



NDI Final Report

KYRGYZSTAN: CIVIC PARTICIPATION AND PARLIAMENTARY DEVELOPMENT PROGRAM

USAID Cooperative Agreement No. 116-0007-A-00-9014-00

Project Dates: July 25, 1999 to December 31, 2004

I. SUMMARY

Between July 25, 1999 and December 31, 2004, the National Democratic Institute for International Affairs (NDI) conducted parliamentary, political party and civic programming in Kyrgyzstan with support from the U.S. Agency for International Development (USAID) under Cooperative Agreement No. 116-0007-A-00-9014-00. NDI's programs in Kyrgyzstan corresponded to USAID Strategic Objective 2.1 to promote "strengthened democratic culture among citizens and target institutions."

Throughout the course of this agreement, NDI's legislative programs increased the professionalism of parliamentary staff, promoted legislation to bring Kyrgyz law in line with international standards, strengthened the independence and oversight functions of the legislative branch and promoted constituency relations. NDI's efforts helped increase the transparency of parliament and encouraged members of parliament to consult with citizens, while also training representatives of nongovernmental organizations (NGOs) on how to make their views known to legislators.

NDI also conducted consultations and group trainings with political parties focused on organizational development, platform development, membership recruitment strategies and candidate training programs. Parties across the spectrum received training on methods for reaching out to constituents and garnering support at the grassroots level. NDI's media programming helped raise policy issues before the public and provided venues for decisionmakers and political competitors to express their views.

Since 1999, NDI has worked with the Coalition for Democracy and Civil Society (the Coalition), which focuses on election monitoring, voter education and government transparency issues. The Coalition's membership includes more than 125 locally based NGOs throughout the country, represented by nine regional offices. The creation and cultivation of the Coalition marks one of NDI's greatest achievements in Kyrgyzstan. Despite pressure from the government, the Coalition has successfully implemented programs that have resulted in greater public participation in national policy debates.

NDI's civil society strengthening programs helped build networks of citizens and activists who were trained in lobbying, organizing and advocacy. NDI administered a small grants program supporting advocacy projects throughout the country and launched a program to teach NGO activists to monitor government officials and develop issue-based coalitions.

As a result of NDI's activities, political party activists were introduced to effective methods of party building and campaigning; the parliament increased its transparency and outreach to citizens; civic groups conducted successful advocacy campaigns at the local level; the Coalition for Democracy and Civil Society continued to lead efforts toward democratic reforms; and the public benefited from greater access to parliament and decision making processes.

II. BACKGROUND

When Kyrgyzstan became independent in 1991, it held great potential, relative to other former Soviet republics, for a smooth transition to democratic governance. The country has not entirely lived up to this potential, as President Askar Akaev showed an increasing willingness to consolidate power through non-democratic means in the later years of his rule.

Akaev repeatedly circumvented the legislative process by using decrees and manipulated public referenda to increase presidential powers. In the months prior to the fall 1999 municipal elections and winter 2000 parliamentary elections, independent media, civic leaders and political parties not aligned with the president were largely shut out of the process, guaranteeing victory for the president and the party in power.

After the 2002 Aksy demonstrations, in which five demonstrators were shot dead, President Akaev created a Constitutional Council to consider changes to the political system. Initially heralded as a positive development, the resulting February 2003 constitutional referendum helped reinforce the government's backsliding on democracy. The process by which the revisions were introduced was deeply flawed and local authorities were instructed to push through the amendments regardless of public skepticism. As a result, the referendum was marked by serious irregularities, falling far short of international standards.

While talk of "velvet revolutions" in Georgia and Ukraine began to dominate Kyrgyz minds in 2004, local council elections on October 10 of that year brought little hope for potential fairness of the upcoming parliamentary and presidential elections. NDI's civic partner, the Coalition for Democracy and Civil Society, issued a critical report noting low voter turnout and gross electoral violations. Opposition parties also criticized the local elections for severe misconduct and irregularities.

Despite an increasingly difficult political environment, NDI continued to work with political parties to increase their ability to develop into organizations that represented the interests of the public, articulated platforms and prepared leaders for elections. NDI provided training and consultations on effective campaigning to both political parties and individual candidates and assisted opposition groups in forming a coalition prior to the 2005 parliamentary elections.

NDI also assisted civic organizations as they worked to make an impact on public policy and struggled for government reform. Numerous reform-minded political organizations, civic groups and individuals throughout Kyrgyzstan worked to build and strengthen the foundations of participatory democracy by advocating for government transparency and accountability. By the end of 2004, NDI's long-time civic partner, the Coalition for Democracy and Civil Society, had become one of the most effective of these organizations, monitoring elections, holding the legislature accountable, conducting effective advocacy campaigns and educating voters.

III. PARLIAMENTARY PROGRAMMING

NDI has conducted programs with Kyrgyzstan's parliament since 1996, after several well-known reform politicians were elected to the parliament in 1995. At that time, the parliament as an institution was weakened by inexperienced leadership and staff and impeded in its efforts by the executive branch. In order to strengthen the parliament and thereby increase its importance and relevance in Kyrgyz politics and governance, NDI embarked on a program with the following objectives:

- Strengthen the parliament's capacity to conduct public outreach and involve citizens in the legislative process;
- Establish greater procedural openness and effectiveness in the parliament; and
- Develop legislation in the parliament relating to the democratization of the political process.

To meet these objectives, NDI conducted programs in both the Legislative Assembly (LA, the lower house) and the People's Representative Assembly (PRA, the upper house) for members of parliament (MPs), their staff, and interested citizens. These programs fell into three broad areas. First, NDI worked with several key parliamentary committees and members to institutionalize the practice of holding public parliamentary hearings. NDI provided technical assistance in the organization of hearings and the preparation of MPs and civil society representatives to participate effectively in parliamentary hearings. Second, NDI worked closely with MPs and their staff to strengthen the professionalism of the parliament by providing them with intensive training. Third, NDI regularly advised parliamentary deputies and staff on international best practices in several areas of legislation. Throughout the course of this cooperative agreement, the Kyrgyzstan parliament considered several important pieces of legislation and NDI targeted its programming to these issues.

1. Increasing public outreach and encouraging citizen involvement in the legislative process.

At the beginning of this agreement, NDI conducted an informal survey of members of the Legislative Assembly to determine what contact members had with their constituents. NDI was pleased to find that many of the deputies had met with their constituents and that several deputies credited NDI with the introduction of concepts such as town meetings. While this survey showed that many deputies reached out to constituents, the parliament as an institution was still relatively closed to input from citizens. To rectify this, NDI worked with several committees to

institutionalize the practice of holding public hearings, both inside the parliament and in the regions. NDI worked with deputies and committee staff to organize hearings, which included advice on setting agendas, inviting government and civil society representatives to testify, and developing questions for witnesses. NDI also provided guidance on how deputies could incorporate information gathered through hearings into draft legislation. In addition, NDI worked with civil society representatives who were invited to testify at parliamentary hearings to develop the general skills that would enable them to effectively present their positions. This activity is further described in the civic participation section of this report.

The format for hearings held by parliamentarians varied from a traditional Kyrgyz roundtable to more structured events with members directly questioning government representatives or other witnesses. Over the course of this five-year agreement, NDI assisted parliamentarians in organizing and holding more than 30 public hearings and roundtables. Several examples of hearings held by parliamentary committees, with the technical assistance of NDI, and their results are described in detail below:

- Beginning in 2000, NDI worked closely with Deputy Malevanna, the chair of the Human Rights Committee, on legislation that would establish a human rights ombudsman. NDI worked with Malevanna to plan a roundtable on the draft legislation. In December 2000, NDI arranged a roundtable discussion involving representatives of the Organization for Security and Cooperation in Europe (OSCE), Malevanna and several nongovernmental organizations. During the discussion, several speakers voiced their concern that under the proposed legislation, the ombudsman would not be independent enough from the president.

Consideration of this legislation continued in 2001, as the parliament continued to gather views from the public. The Coalition for Democracy and Civil Society sponsored public hearings in Bishkek and Osh that attracted participants from local NGOs and the parliament. These public hearings provided useful information for Deputy Malevanna and her staff as they prepared for a parliamentary hearing held in March 2001. At the hearing, members of the Human Rights Committee rigorously questioned government officials on the independence and functions of the proposed ombudsman.

After lengthy consideration, the parliament passed a revised human rights ombudsman law, which was adopted in June 2002. The final version incorporated the suggestions of local NGOs and citizens removing the selection of the ombudsman from the control of the president.

- NDI worked closely with the LA's Committee on Budget and Finances to organize the first public budget hearing in Kyrgyzstan's parliamentary history in November 2001. At the recommendation of NDI, the committee invited 12 local NGOs to testify at the daylong hearing. Prior to the hearing NDI provided a two-day training for the invited NGOs that covered the budget process, 2002 budget priorities, and the budgets of the three ministries called to testify at the hearing. It was left to the participants to develop their own positions. The training provided the opportunity for

the participants to role-play and prepare their presentations. At the hearing, nine NGO activists testified on the proposed budgets for the Health, Education and Culture and Labor and Social Protection budgets, as well as the overall budget for 2002. After this initial budget hearing, parliamentarians agreed to hold additional hearings and the parliamentary committees with budget oversight in both the upper and lower houses held a joint budget hearing in 2002.

- In conjunction with other programming on proposed changes to Kyrgyzstan's constitution, NDI worked with members of parliament to organize public hearings on the 2003 constitutional referendum. NDI sponsored a public hearing hosted by Deputy Sultanov's parliamentary faction, the Association of Cities of Kyrgyzstan and the *Adilet* party on the proposed referendum. Ten members of the Legislative Assembly, two vice chairs and five members of the Constitutional Council, seven local council deputies and 24 NGO representatives participated in the public hearing. NDI also sponsored a televised debate between First Vice Prime Minister Osmonov and Deputy Kadyrbekov on the constitutional referendum. The program included questions from the audience and was aired on Pyramida Television in Bishkek, Jalal-abad, Osh and Issyk Kul. Both the public hearing and the televised debate increased citizen input into the constitutional referendum process.

2. Increasing procedural openness and effectiveness.

To strengthen the institutional capacity of the legislature, NDI provided training and consultations to members of parliament and their staff.

Beginning in 2000, NDI co-hosted a series of more than 25 luncheon discussions with parliamentary staff on a variety of technical issues. More than 20 parliamentary staff attended these discussions. NDI arranged for guest speakers from the World Bank, the Coalition for Democracy and Civil Society, USAID and the International Foundation for Election Systems (IFES). Topics included: national programmatic budgeting; constituent relations; media relations; staff and member interaction with lobbyists; comparative legislative systems; Kyrgyzstan's debt and international financial institutions; administrative reform; local government; land reform issues; judicial reform; gender issues in legislation; USAID's activities in Kyrgyzstan, the Coalition's work leading the Monitoring Advisory Group; and election system reform. These informal discussions helped increase the professionalism of parliamentary staff, which led to greater procedural openness and effectiveness.

In 2003, NDI met with the parliament's secretary-general to select a group of 24 parliamentary staff members to participate in a nine-month training series. Participants in the NDI trainings were primarily the heads and deputy heads of various committees in the parliament. Training topics included: the role and responsibilities of parliamentary staff in democratic legislatures; the role of legislatures in parliamentary versus presidential systems; the role of the Kyrgyzstan parliament in governance under the amended constitution; the role of parliamentary committees in legislatures; legislative-executive branch relations; the budget process; the role of lobbyists and civic advocates in a democratic legislature; the role of the media in the legislative process; constituent outreach; and parliamentary transparency.

In addition to the trainings and discussions described above, NDI conducted additional programs for both members of parliament and parliamentary staff. These intensive training sessions focused on topics such as the legislative process, how to conduct public hearings and town meetings, and the role of the parliament's press office. NDI brought guest speakers, including Matyas Eorsi, a member of the Hungarian parliament, and Polish MP Michal Kaminsky to provide comparative perspectives. Several parliamentarians and staff members asked NDI to provide further training and consultations.

3. Legislative and political process reform.

In addition to providing assistance in organizing public hearings and training to parliamentarians and their staff, NDI also provided an international perspective for parliamentarians on proposed legislation. NDI submitted expert commentary on several draft bills, including proposed amendments to the constitution, changes to the electoral code and the political party law.

NDI provided commentaries on the constitutional reform process to the parliament, government, Constitutional Council, media and civil society organizations (please see attachments 1 and 2). After President Akaev unexpectedly revised the Constitutional Council's work in mid-January 2003, NDI issued a statement discussing the importance of adhering to a participatory process when revising the constitution. NDI called on the government to postpone the referendum to provide more time for citizens to learn about, discuss and consider the new proposed changes. While most of NDI's recommendations were not adopted, many members of parliament and civic leaders voiced their appreciation for NDI's contribution and said that NDI's statements reflected the convictions of those reluctant to speak out due to political pressure.

In addition to its commentary on the constitutional reform process, NDI worked closely with the parliament on revising its rules of procedure, a process required by the amended constitution. NDI initially met with members of an *ad hoc* committee designated to lead the effort to learn more about the process. NDI organized a meeting in early March 2003 for all members of parliament, including the president's representative to the parliament, to begin the process of drafting new rules. Prior to the meeting, The Institute solicited a list of issues of concern from deputies and staff. NDI obtained written comments from parliamentary experts from Eastern Europe that addressed key issues such as introducing legislation, committees and oversight functions, public hearings, faction discipline, immunity and expulsion, and the election and powers of the speaker. The Institute provided this commentary, comparative practices from several European parliaments, NDI publications on committee structures and excerpts from *Democratic Legislative Institutions* by David Olson to the *ad hoc* committee to help inform its decisionmaking (see attachment 3). NDI participated in the meeting as an expert witness and answered questions on issues involved in developing rules of procedure.

The rules of procedure passed by the parliament included several suggestions provided by NDI. The proposed rules would have strengthened the role of the legal drafting department, increased citizen's access to parliamentary records, enhanced the parliament's oversight function by requiring government ministers to appear before the parliament and accounted for poor or

non-implementation of legislation, among other improvements (see attachment 4). Unfortunately, President Akaev vetoed the new rules of procedure and objected specifically to provisions that would have increased the parliament's oversight function. In response to a request from the parliament's Committee on State Structures and the Committee on Ethics, NDI provided a written commentary highlighting the constitutional basis for parliamentary oversight under Kyrgyz law. Both committees decided to reject a substantial number of the president's suggestions for amending the original version of the bill. Though the president vetoed the rules of procedure, parliamentarians thanked NDI for its contributions to the discussion of the issue. In a striking example of legislative branch independence from the executive, and in part because of NDI's programs about parliamentary independence and rules of procedure, parliamentarians overrode the president's veto of the rules bill.

IV. POLITICAL PARTY PROGRAMMING

Under this program, NDI began conducting activities that engaged a broad spectrum of Kyrgyzstan's political parties. In contrast with many other post-Soviet countries, Kyrgyzstan has had a fairly permissive environment for political parties. However, while there have been numerous political parties, most are based on a central charismatic figure and not on broad-based grassroots support. NDI's political party programming has been guided by the understanding that a competitive multiparty system is indispensable to the development of democracy in Kyrgyzstan. To assist in the development of a strong yet diverse party system, NDI set out the following objectives:

- Assist the development of nationwide political party organizations in Kyrgyzstan;
- Strengthen political parties' organization and maintenance of factions in the parliament; and
- Strengthen the capacity of political parties to participate effectively in elections.

To meet these objectives, NDI conducted single- and multi-party trainings, seminars and intensive consultations with party leaders, members and candidates. NDI provided technical assistance to both national headquarters and regional branches of parties in an effort to stimulate the development of nationwide political party organizations. Throughout the course of this five-year cooperative agreement, NDI conducted more than 25 party building programs and trained more than 400 party activists. NDI worked with more than 20 Kyrgyz parties, including Unity, *Adilet* (Justice), *Moya Strana* (My Country), *Ar-Namys* (Dignity), *Ata-Meken* (Fatherland), *Ata-Jurt* and *Alga*, Kyrgyzstan parties.

1. Assist the development of nationwide political party organizations in Kyrgyzstan.

To assist in the development of nationwide political party organizations in Kyrgyzstan, NDI conducted a series of multi- and single-party trainings on a variety of subjects critical for party development. Through regular meetings with party leadership, NDI was able to assess the relative strengths and weaknesses of each party and offer suggestions for training programs. NDI tailored its activities to meet the needs of each party it worked with and be responsive to their priorities.

NDI trained party leadership and members on topics including fundraising, grassroots organizing, membership and volunteer recruitment, message and platform development, and the roles and relationships of parties' national headquarters and regional branch offices. NDI relied on its in-country political party trainers and occasional visits from guest trainers to conduct its political party programming. NDI employed a variety of training techniques, including seminars, role-plays, guided practice and roundtable discussions. For example, when training on message and platform development, NDI trainers led party leaders through exercises to craft an actual product that could be used. Participants in the training discussed the concept of a message, how to use the message of the party to target voters and how to use voter feedback to refine the party's approach. NDI trainers then led participants through a guided practice to help them draft a message that the party activists thought would appeal to a key segment of their party's support base.

To reinforce the concepts covered in training sessions, NDI provided individual consultations with party leaders to discuss how their party could implement these concepts to improve the party's organization and outreach. NDI also used these consultations as an opportunity to assess the effectiveness of its training program and to solicit suggestions for further trainings.

2. Strengthen the capacity of political parties to participate effectively in elections.

In addition to its general program of political party development, NDI provided focused training and consultations to political parties and candidates ahead of local and national elections. As in its general party development program, NDI worked with all interested parties and candidates. NDI provided training on how candidates should define goals, target voters, develop a message and outreach strategy and how to implement these strategies. NDI provided training materials in Russian, Kyrgyz and Uzbek to ensure that candidates and party activists could readily understand the material presented.

NDI also conducted programs that helped parties and candidates safeguard their supporters' votes. NDI offered programs on partisan poll watching ahead of most major elections. In addition, NDI highlighted the provisions of Kyrgyz law that were of particular consequence for candidates' electoral rights and performances.

Prior to the February 2000 parliamentary elections, NDI trained 25 candidates and their campaign managers. Parties used training materials developed and distributed by the Institute, such as NDI's party pollwatching manual, to train their members. The selection of participants was left to political parties. Independents were also invited to the training program

Following the constitutional changes in 2003, NDI met with parties to discuss how they could shift their election strategies to prepare for elections for single-mandate seats. When NDI first met with several prominent party leaders, they admitted that they had not considered what changes, if any, would be needed in their parties' strategies. NDI provided additional consultations and trainings to help parties focus on this issue. In part, NDI helped parties work together. For instance, NDI assisted in discussions among the Communist, *Ar-Namys* and *Ata-Meken* parties prior to by-elections in October 2002 for four parliamentary seats. As a result of

these discussions, the *Ar-Namys* and *Ata-Meken* parties agreed to support a single candidate in one of the constituencies.

NDI also held consultations with its party partners following each election to assess what strategies worked and where parties could improve. These consultations gave parties an opportunity to review the effectiveness of their campaigns and party structures. Several parties implemented lessons learned from previous elections when next competing in an election. For instance, after local elections marred by fraud in 1999, opposition parties more clearly saw the need for partisan poll watching and other methods to safeguard the rights of their candidates and organizations during the election process.

3. Strengthen political parties' organization and the role of factions in the parliament.

NDI also worked with political parties represented in the parliament to provide expert advice on organizing and maintaining parliamentary factions. This programming complemented NDI's work aimed at strengthening the parliament as an institution. Following the February 2000 parliamentary elections, NDI met with the leaders of four major factions: the Regional Faction led by Deputy Abdrasulova; the Right Faction led by Deputy Kurmanov; the Elcomsotz Faction led by Deputy Speaker Tekebaev; and the Unity Faction led by Deputy Alymkulov. Each of the four factions initially had seven to 15 members and was composed of several parties.

Following these consultations, NDI planned a study mission to Poland financed by non-USAID funds for faction members to study the role factions play in parliaments and how to maintain them. The parliamentarians met with leadership from several factions in the Polish parliament and discussed the advantages of a faction system and the difficulty in maintaining faction discipline. Upon their return to Kyrgyzstan, some began work to revise procedural rules to increase the role of factions in the parliament.

NDI continued to consult with faction leaders in the parliament and to encourage political parties, both in and out of parliament, to take a more active role in policy discussions.

V. CIVIC PROGRAMMING

Since opening its Kyrgyzstan office in 1996, NDI had worked with several domestic NGOs interested in democratic reform. Based on the interest shown by these groups and NDI's experiences in other countries in transition, NDI assisted in the development of a nationwide organization called the Coalition for Democracy and Civil Society (the Coalition). The Coalition has evolved from a loose coalition of civic groups to a unified, nationwide organization with a common agenda of election monitoring, civic advocacy and government accountability. The Coalition has become Kyrgyzstan's largest non-partisan monitoring organization and is widely recognized as an authoritative source for information about electoral conduct in Kyrgyzstan.

In addition to its work with the Coalition, NDI pursued numerous activities with the aim of increasing citizen participation at all levels of decisionmaking. NDI provided advocacy training for local NGOs, administered a small grants program and sponsored independent public

affairs television programs to increase citizen involvement in political affairs. In conducting all of these activities, NDI sought to achieve the following objectives:

- Increase citizen participation in public decisionmaking and increase government transparency and accountability at the local, regional, and national levels;
- Strengthen the organizational capacity and sustainability of the Coalition for Democracy and Civil Society;
- Assist the Coalition with its efforts to promote greater transparency and adherence to law and procedure, particularly within the election process; and
- Foster the civic and political participation of young women leaders.

1. Increase citizen participation in public decisionmaking and increase government transparency and accountability at the local, regional, and national levels.

In addition to its support for the Coalition, NDI worked to increase citizen participation in public decisionmaking through a variety of initiatives. Several examples of these projects and their results are described in detail below:

- To increase citizens' access to information and to engage more citizens in public policy discussions, NDI sponsored two television programs: *Nasha Vremya* ("Our Time") and *Bez Retushi* ("No Edits"). These programs sought to educate citizens on current political issues and provide a forum for airing opposing points of view. NDI cooperated with independent television station Pyramida in Bishkek to produce and air the programs, which were often retransmitted on television stations throughout Kyrgyzstan.

Over the course of his cooperative agreement, NDI sponsored more than 150 television programs. Topics ranged from current affairs discussions, such as border disputes between Kyrgyzstan and China or the status of the Russian language, to more fundamental discussions of democratic institutions. The format for the programs typically included guests that represented both viewpoints, as well as other expert commentators. Additionally, *Nasha Vremya* often aired live programs that included participation from the audience. Both programs also conducted political debates ahead of elections.

To increase the reach of these programs, NDI distributed taped copies to its network of Information Centers for Democracy, funded through a grant from the U.S. Department of State, and to Internews, another USAID implementing partner, which distributed the programs to regional television stations for rebroadcast.

- In 2001, NDI expanded its civic programming to reach a wider set of domestic organizations interested or already engaged in civic advocacy work. NDI conducted a series of advocacy training of trainers programs across Kyrgyzstan. More than 80 NGO leaders and community activists participated in these trainings, which aimed to equip the activists with the skills to conduct more effective advocacy campaigns and train other individuals in their communities.

Participants went on to conduct 74 training sessions. Nearly 900 individuals received training from the group initially trained by NDI. Participants from both programs went on to conduct successful advocacy campaigns in their communities. For instance, in Issyl-Kul Oblast, an activist organized a public meeting to allow local citizens to air their grievances to local officials on land distribution and increases in property taxes. In Chui Oblast, several participants organized a series of roundtables to discuss easing the citizenship application procedure for Tajik refugees. These roundtables brought together national and local government officials and NGOs to design solutions to streamline the citizenship application process. In the summer of 2002, a large number of Tajik refugees received Kyrgyz passports, an achievement that is credited to the roundtable discussions.

- In 2003, NDI launched a small grants program to provide local NGOs with the technical and financial assistance needed to undertake advocacy campaigns. The program built on the success of NDI's advocacy training of trainers program. For the first round of grants, NDI received 67 applications outlining short-term advocacy projects from groups that had participated in NDI advocacy training. NDI convened a selection committee, composed of representatives of international organizations, to review the applications and choose 20 projects to fund at an average level of \$1,500. The first 20 small grants were awarded in April 2003 and resulted in highly successful advocacy campaigns.

Based on the success of the first round grantees, NDI conducted second and third rounds of the program. In the second round, NDI received 81 applications and funded 15 projects. In the third round, NDI received 109 applications from across Kyrgyzstan and awarded grants for another 15 projects. As after the first round, NDI staff held regular consultations with grant recipients to provide technical assistance and monitor their progress.

Similar to the experience of participants in the advocacy training of trainers program, recipients of NDI's small grants program conducted successful campaigns to improve their communities. For example, project leaders in Chui Oblast trained 280 farmers in sessions about land and property rights. As a result of their increased awareness of the law, farmers filed 250 petitions with the Public Prosecutor's Office and Accounting Chamber to reclaim illegally seized land. In Jalal-Abad Oblast, grant recipients organized budget hearings in two rural districts. State officials from the district, rayon and oblast administrations addressed the concerns of 300 citizens. Following trainings on budget-related issues, citizens formed a public supervisory committee to oversee budget issues in the two districts.

While the immediate impact of these grants was most noted at the local level, perhaps affecting electricity service or increased educational opportunities for disabled children in one oblast, the project also had a more widespread effect. Grant recipients realized that they could, when cooperating with other citizens, influence their local government. Experiencing success on a limited scale, many of the activists NDI funded expanded their advocacy efforts both in their communities and on a national scale.

2. Strengthen the organizational capacity and sustainability of the Coalition for Democracy and Civil Society.

NDI assisted the Coalition in opening and staffing seven offices, located in Bishkek, Osh, Talas, Naryn, Karakol, Balykchy and Jalal-Abad, during the summer of 1999. These offices allowed the Coalition to pursue its institutional mandate as a national NGO and provided it with the infrastructure needed to implement a monitoring strategy for the October 1999 local elections. NDI conducted a three-day workshop with all new Coalition staff members to introduce the staff to the mission and functions of the Coalition. The training also addressed communication between Coalition headquarters in Bishkek and regional offices; aspects of current NGO legislation; and rules for maintaining professionalism and nonpartisanship.

Following the 2000 parliamentary and presidential elections, which the Coalition also monitored, the Coalition held meetings at the national and regional level to set their program priorities and administrative policies and to elect new members to the board of directors. NDI assisted the board and headquarters staff to determine the agenda for the regional assemblies. More than 75 percent of the Coalition's 128 NGO and 385 individual members participated in the six regional assemblies held on December 8 and 9, 2000. At the regional assemblies, members elected 130 delegates to the national assembly and eight board members. This was the first time that members had directly elected regional representatives to the board of directors. At the general assembly, held on December 16 and 17, 2000, participants elected seven at large board members, approved a new charter that elevated the executive director to president, and agreed on a new mission statement and membership policy. The national assembly also supported many of the programs proposed by regional assemblies and made plans to incorporate the proposed programs into the Coalition's work. A national assembly was held again in late 2002. At this assembly, Edil Baisalov was formally elected as president, 11 new board members were elected and four board members were re-appointed. The Coalition held regular board of directors meetings and staff retreats for the remainder of this cooperative agreement.

Throughout the period of this cooperative agreement, NDI worked closely with the Coalition's staff and board to provide training to build organizational capacity. NDI worked with the Coalition's financial manager to reform accounting and financial management practices and to incorporate budgeting into program design. NDI provided one-on-one consultations for Coalition staff responsible for writing the group's public reports. NDI also assisted the Coalition with setting forth an agenda for programming, including writing workplans for project implementation and strategic, long-term planning, and writing proposals to donors. NDI helped the Coalition draft new by-laws that codified procedures used for the regional and national membership assemblies and board of directors' elections.

3. Assist the Coalition with its efforts to promote greater transparency and adherence to law and procedure, particularly within the election process.

Over the course of the cooperative agreement, the Coalition, with NDI's assistance, monitored three sets of local elections, two national elections, and Kyrgyzstan's 2003 constitutional referendum. The Coalition recruited and deployed a total of more than 10,000 volunteer observers. For the 2000 parliamentary and presidential elections, the Coalition

observed more than two thirds of all polling stations, and for the constitutional referendum, the Coalition's monitors covered nearly 80 percent of all polling stations. The Coalition released reports after each monitoring mission and often conducted press conferences to highlight significant findings.

NDI provided the Coalition with technical assistance both in the lead up to elections and on election day to support its monitoring efforts. NDI collaborated with the Coalition to compile training materials on how to recruit volunteer observers and conduct election monitoring. All training materials were translated into Russian and Kyrgyz to ensure that volunteer observers could readily understand the information. NDI assisted the Coalition with developing monitoring forms, which it used to collect and aggregate data. NDI also conducted training of trainers sessions for the Coalition's staff and experienced observers. These individuals in turn trained thousands of observers.

As the Coalition expanded its volunteer base and expanded its national coverage, its observation efforts became more sophisticated. Following the Coalition's effort to monitor the October 1999 local elections, the Coalition assessed the monitoring program in order to improve future observation missions. One lesson the Coalition learned was the need for pre-election monitoring, as many violations occur in the campaign period rather than on election day. For the parliamentary election held in 2000, the Coalition deployed dozens of long-term observers who monitored the formation of election commissions, registration of candidates and preparation of voter lists. This became a regular practice in future Coalition election observation missions. For the constitutional referendum, the Coalition organized 3,400 observers under 90 team captains, who were responsible for training short-term observers and collecting their reports on election day. These team captains reported to the Coalition's oblast offices that in turn reported to the national headquarters, where the Coalition, with the assistance of NDI and a team of election procedure experts, compiled the numerous reports into a statement of findings.

In addition to the Coalition's election monitoring efforts, it engaged in other activities to advocate for greater transparency in electoral legislation and administration. In April 2002, the Coalition successfully petitioned the Legislative Assembly to hold a hearing on candidates nominated to serve on the Central Election Commission (CEC). All candidates for the CEC attended and were questioned by NGO representatives about their qualifications. The Coalition also worked hard to develop relationships with the CEC and other government bodies so as to increase its influence in the electoral process. The Coalition and the CEC cooperated in holding a two-day conference in June 2002 on the role of political parties, NGOs and the media in elections. This conference – the first of its kind – was attended by more than 60 representatives of political parties, NGOs and the media as well as members of the CEC and chairmen of oblast election commissions. The relationships the Coalition developed with the CEC and regional election commissions, along with other NGOs and government officials, heightened the Coalition's profile.

Despite the Coalition's varied efforts to increase transparency and safeguard Kyrgyz voters' rights, electoral conduct in general worsened over the course of this cooperative agreement, as authorities began to take more drastic measures to retain power. The Coalition noted an increase in electoral fraud and faced heightened pressure and intimidation against its

observers. During the February 2003 constitutional referendum, some Coalition observers were physically assaulted and were prevented from monitoring polling places. Despite harassment from regional and national authorities, the Coalition remained committed to its stated purpose of safeguarding the electoral process and increasing citizens' political awareness.

VI. RESULTS/ACCOMPLISHMENTS

A. *Parliamentary Programs*

Objective: Strengthen the parliament's capacity to conduct public outreach and involve citizens in the legislative process.

NDI has met this objective. By the end of this cooperative agreement, members of parliament, both individually and as committees, regularly held public hearings on various pieces of legislation and government oversight. Members of parliament and their staff credited NDI for providing them with the skills necessary to conduct hearings. On several occasions during this project, the parliament, after listening to citizens' concerns, rejected or revised legislation introduced by the president.

Members of parliament and their staff also improved their capacity to conduct other forms of constituent outreach and services.

Objective: Establish greater procedural openness and effectiveness in the parliament.

NDI has met this objective. Through providing training and consultations to members of parliament and their staff, NDI assisted in the professionalization of parliament as an institution and encouraged a more open, transparent legislative process. By increasing the skill level and professional development of staff members and deputies, NDI developed a foundation for improved quality of both operations and output of the parliament. Expanded human resources also enabled the parliament to conduct more activities and improve its ability to inform the public of these activities.

Objective: Develop legislation in the parliament relating to the democratization of the political process.

NDI has met this objective. By providing expert analysis in the form of written, public commentaries by NDI staff and visiting experts, NDI helped inform parliamentarians of international norms on various issues, including election laws and human rights standards. The parliament included many of NDI's recommendations on proposed legislation into its final version of legislation. Backed with the analysis NDI provided, many parliamentarians took a more aggressive stance and refused to pass legislation that would limit the parliament's authority or harm Kyrgyz human rights. Instead, MPs worked hard to pass legislation that established more power for the parliament, such as creating Kyrgyzstan's human rights ombudsman and drafting rules of procedure for the new 2003 constitution.

B. Political Programming

Objective: *Assist the development of nationwide political party organizations in Kyrgyzstan.*

NDI has met this objective. Through its training programs, NDI has worked with a broad spectrum of political parties to convince them of the worth of developing national political party organizations. Several parties instituted practices first introduced in NDI training sessions, such as reorganizing party's administrative structures, establishing financial committees and developing grassroots organization strategies. Several parties reported that following training and consultations with NDI, communication between regional branches and national headquarters improved.

Despite improvements in parties' organizational structures and a willingness to attract grassroots support, many democratic parties' organizational and political aspirations were limited by government harassment of party activists and leadership.

Objective: *Strengthen political parties' organization and maintenance of factions in the parliament.*

NDI has met this objective. Factions within the parliament became more cohesive following an NDI-sponsored study mission to Warsaw, Poland to discuss the role of factions in democratic legislatures. Faction members who participated in the trip worked to revise the parliament's rules so as to increase the role factions play. Political parties became more involved in the policy process in part due to consultations and roundtable discussions NDI organized on several key pieces of legislation, including a proposed political party law.

Objective: *Strengthen the capacity of political parties to participate effectively in elections.*

NDI has met this objective. Through intensive trainings and consultations, NDI worked with both parties and candidates to introduce or promote concepts such as message development, door-to-door canvassing and party poll watching. NDI trainings also provided a forum for interested parties to discuss coalition-building and non-competitive agreements. Party organizations and candidates reported that they regularly referred to the training materials developed by NDI. However, many democratic candidates and political parties were stymied in their electoral campaigns by government harassment.

C. Civic Programming

Objective: *Increase citizen participation to influence public decisionmaking and increase government transparency and accountability at the local, regional, and national levels.*

NDI has met this objective. In addition to the Coalition's work to involve citizens in the electoral and governance processes, NDI has provided both technical and financial assistance to hundreds of local activists. Through its advocacy training of trainers and small grants programs, NDI has established a national group of NGOs and activists equipped with the skills needed to influence their governments, both at the local and national level. The success of local advocacy

campaigns has empowered many of the activists with whom NDI has worked to engage in larger advocacy campaigns and to become more politicized.

Objective: Strengthen the organizational capacity and sustainability of the Coalition for Democracy and Civil Society.

NDI has met this objective. The Coalition has evolved from a loose grouping of civic groups to a unified, nationwide organization whose leaders share a common agenda of election monitoring, civic advocacy and government accountability. With NDI's guidance, the Coalition has established an advanced governance structure, which provides for accountability to Coalition members by the board of directors. In addition to providing programmatic assistance, NDI provided training for Coalition staff to increase their ability to conduct responsible financial oversight of the Coalition's operations. In part due to its financial transparency and budget management record, the Coalition has received grants from a variety of international sources to support its slate of programs. The Coalition has also established a cadre of trainers and membership/volunteer recruiters so as to ensure that it has sufficient numbers of trained volunteers to conduct its programs.

Objective: Assist the Coalition with its efforts to promote greater transparency and adherence to law and procedure, particularly within the election process.

NDI has met this objective. During this five-year agreement, the Coalition, with NDI's assistance, conducted observation for three sets of local elections, two national elections, and Kyrgyzstan's 2003 constitutional referendum. The Coalition improved its monitoring and reporting with the technical assistance provided by NDI's in-country and visiting trainers. The Coalition also successfully challenged CEC rulings. During the 2000 parliamentary elections, the Coalition initiated 45 criminal proceedings against precinct electoral commissions, 56 appeals to courts and an additional 66 appeals to the CEC and constituency election commissions. The Coalition has become Kyrgyzstan's leading domestic authority on electoral conduct and consistently reports the findings of its volunteer, non-partisan monitors to both a domestic and international audience.

VII. EVALUATION/CONCLUSIONS

By the end of 2004, NDI made some important strides in strengthening democratic institutions in Kyrgyzstan. The parliament had become an increasingly prominent voice in Kyrgyzstan's political life, displaying greater independence from the executive branch. The legislature had also increased public involvement in its proceedings by opening up hearings and involving NGOs in the drafting of bills. While the political party system in Kyrgyzstan remained weak because of repeated changes to the electoral system, political party members had learned important party-building skills, and multiple parties came together with NDI's assistance to create pre-election blocs. NDI's small grants program provided small domestic organizations with the means to successfully run campaigns to increase civic awareness, protect human rights and encourage government agencies to improve services. Also, NDI-sponsored television programs *Nasha Vremya* and *Bez Retushi* increased citizens' access to information, providing a forum for competing points of view on current political issues.

However, advances in strengthening political parties or civil society were often thwarted by the presidential administration, which changed the structure of the government through a fraudulent referendum process, placed increased pressure on civil society activists and independent media, and resorted to blatant electoral fraud and intimidation, particularly in the 2005 parliamentary elections. While policymakers, civic groups and the public were becoming more aware of their democratic rights, the government felt increasingly threatened and retaliated with public attacks on the West and manipulation of the polls to get pro-Akaev legislators into the parliament.

The result of these actions was increasing public unrest and, on March 24, 2005, a takeover of the White House by protestors in Bishkek's central square. The change of power in March and establishment of an interim government were important steps in Kyrgyzstan's move towards true democratic change. However, much work remains to be done, both within and outside of the government. Through a 24-month grant from USAID to the Consortium for Elections and Political Process Strengthening (CEPPS), NDI will continue to work to strengthen political parties and civil society in Kyrgyzstan. NDI was also recently awarded additional funds to work with presidential candidates and the new parliament, consult with political and civic leaders on constitutional reform, and assist domestic and international election monitoring groups in monitoring the July 2005 presidential election.

VII. LIST OF ATTACHMENTS

1. NDI first constitutional commentary, October 2002
2. NDI second constitutional commentary, January 2003
3. NDI report on Jogorku Kenesh meeting about parliamentary rules of procedure, March 2003
4. Success Story – Parliament Reforms its Rules of Procedure, May 2003



COMMENT ON THE KYRGYZ CONSTITUTION

October 2002

I. Summary

Kyrgyzstan is currently considering revisions to its constitution. This moment provides an important opportunity to promote democracy in Kyrgyzstan, both through the process of constitutional reform and through the resulting document. The National Democratic Institute for International Affairs applauds this effort and offers its support in all aspects of the process. NDI recommends that particular attention be paid to pursuing an open and participatory process and to seeking a balance between the powers of the executive, legislative and judicial branches of government.

II. Background

A constitution represents the fundamental rules and principles of a state. It determines the powers and duties of the government and guarantees rights to citizens. In democracies, which depend on public consent to function, constitutions play vital roles. They must reflect citizens' essential values and be grounded in widespread public support. Because of their importance, reforming constitutions is a project of major significance. It should be undertaken with great care and attention to implications for the future.

Constitutional reform is often a necessary first step in laying the groundwork for further democratic progress. Revision of the constitution is rarely sufficient in itself to realize a functioning democracy. Also critical are the political will and capacity to implement the constitution and other laws impartially, respect civil and human rights, encourage broad citizen participation in political life, and foster a vibrant civil society that includes opposition to the government and offers citizens competing views of the future. Public debate and eventual consensus about the fundamental rules by which politics will be practiced is a needed foundation to these other elements.

If constitutional reform is to advance democracy, the process must be transparent and participatory. The approach to reforming the constitution is vital to the legitimacy of the result. Open debate should be encouraged, through active and systematic solicitation of public input. Once a series of recommendations for revisions has been proposed, the government should organize a campaign to educate the public about the issues at stake and the rights and obligations of citizens. To ensure that all concerned citizens are able to voice their opinions, the government should allow adequate time for the proposals to be discussed and debated in public. Final authority on approving changes to the constitution should reside with the people. Therefore, a national referendum should be organized, in compliance with guidelines set forth by the Council of Europe's Venice Commission. All changes should become effective soon after the results of the referendum are confirmed, to avoid ambiguity between current and future constitutional regimes.

The reforms themselves should aim to enhance checks and balances and separation of powers between the branches of government. The branches should serve as checks on abuses of power by one another. There are many ways to achieve these goals, as demonstrated by the variety of constitutions among established democracies.

III. Constitutional Reform in Kyrgyzstan

In August 2002, a constitutional assembly was formed by decree of the President of Kyrgyzstan to recommend revisions to the Constitution of the Kyrgyz Republic that would strengthen democracy. The assembly met in September and issued a list of proposals. Based on the recommendations put forward by the assembly, a series of draft amendments to the Constitution were published on October 17. Alongside the draft amendments, the President issued a decree on promoting nationwide discussion of constitutional reform. The National Democratic Institute has followed these developments closely and, with the assistance of Professor Herman Schwartz of the American University Washington College of Law in Washington, DC, has reviewed the current constitution and the proposed changes. NDI welcomes the invitation from the Ministry of Justice and representatives of the constitutional assembly to offer commentary on Kyrgyzstan's constitutional reform. The following points are offered in the spirit of international cooperation and with the aim of enriching the public debate on the important issues facing Kyrgyzstan. The Institute recognizes that it is ultimately the citizens of Kyrgyzstan who must determine the fate of their constitution.

IV. Recommended Points for Consideration

Enhancing the Authority and Autonomy of the Parliament

The intent of several of the proposed amendments is to provide a better balance of powers between the legislative and executive branches. However, this objective is not achieved by simply transferring powers from the presidency to the prime minister. Transferring power to the parliament is more important for improving the executive-legislative balance. The recommendations to give the legislature a role in determining the structure of the government; require parliamentary consent for appointments to the government and selection of judges, chair of the Central Election Commission and Chair of the Auditing Chamber; and mandate parliamentary consultation on top diplomatic appointments are steps in the right direction.

The proposal to transition from a bicameral to a unicameral legislature may serve, as intended, to improve the efficiency of the legislature and enhance its interaction with the executive and judicial branches. The most important factor in determining the composition of the parliament is ensuring that all seats are elected, through either proportional or single mandate balloting. Direct elections help to promote responsiveness of the legislature to the population. Further, proportional mandate systems can play a role in stimulating political party growth. Consideration should be given to reserving a portion of the parliamentary seats for party list voting.

Proposed revisions to the Constitution that grant the legislature enhanced powers to disapprove the prosecutor general, and approve judicial, electoral commission, auditing chamber and human rights appointments are appropriate and laudable.

Additional revisions that would better balance the relative powers of the executive and legislative branches should also be considered. In general, the legislature should have more autonomy from the executive, and greater authority for oversight of executive personnel *and* policies. The legislature should have power to ask questions of the government, request information, issue subpoenas and force disclosure pursuant to law. These powers are not currently addressed in the constitution. Some additional examples of possible revisions are listed below.

- The lawmaking authority of a legislature should not be subject to delegation. In this context, articles 68 and 47.3 of the Constitution of Kyrgyzstan merit revision, because they allow the parliament to delegate its legislative powers to the President and authorize the President to issue decrees with the force of law for up to one year.
- The budget is a crucial policy document, in which the parliament should have significant say. A legislature should have the authority to introduce amendments to the budget, to levy taxes and to authorize spending without prior approval from the government. The Constitution should be clarified to ensure that presidential consent is required only for adoption, and not introduction, of legislation relating to budgets, taxes and spending.
- The ability of the parliament to override a presidential veto is an important legislative check on the executive. A requirement of a two-thirds majority is customary and reasonable for an override. A threshold that is any higher weakens the legislature relative to the presidency.
- A parliament should be in a position to serve as a check on the presidency and the government. In the extreme, this right entails the ability to reject appointments to or vote no confidence in the government and to impeach the president. Under the Constitution, the parliament's ability to try the president for wrongdoing is undermined by Article 51.3, which threatens dissolution by the constitutional court should the parliament vote for impeachment. Similarly, article 63.2 allows the president to dissolve the parliament if it rejects the presidential nominee for prime minister three times, and article 71.5 allows the president to dissolve the parliament if it votes no confidence in the prime minister twice in three months. A two-thirds majority is already required to impeach the president and move to a trial. The requirement of a supermajority is an appropriate check on parliamentary powers to withhold consent, vote no confidence and impeach; the threat of dissolution is not warranted.
- For purposes of passing most legislation, the parliament should rely on simple majorities. Absolute majorities or absolute super majorities are sometimes appropriate, such as when amendments to the constitution or impeachment are being considered. However, requiring such high thresholds to pass legislation of a less fundamental nature, as provided in article 65.4, opens opportunities for small groups to paralyze the chamber through nonparticipation. This possibility impedes the responsiveness and productivity of the parliament and thus indirectly impacts its ability to act independently of other branches.

Enhancing the Independence of the Judiciary

The proposed amendments include a number of provisions designed to revise the judicial system. Additional amendments that would enhance the independence of the judiciary should also be considered.

Methods of selecting and removing judges vary widely in democracies. However, in countries where judicial independence has been called into question, it may be appropriate to take extraordinary measures to ensure the perception of dependence is avoided. Some specific examples are listed below.

- However they are selected and whatever their term of office, judges should serve with confidence that their decisions will not lead to reprisals based on political considerations. Article 80.2, which specifies initial terms of three years and subsequent terms of seven years, presumably by presidential reappointment, merits reconsideration in this context. The necessity of earning favorable reviews for reappointment may cloud a judge’s political impartiality.
- Judges should be provided more protection from removal. Article 81.1 permits removal for “other reasons specified by law,” a category that allows too much room for discretion.
- In general, presidential control over the prosecutor general should be minimized and the authority of the prosecutor general should be circumscribed and clarified. The proposal to revise the Constitution such that the parliament will be able to express no confidence in the prosecutor general is appropriate. Article 46.2 should be clarified to ensure that parliamentary consent is required for appointment of the deputy procurator general and all lower procurators. Article 78, which defines the role of the procuracy, should be clarified to ensure that abuse of the office is deterred.

Promoting Local Self-Government

The draft amendments include a proposal to revise procedures for appointing heads of local state administrations. The heads of local state administrations are in a position to impact substantially the day-to-day life of citizens. As such, NDI would advocate that these positions be directly elected and accountable to their constituencies, rather than appointed – whether by the president or the prime minister.

Ensuring Freedom of Information

The public’s right to obtain information on government activities is fundamental to democracy. This right is so critical that where access to such information has not been widespread historically, and has not otherwise been codified into law, it is appropriate to include it in the constitution.



COMMENT ON THE CONSTITUTIONAL REFERENDUM IN KYRGYZSTAN

January 2003

This is the National Democratic Institute for International Affairs' second commentary on the constitutional reform process currently underway in Kyrgyzstan. NDI has prepared it based on comments made by a noted international constitutional scholar and the experience of its work in some 80 countries around the world. The commentary is designed to support democratic progress in Kyrgyzstan, which should be the result of any constitutional reform.

In August 2002, a constitutional council was formed by Presidential decree to recommend revisions to the Constitution of the Kyrgyz Republic that would strengthen democracy. The council met in September and issued a series of proposals. Based on these proposals, a series of draft amendments to the Constitution were published on October 17, 2002. Alongside the draft amendments, the President issued a decree on promoting a nationwide discussion of constitutional reform that is to conclude in January 2003. Below are comments on both the procedural and substantive issues raised by the Council and the President's decrees.

If constitutional reform is to advance democracy, final authority for approving constitutional changes should reside with the people. NDI therefore recommends that Kyrgyzstan's government put first priority on organizing a free and fair national referendum. This referendum should be conducted in compliance with guidelines set forth by the Council of Europe's Venice Commission. To avoid ambiguity between current and future constitutional regimes, agreed changes should be put into effect soon after the results of the referendum are confirmed. This means that new parliamentary elections should be held before February 2005, when they are currently scheduled to take place.

The scope of the changes proposed by the Constitutional Council would significantly affect each of the three branches of government—the executive, the legislature and the higher courts. Each major change is important enough to be the subject of a separate referendum question. The referendum form currently being considered would pose a single yes or no question. A format that divides questions into coherent but distinct categories would allow voters to have more meaningful input into the constitutional reform process.

One of the stated aims of the Council's work was to seek a better balance of powers among the executive, legislative and judicial branches of governments. To bring about democratic progress, the current process should result in the shifting of powers from the executive to the legislative branch. In this commentary, NDI has identified a number of key areas where power should be shifted to better achieve this result.

Determining the structure and level of taxes and other charges is one of most important decisions a government can make. The executive branch should not have a monopoly on setting tax policies. The legislative branch of government should be vested with some parallel authority to make these decisions. Article 11 of the proposed constitution vests this power solely within the

executive branch. This article should be revised so that both the legislative and executive branches have some authority in this field.

The requirement in Article 62.3 of a two-thirds quorum for parliament to enact legislation is very high. In most democracies, the presence of half the members of parliament qualifies as a quorum. Moreover, the requirement in Article 65.4 that “a majority of the *total* number of the deputies” vote in favor to enact new legislation is also very high. These requirements may paralyze the parliament and prevent it from acting, and hence should be changed.

The parliament should be able to vote no confidence in the prime minister and have this be a meaningful decision. The constitution should be altered so that a parliamentary finding of no confidence results in the dismissal of the incumbent and the selection of a new prime minister by the president.

In democratic countries, government officials are generally immune from prosecution for acts committed in furtherance of their duties during the term of their tenure. The proposed grant of immunity to the chief executive in the new constitution risks placing this office holder above the law. The current constitutional process should be maintained.

The parliament should have clear authority to impeach the president by following a simple and concise procedure. The current procedure involves strict time limits and requires the Constitutional Court to confirm the parliament’s actions. These requirements should be simplified.

If local democracy is to have any meaning, those chosen to administer localities should be selected and removed by the local electorate or governing bodies. Article 46.1(5) of the current constitution allows the president to appoint and remove local administrators. This article should be revised.

The proper function of the procurator is to serve as the state’s representative and advocate in civil and criminal cases. The procurator should not have special powers to issue judgments based on evidence collected by security forces. This power should reside with judges who are in a better position to make objective judgments. Article 78 should be redrafted so that the function of the procurator is more clearly defined.

Article 58.1(19) grants the parliament unlimited power to appoint and dismiss a human rights ombudsman. An ombudsman will inevitably challenge some acts by either administrative or legislative bodies and should be protected from arbitrary dismissal. This article should be redrafted so that parliament’s powers of dismissal are limited in the same way that the constitution protects judges from removal by the other branches of government.

As mentioned in NDI’s first commentary, the public’s right to obtain information on government activities is fundamental to democracy. This right is so critical that where access to such information has not been widespread historically, and has not otherwise been codified into law, it is appropriate to include it in the constitution.

Final Report on the Meeting in the Jokorku Kenesh of the Kyrgyz Republic

Parliamentary Rules of Procedure

March 5, 2003
Bishkek, Kyrgyz Republic

Background: The Kyrgyz Parliament, known as the Jogorku Kenesh, consists of two chambers. The upper chamber, the People's Representatives Assembly (PRA), has 45 deputies, seven standing committees, and meets in four sessions a year of about three weeks each. The lower chamber, the Legislative Assembly (LA), has 60 deputies, 27 Committees and Commissions, and six factions and deputy groups. The LA works on a regular basis, from September through June, with two months of summer recess. The parliament's current five-year term ends in 2005.

A national referendum held on February 2, 2003, brought into force a new draft of the Kyrgyz constitution. It provides for a unicameral parliament of 75 deputies starting in 2005, or sooner in the event the existing parliament is dissolved. The new draft of the constitution also includes several provisions specifying functions and activities of the existing parliament. Political events leading up to the referendum and some provisions of the new draft of the constitution raised the specter of the current parliament's possible dissolution.

In order to conform with new provisions in the constitution, the Kyrgyz Parliament was required to rewrite its rules of procedure. An *ad hoc* committee of deputies of the two chambers was formed to develop new rules. At the same time, members of the parliament's professional staff were tasked with formulating new rules of procedure. This process began in an atmosphere of heightened tension between the legislature and the executive, amid suspicions that pro-government deputies in parliament would initiate its dissolution, or that the President would dissolve parliament. A major area of concern emerged quickly, based on apparent conflicts between provisions of the new constitution and the previous version. Deputies indicated that the parliament's continued existence depended on the resolution of these conflicts through the new rules of procedure.

NDI activities associated with developing new rules of procedure for the Kyrgyz Parliament: NDI met with the members of the two-chamber *ad hoc* committee and with the parliament's professional staff to consult and advise on developing the new rules of procedure. In response to these meetings, it was decided that NDI would sponsor a meeting in the parliament for all deputies of both chambers to discuss general issues associated with developing new rules of procedure, as well as key areas of concern identified by the deputies.

On March 5, 2003, NDI sponsored a meeting in the plenary of the Legislative Assembly for all deputies of the Jokorku Kenesh. NDI distributed written information (in Russian) to deputies and to the staff involved in developing the new draft law on rules of

procedure. NDI provided additional information after the meeting to address specific concerns raised by deputies.

Informational materials provided by NDI:

In advance of the meeting on March 5th, NDI had solicited from deputies and staff a list of major areas of concern and conflict on which deputies were seeking specific input from foreign parliamentarians. While the short timeframe for this meeting and schedule conflicts precluded the attendance of an international parliamentarian, NDI solicited written comments from Péter Hack, a former Member of the Hungarian Parliament. Mr. Hack graciously agreed to address deputies' concerns in writing. Mr. Hack's comments addressed the following key issues: advisory councils, committees and oversight functions and inquiries, hearings, discipline in the plenary, requirements for introducing legislation, adoption of a bill "in general" or by unanimous consent, powers of the Speaker, election of the Speaker, the role of factions and deputy groups, deputy immunity, expulsion of a deputy, and work with constituents. NDI translated his comments and provided these to the deputies as well.

1. Comments by Péter Hack, former Member of the Hungarian Parliament addressing concerns raised by deputies.
2. Legislative process in the European Parliament (committee and plenary).
3. Rules on Parliamentary Immunity in Austria, Finland, Germany, Ireland, Netherlands, Sweden, and in the European Parliament.
4. Structure, procedures, and legislative process in the Polish Sejm.
5. Excerpts from *Democratic Legislative Institutions* by David M. Olson (M.E. Sharpe, 1994) concerning legislatures' role in democracies, committees, new parliaments, and the legislative process.
6. Committees in Legislatures (NDI legislative information series).
7. Committee structure in the U.S. and Canada (NDI publication).
8. Hearings (NDI legislative information series).

Meeting Summary: Legislative Assembly Speaker Erkebaev chaired the meeting. He was seated at the Speaker's dais, joined by Ethics Committee chairman Dusheev, whose committee has jurisdiction over the draft law on rules of procedure. Between 20 and 25 deputies of both houses of the parliament were present throughout the meeting, including deputies representing all six factions and deputy groups in the Legislative Assembly. In addition, professional staff of both houses attended, as did the President's Representative to the Legislative Assembly. NDI Parliamentary Program Director Amy Schultz participated as an invited expert on parliamentary rules of procedure.

After welcoming the group, Speaker Erkebaev thanked NDI for its years of support to the Kyrgyz parliament and for sponsoring this meeting. On behalf of NDI, Amy Schultz welcomed the participants, described NDI's programming in Kyrgyzstan in the context of its assistance to parliaments around the world, and thanked the participants for the opportunity to provide assistance to the parliament.

The Chair of the Ethics Committee, Deputy Dusheev, explained that while deputies of the PRA and LA had met several times, they had not reached consensus on rules of procedure – and in fact that the more deputies met, the more conflicts emerged. Then he began the detailed discussion with deputies of the Speaker’s draft proposal.

The meeting agenda addressed four major areas identified by deputies: legislative procedure, committee procedure and oversight of the executive, powers of the Speaker and advisory bodies, and deputy immunity and expulsion. Deputies addressed all of these issues, frequently referring to the information NDI had provided.

During their deliberations, deputies raised several questions with the NDI parliamentary expert. These focused on the role of political parties and party groups in legislatures of other countries; the election of committee chairs; whether Speakers and deputy speakers may hold committee chairmanships; the oversight functions of committees; legislatures’ oversight powers, and rights to dismiss government officials.

The most active exchanges concerned specific provisions of the new Kyrgyz constitution dealing with the existing parliament, which come into force immediately. Among the most controversial of these provisions is a mandate that parliament may have only seven committees. The Legislative Assembly currently has 27 committees. There was also heated discussion among deputies, and between deputies and the President’s representative to the Legislative Assembly, about whether certain provisions apply to the existing bicameral legislature or come into force only when there is a new unicameral legislature.

At the close of the meeting, several participants expressed their appreciation to NDI for sponsoring this joint meeting, saying the discussion could not have been held otherwise. Informally, deputies said that an official meeting of the plenary would not achieve the same clarity in interpreting new constitutional amendments from the President’s representative. Deputies were particularly appreciative of the opportunity this meeting gave for them to gain such insights, since there is a perceived need to avoid conflicts with the President that might lead to Parliament’s dissolution.

In sum, this meeting contributed materially to the parliament’s ability to continue functioning and potential for independence from the executive branch.

Agenda

Roundtable on
Discussing the draft law of the Kyrgyz Republic
“On the Rules of Procedure of the Jogorku Kenesh of the Kyrgyz Republic”

9.30-10.00	Registration of participants	
10.00-10.30	Opening, welcome speeches	LA Speaker Erkebaev Amy Schultz, NDI
10.30-11.30	Legislative Procedures	LA Deputy Dusheev, Chair of the Committee on Ethics
11.30-12.00	Coffee-break	
12.00-13.00	Parliamentary Committees 1) Oversight over implementation of laws 2) Deputy Inquiries and Deputy Investigations	LA Deputy Masaliev, Chair of the Committee on State Structure LA Deputy Tekebaev
13.00-14.00	Speaker’s Powers and Advisory Bodies in the Parliament	LA Speaker Erkebaev
14.00-14.30	Procedures for Immunity Withdrawal	LA Deputy Beknazarov, Chair of the Committee on judicial and legal issues and legality
14.30-15.00	Coffee-break	

List of Participants
Roundtable on Rules of Procedure
Jogorko Kenesh, March 5, 2003

Legislative Assembly

- 1) Speaker Erkebaev, member of Social-Democratic party
- 2) Deputy Akunov, Communists' faction, member of Communist party
- 3) Deputy Bailo, Communists' faction, member of Communist party
- 4) Deputy Baltabaev, Regions of Kyrgyzstan deputy group, deputy leader of Elet party
- 5) Deputy Beknazarov, Deputy Group Kyrgyzstan, leader of the Asaba party
- 6) Deputy Borombaeva, leader of El-Muras party
- 7) Deputy Borubaev,
- 8) Deputy Duisheev, Communist faction, member of Communist party
- 9) Deputy Japarov, Regions of Kyrgyzstan deputy group, member of Social-Democratic
- 10) Deputy Juraev, El Uchun deputy group
- 11) Deputy Karabekov, The Right Coalition faction
- 12) Deputy Kerimbekov
- 13) Deputy Madumarov, deputy group Kyrgyzstan
- 14) Deputy Maliev, deputy group Kyrgyzstan
- 15) Deputy Masaliev, Communist faction, leader of the Communist party
- 16) Deputy Pronenko, deputy group Kyrgyzstan, member of People's party
- 17) Deputy Sadyrbaev, leader of Kairan El party
- 18) Deputy Tashtanbekov, Unity faction, leader of Afghan War Veterans party
- 19) Deputy Tekebaev, leader of Ata-Meken party
- 20) Deputy Tolokontsev, El Uchun deputy group
- 21) Deputy Loboda, the Right Coalition faction

Deputies represented all six factions and deputy groups in the Legislative Assembly and also individual deputies, and eight political parties. Of these deputies, fourteen are Committee Chairs and six are political party leaders.

People's Representative Assembly

- 1) Deputy Speaker Jeenbekov
- 2) Deputy Dil
- 3) Deputy Mukashev
- 4) Deputy Masaliev

Two are Committee Chairs.

Legislative Assembly staff

- 1) Temirbaev, Head of Apparat
- 2) Dushenbiev, Deputy Head of Apparat
- 3) Turgunova, Head of the legal department
- 4) Novikova, Head of the department on public association and human rights
- 5) Niyazov, Head of the press service
- 6) Seidemirzaev, Head of the state structure and law department
- 7) Mamataliev, Head of the human resources department
- 8) Matisakov, Head of the legal drafting center
- 9) Koichukolova, consultant
- 10) Junusov, consultant
- 11) Akchalov, consultant
- 12) Jusupov, consultant
- 13) Pronenko's consultant

People's Representative Assembly staff

- 1) Kangantiev, Head of the legal department
- 2) Chinara, consultant

President's Office

- 1) Arabaev, Plenipotentiary Representative of the President to the Legislative Assembly
- 2) Moldobaev, expert

Media

- 1) KOORT TV
- 2) KTR TV
- 3) Vecherniy Bishkek
- 4) Moya Stolitsa newspaper
- 5) Obshestvenny Rating newspaper

International Organizations

- 1) Amy Schultz, NDI
- 2) Alexander Schrank, NDI
- 3) Aida Suyundueva, NDI
- 4) Nurjan Talaibaeva, OSCE
- 5) Philatov, UNDP

Total number of participants: 50

NDI-Kyrgyzstan Success story (May 2003)
*Kyrgyz Parliament Commits to Greater Transparency by Reforming
Its Rules of Procedure*

Introduction

On May 22, 2003, the Kyrgyz Legislative Assembly (LA) voted to support greater public access to parliamentary documents by amending Article 86 of the rules of procedure. Deputy Pronenko, a former board member of the Coalition for Civil Society and Democracy, introduced the successful amendment. The National Democratic Institute's (NDI) technical assistance and the Coalition's advocacy efforts were instrumental in passing this amendment. The LA approved the rules of procedure on May 29 following three months of deliberations.

For several years NDI has been involved in advising the Legislative Assembly on ways to reform its procedures and build institutional capacity. The adoption of the new constitution at the February 2 referendum required amending the old procedures. NDI seized this opportunity, and proactively engaged in the issue with a large number of MPs and staff.

NDI responded to the drafting of the new rules of procedure by: (i) holding individual consultations with members of parliament (MPs) and staff; (ii) providing comparative information about the parliaments around the world; and (iii) organizing a roundtable discussion with 50 MPs from both chambers, representatives of the President's Office, and parliamentary staff. Major NDI recommendations adopted by the parliament can be summarized as follows:

Transparency and Openness

On May 22, the Legislative Assembly committed to greater transparency by amending Article 86 of the rules of procedure. This will allow for access to parliamentary records. Citizens will be able to obtain transcripts of plenary sessions and committee hearings by sending written requests to the Parliament's apparatus. Conditional on funding, citizens will also be able to access the records in Parliament's reading room or on the Parliament's website. This is crucial for citizens to actually be able to implement their right to access the information.

Committees and their Oversight Functions

Under the old rules of procedure, committees had no real oversight functions. Now committees will have the right to invite government officials to their meetings and the powers to oversee implementation of laws. Committee strengthening will promote the parliament's institutional development, thus making it a stronger institution, and will improve the balance of power between the executive and legislature.

Deputy Immunity

NDI provided extensive comparative international information on immunity. Now, MPs will enjoy immunity from prosecution for statements made in the course of their work. The waiver of immunity will require a vote at the plenary.

Legal Drafting

Parliament currently has a legal drafting department. However, unlike other parliaments around the world, the legal drafting department does not offer services to all MPs and is not involved with all legislation. NDI recommended that parliament move toward creating a strong legal drafting service that is professional, unbiased, and available to all deputies. The new rules of procedure elevated the role of the legal drafting department. It will now analyze all bills and share its analysis with the plenary. The plenary will henceforth receive recommendations from both the legal drafting department and the relevant committee MPs. This provision will contribute to the improvement of parliament's legal drafting process.