

<sup>8</sup> This arrangement also suggests that the legal services of the Apparatus are not sufficient or not sufficiently available to satisfy the parliament's needs.

<sup>9</sup> These transcripts are published; the stenographic records of committee meetings are not.