A UNDP project to strengthen Kazakhstan's parliamentary democracy

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DRAFT PROJECT PROPOSAL:
A UNDP PROJECT TO STRENGTHEN KAZAKHSTAN'S PARLIAMENTARY DEMOCRACY

SECTION A.
CONTEXT

I. Description of the subsector

1 From donors and its own resources, UNDP has available limited funds in aid of Parliament's law-making functions. This Project Document recommends that it spend those resources towards a single broad end: To help the Parliament develop its full democratic potential. To grasp that objective, the project will

1.1 Help the Parliament develop regulations specifying processes by which, with increased inputs from constituents and the organizations of civil society, deputies can initiate bills and have them drafted, oversee the work of Ministries and other government agencies, and monitor and evaluate the social consequences of the laws. Those processes will amplify voices too often unheard in the halls of power: Those of the poor, women, children, ethnic minorities, human rights, the environment.

1.2 Build human capacity in Parliament to perform its essential law-making functions:

1.2.1 to assess Government bills;

1.2.2 especially with respect to the Legislative Drafting Center, to initiate bills;

1.2.3 to improve the quality of discourse on legislation in Parliament;
1.2.4 to oversee the operations of Ministries and agencies; and

1.2.5 to work with organizations of civil society to monitor and evaluate the implementation of the laws.

1.3 Improve the information-gathering capacities of Parliament, its staff and deputies, and make that information more readily available to members of the public.

2 This section first describes the overall challenge that Kazakhstan faces -- the appropriate use of the legal order to address poverty and vulnerability. The document locates in that general problem the difficulties faced by Parliament in the law-making process. It then outlines the host country strategy for improving the legal order, the status of prior and on-going assistance to that sector, and specifically to the Parliament; and the institutional framework of law-making.

3 On the dissolution of the former USSR, with high hopes of quick transition to a market economy and democracy, Kazakhstan became independent. Its Constitution grants to its citizens important material rights -- to housing, to a minimum wage, to health care, to education. It grants important political and human rights. To achieve those objectives constitutes no easy task. The passage has proven storm-tossed, and no safe harbor in sight.

4 The overriding challenge to the President, Government and Parliament of Kazakhstan today consists of the poverty and vulnerability of the majority of its people. Since its independence, the national GDP has fallen by fifty percent; unemployment stands at record levels; social and economic stratification increases; health, education, and social services have deteriorated disastrously.

5 That list of Kazakhstan's social, political and economic problems sets the agenda for its governing institutions. Countries address social problems not only through government but also through the institutions of the civil society. Like other countries, Kazakhstan has many programs both within and outside of government aiming to alleviate the population's poverty and vulnerability. Like other countries, however, as an organized polity Kazakhstan addresses those problems through government.

6 To address the seemingly innumerable manifestations of poverty and vulnerability, government cannot merely command resources to change their allocations. It must change the

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2 Constitution, Art. 1.
3 Constitution, Art. 28.
4 Constitution, Art 29.
5 Constitution, Art. 30.
institutions -- the repetitive behaviors -- that together spin poverty and vulnerability for so many. For that task, government's principal instrument consists of the legal order.6

7 How does the development task involve the legal order and law? Everywhere governments restate as rules their seriously intended, publicly avowed policies: Wherever one looks in government, one sees rules. A program that government publicly and seriously proposes to undertake sooner or later assumes the form of rules promulgated by state officials: Statutes, subsidiary legislation, administrative regulations, ordinances, bylaws, departmental orders, rulings of the superior courts, decrees of a military junta, even unwritten constitutional conventions -- laws.

"In all contemporary societies salient elements of state policy have to be formulated in terms of law.... The involvement of law in development planning and practice is no coincidence; neither is it a matter of conscious choice. Development...implies change. In as much as government agencies engage in development planning and implementation, they aim at changing behavior. In other words, they try to exercise power. ...[S]tate law is the primary source of legitimation for the exercise of power by or in the name of state agencies...."7

8 To address poverty and vulnerability, like other countries, Kazakhstan has enacted many laws -- some 500 in the short years since Independence. Many deputies agreed, however, that very many of those laws remain ineffective. Despite those laws, Kazakhstan's poverty continues.

9 Those laws remain ineffective in two dimensions. First, they fail to alleviate the substantive social problems that together spell poverty and vulnerability. Second, they permit, indeed often facilitate, arbitrary governmental decision-making. Most of the bills enacted by the Parliament contain general and vague language, and have no self-contained power of implementation. To work, they require an implementing Decree. The president or Government makes those Decrees. The laws giving them that power usually contain no limiting criteria or procedures. In the event, government has almost limitless discretion to write regulations that it

6 By 'the legal order' we mean not only the black-letter laws, but also the Decrees, regulations and orders made under them, law-implementing institutions (courts, Ministries, departments, local government, etc.) and law-making ones (Parliament, local legislative bodies, etc.) -- that is, a dynamic system of rules, institutions and the people who comprise those institutions.

7 Franz von Benda-Beckmann, "Scapegoat and Magic Charm: Law in Development Theory and Practice," 28 J. LEGAL PLURALISM 129 (1989). Governments generally express policy in written laws for two reasons. First, to rule government puts policy in the form of rules to enable a handful of policy-makers -- Ministers, Members of Parliament, a few very senior public officials -- to channel in desired ways the behaviors of thousands of public employees and, through them, the citizenry at large. To change repetitive patterns of social behaviors, a government can only use rules to prescribe the new behaviors of citizens and officials in ways that actually induce the new behaviors. Second, a government's rules appear not merely as 'policy' or prescriptions expressed in speeches and policy papers, but as laws, results from government's need for legitimacy. In most countries at most times, neither the governed nor officials feel compelled to comply with mere policy; until expressed as law, mere policy lacks legitimacy. Inevitably, laws become inevitably the operative form of development policies.
10 Ineffective laws plus arbitrary decision-making: That constitutes the very opposite of good governance. To overcome poverty and vulnerability Kazakhstan needs to construct a legal order solidly based on good governance.

11 In part, poor governance reflects weaknesses in the law-making institutions. Among Kazakhstan's law-making institutions (that is, broadly, the President, the Government and the Parliament) this Project document proposes only to help overcome some of the difficulties that hinder the Parliament: Its processes, institutions and personnel that draft bills initiated by deputies, and that, wherever a bill originates, assess, debate, and enact it, and evaluate its implementation. This Project Document rests on preliminary analyses by UNDP staff, and two weeks of intensive discussions with members of Parliament, its various committees and its staff. It proposes a program that will empower Kazakhstan's Parliamentary institutions and their members to play their Constitutional role in an increasingly participatory, transparent, and accountable -- that is, an increasingly democratic -- law-making process.

II. The host country strategy

12 From its independence, Kazakhstan's President, Government and Parliament have demonstrated by their actions a conviction that without an adequate legal framework Kazakhstan cannot achieve its developmental and democratic goals. The Constitution insists that government may act only pursuant to law. Article 3(3) prescribes the essential basis for the Rule of Law:

"3(3). Nobody shall have the right to appropriate power in the Republic of Kazakhstan.... The government and other state bodies shall act on behalf of the state only within the limits of their delegated authorities." [emphasis supplied].

Constitutionally, no government official in Kazakhstan can lift an official finger save by authority of law.

13 Government acts through elected and appointed officials. To address poverty or other social problems, it has no alternative but to use the legal order. Kazakhstan has not lagged in law-making. In the nine years since independence, Government has enacted some 500 laws -- no negligible legislative output -- as well as the many Decrees and other regulations required to implement those laws. The laws enacted range widely: For a random sampling, a Civil Code, a Civil Procedure Code, a Penal Code and a Criminal Procedure Code, a Media Act. The deputies to whom we spoke expressed a continuing interest in using law to address Kazakhstan's problems.

14 That despite its abundant natural resources and its highly educated population, Kazakhstan has suffered a decline into poverty, however, argues that Kazakhstan has not optimally employed the legal order. Laws enacted with the avowed aim of alleviating poverty and empowering people have not achieved their beneficent purposes: Laws that do not
effectively alter the behaviors at poverty's roots; laws that insufficiently take into account Kazakhstan's realities; implementing agencies (courts, Ministries, the public service) with insufficient human and other resources to address the problems that transition's realities thrust upon them; laws that do not effectively prevent corrupt behaviors; laws-in-the-books that bear little relationship to the laws-in-action; arbitrary official decision-making -- a seemingly endless list. Despite over 500 laws, despite whole flocks of Decrees and regulations, the national GNP still hovers at 50% of its 1991 level; corruption persists; democracy remains incomplete.

15 The legal order's weaknesses must reflect weaknesses in the institutions that draft, enact, implement and evaluate the laws: The President, the Government, and the Parliament. Government's overall strategy necessarily relies on the legal order to create an enabling framework for beneficent social, political and economic change. Government has launched many programs to improve the law-making and law-implementing institutions. Thus does it demonstrate its commitment to ameliorating poverty and vulnerability through good governance and law.

III Prior and ongoing assistance.

16 Kazakhstan has received massive aid aimed at strengthening the legal order. The World Bank continues an active program of many millions of dollars, aimed at improving the judiciary, strengthening drafting techniques for drafters in the Ministry of Justice, providing foreign expertise in connection with specific bills, and with computerization. Through its Central and East European Legal Initiatives (CEELI), the American Bar Association, in a variety of areas provides assistance to strengthen the legal order. ABA\CEELI and UNDP worked with the heads of the Parliamentary chambers to specify the general objectives and organizational principles of the Legislative Drafting Center, whose non-partisan professional staff in time will provide legislative drafting services to the deputies. To enhance Parliamentary practices and procedures, these agencies sponsored international study tours to train deputies and staff in hearings practice and other matters, and has provided material aid in the form of computerization and computer training.8

IV. Institutional framework

17 It hardly needs formal statement that a vigorous, effective democratic system requires a vigorous, effective Parliament highly sensitive to and receptive of inputs from constituents and their organizations. Notwithstanding some political scientists, democracy requires more than competitive elections. So far as we know, however, no one argues that without competitive elections a country can fairly call itself 'democratic.' Thus the Constitution describes the Parliament, consisting of elected representatives, as "the highest representative body of the

8 Schedule 1 of the initial Project Proposal on Technical Assistance to the Parliament of the Republic of Kazakhstan, Section C, p. 5 details these programs for aid to the Parliament.
Republic performing legislative functions."

18 The structure of Parliament is described in Schedule 1, Section A. Parliament has two houses, the Majilis (the lower house) and the Senate. Bills can only originate in the Majilis.\(^9\) In effect, the President,\(^11\) the Government, and a deputy or a Senator may initiate a bill into the Majilis.\(^12\) Senate and Majilis have separate staffs. These staffs prepare analyses and commentaries on bills as a basis for the deputies' assessment and debate, prepare documents for Committees, and occasionally prepare draft legislation for deputies.\(^13\)

19 The Constitution defines Kazakhstan's law-making institutions. These divide conveniently into four sets of processes: Those preceding Parliamentary consideration (the bill-drafting stage); those occurring after Parliament receives the bill (the law-enacting stage); those occurring after the Parliament and the President enact the bill, and prior to its implementation (the Decree stage); and those occurring after implementation (the monitoring and evaluation stage).

20 The Kazakhstan bill-drafting stage has two branches. Both Government and the deputies each have independent powers to draft legislation. As in most governmental systems, the majority of bills originate within Government. The President has powers of setting the main directions of domestic policy.\(^14\) Government has the responsibility to "develop the main directions of social-economic policy of the state, defense capability, security, guarantee of public order and organize their realization".\(^15\) Deputies also have independent bill-initiating powers.\(^16\) To realize those powers requires that each institutionalize a process for preparing bills for presentation to Parliament. Government has already done so. Parliament lags behind.

21 The law-enacting stage also has two branches, the Parliament and the President. These appear linked in complex constitutionally-determined patterns. For purposes here, it suffices to

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9 Constitution, Art. 49(1).

10 Constitution, Art. 61(1).

11 While the President cannot directly initiate legislation, he can do so through Government. See Constitution. Article 44(3) (The President may "charge the Government with bringing a bill into the Majilis of Parliament.")

12 A bill originates in the Majilis. Constitution, Article

13 Since its inception, Parliament has enacted only about 30 deputies’ bills, that is, about six percent of all bills.

14 Constitution, Arts. 44(1), 61(2).

15 Constitutions, Art. 66(1).

16 Constitution, Art. 61(1).
state that before it becomes a law, normally each House must investigate, debate and, if desired, amend the draft bill, and then vote on it. If necessary, the deputies must reconcile differences between the Majilis and Senate versions. The President completes the law-enacting state by assenting to the law.

22 The third, *Decree* stage of the law-making process consists of the formulation and promulgation of an Implementing Decree. The deputies apparently believe that under the Constitution Parliament has no formal power to issue implementing decrees. In fact, since its inception, Parliament has neither formally or informally participated in the Decree stage.

23 The fourth, *evaluation*, stage takes place after Government promulgates a Decree. In theory, Parliament participates in this stage in two ways. First, constituent complaints and ideas about the way the existing social, economic and political institutions work should comprise an important input to the legislative process. At the base of every institution lies the law. A constituent who complains about the state of the roads implicitly criticizes the implementation of the Roads Law; one who complains about his or her pension, implicitly criticizes the implementation of the Pensions Law. Properly understood, deputies' channels of communications with their constituents, and the way deputies use those channels, (in fact, representative democracy itself) constitute a grand system for evaluating the implementation of the laws -- an integral part of the law-making system.

24 Second, Parliament also engages in evaluation through its oversight processes. Article 57(5) of the Constitution gives each chamber of Parliament independent power to hold hearings "on the issue of its jurisdiction." Article 45(6) gives each chamber independent power "to hear reports of the members of the Government... on the issues of their activities, at the initiative of no less than one-third from the total number of deputies of the Chambers...."

25 Assuming the adequacy of their subjective motivations (and in our discussions we heard nothing to call these into question) the relative effectiveness of Parliament's bill-crafting, law-enacting and evaluation functions depends upon the adequacy of its institutional processes and the capacities of the people whose repetitive patterns of behavior constitute those institutions. Like all decision-making institutions, bill-drafting, law-enacting and evaluation institutions consist of three principal processes. *Input* processes define the issues considered, and the ideas and information upon which the institutions bases its decisions -- and who gets to supply them. *Feedback* processes determine what facts about its past decisions the institution takes into account in making new decisions -- and who gets to supply them. *Conversion* processes put together inputs and feedbacks into a *decision* -- in the case of the bill-drafting process, a bill; in the case of the law-enacting process, a law; in the case of evaluation and monitoring processes,

17 Constitution, Art. 61(4).
18 Constitution, Art. 61(5).
19 See below, Paragraphs 49 et seq.
critique of the consequences of enacted laws.

26 These outputs -- decisions -- rest on the inputs and feedbacks the deputies receive at each stage, and on the nature of the conversion processes. In the nature of representative (as opposed to direct) democracy, only the deputies participate in the relevant conversion processes. Their decisions about bills, laws and evaluation, however, depend upon whose and what information they receive before deciding. Unless Parliament and its deputies receive inputs and feedbacks from the mass of the population, at each of the identified stages its decisions will likely reflect the inputs and feedbacks they receive from those with informal channels to the deputies -- in other countries' experience, typically those privileged by power and wealth.

Summary

27 Many Kazakhstani citizens suffer from extreme poverty and vulnerability. To the extent that Kazakhstan's Government proposes to strengthen democratic processes to alleviate those problems -- and no developing or transitional country in the world does not propose to do that -- it inevitably must utilize the legal order. That existing laws permit government officials to exercise very broad discretion, too often unaccountably and without transparency, and that rumors suggest growing dangers of corruption, testifies to the relative ineffectiveness of the legal order and hence of the law-making process. That reality underscores the importance of enhancing the Parliament's role in building democratic law-making processes.

26 Kazakhstan now has in place a Constitution and the institutions of a democratic state. Its President, Government officials and members of Parliament explicitly assert the necessity of using the law to conquer poverty and vulnerability. Government has enacted a comparatively large number of laws to facilitate its proposed transition. To elect officials and to staff its new democratic and market-oriented institutions, Kazakhstan has a remarkably well-educated population. Literacy is practically universal. Many Kazakhstan citizens have university training; no shortage of high-level manpower seems apparent. The country has rich natural resources. Foreign aid flows in relatively high amounts. At least on the surface, the preconditions for transition to a prosperous and democratic polity seem present.

27 Kazakhstan's legal order rests on many pillars. A principal one those pillars consists of the Parliament. Unfortunately to date, however, Parliamentary deputies appear relatively ineffective in undertaking their principal law-making functions: Bill drafting, assessing and debating bills, and evaluating the resulting laws' implementation. The next Section seeks to explain Parliament's seeming ineffectiveness in those sectors. To help Parliament more effectively to perform those functions, this Document proposes a program to deepen democracy in Parliament's processes, and to build the capacities of its deputies.

Kazakhstan's population suffers from deep poverty and extreme vulnerability. To the extent that Kazakhstan proposes to use state power to alleviate those problems -- and no developing or transitional country in the world does not propose to do that -- it must utilize the legal order. That most of its people suffer from extreme poverty and vulnerability, that government officials exercise very broad discretion, too often unaccountably and without transparency, and that rumors suggest relatively widespread corruption, testifies to the relative ineffectiveness of the
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SECTION B
PROJECT JUSTIFICATION

I. Problems to be addressed; the present situation

30 Using a problem-solving methodology, this subsection (1) describes the difficulties Kazakhstan’s Parliament has encountered in fulfilling its constitutional role in the law-making process, and identifies whose and what behaviors comprise those difficulties. As the essential basis for grounding the proposed Project on facts and logic, subsection (2) identifies the causes of the those problematic behaviors. The third Part proposes a two year Project for overcoming the causes of the relevant actors’ behaviors in order (a) to clarify processes now vague and imprecise, and to make them more participatory -- that is, to ensure that those process and institutions search out and receive more and higher quality inputs from organizations of civil society, especially those representing the disinherited; and (b) to empower deputies better to perform their roles by building human capacity among the people of Parliament (deputies and staff) to draft, assess, and debate bills, to oversee governmental operations and to monitor and evaluate the laws.

a. The Difficulty: Parliament’s performance as a law-making body.

31 As demonstrated above, Parliament participates in three of the four constitutionally-defined functions in the law-making process: Bill-drafting, law-enacting and evaluation. In two general respects it performs these functions less than optimally.
31.1 Parliament's formal processes of bill drafting, law-enacting (especially investigating and assessing bills) and oversight seem ill-defined. Deputies have no fixed procedures for initiating and drafting bills, of assessing bills or evaluating the implementation of the laws. Many deputies -- over two-thirds of them only recently elected -- seemed uncertain about how to exercise their law-making powers. Many are highly educated in various professions; some have studied law. Nevertheless, they do not seem to exercise those powers very effectively.

31.2 Overall, Parliament's institutions tend not to include inputs from the institutions of civil society. Experience in other societies teaches that elsewhere deputies receive informal inputs from the elite with whom they have day-to-day contact. They rarely receive similar informal inputs from the mass. Decisions tend to reflect the pattern of inputs. Without formal channels for inputs from the disinheriteds, over the long run a Parliament tends to produce bills, enact laws and develop evaluations that address primarily elite concerns, not necessarily the concerns of the majority.

32 Parliament's relative ineffectiveness in the bill-drafting process finds its measure in the number of bills that the deputies initiate. Inevitably, in accordance with the Constitution, most bills originate in Government. If the deputies initiate only a tiny number of bills, however, they cannot be fully exercising Parliament's constitutionally-delegated powers as "the highest representative body of the Republic exercising legislative functions." Of the 500 bills that Parliament has enacted, government introduced all but about 30, that is, some 94%; Parliamentary deputies initiated barely six percent. Although many deputies expressed dissatisfaction with the bills Government put before them, few introduce their own bills. Even when they do, the resulting laws apparently do not prove much more successful than other laws in terms either of effective implementation or of resolving the social problems they purport to address.

33 The legislators and staff members seemed almost unanimous in holding that, by whomever originated, most of the laws they enacted had failed to produce the anticipated social benefits. As implemented, some even had negative consequences. In part, the deputies observed, that failure reflected the fact that the legislation as drafted too often did not adequately take into account the unique circumstances of Kazakhstan's transition, and failed to specify the details necessary to ensure adequate implementation by the responsible government agencies. Among other examples, the legislators mentioned the labor law which they said favors employers at the workers' expense; the pension law which does not adequately protect senior citizens; the law which seems to exempt incomes earned 'off-shore' from taxation (apparently stimulating

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20. Like most law schools throughout the world, those in Kazakhstan currently offer no courses in which future lawyers may learn legislative drafting theory, methodology, and techniques. See below, Paragraph 74 et seq. (For the reasons, see A. Seidman and R.B. Seidman, A Manual for Legislative Drafting for Democratic Social Change, Kluwer Law International, forthcoming). Much of this Manual has already been translated into Russian.
wealthy individuals to ship domestically-generated savings out of the country); and the law relating to individual farmers that left them without the government supports needed to increase their productivity and incomes.

34. As an important aspect of their difficulty in assessing whether bills will likely work as anticipated, the deputies apparently have problems in obtaining relevant information. Committees do not regularly hold hearings open to testimony from organizations or individuals. Those organizations and individuals cannot readily get access to a deputy. They cannot easily discover even what bills are pending before the Majilis or Senate. Popular participation in Parliamentary processes seems close to non-existent.

35. When a Committee decides to forward a bill to the full House, the deputies have opportunity to debate the bill. Since at present no one keeps a full record of these debates, it remains difficult to assess their quality. The available evidence suggests that the Parliamentary debates do not focus on the facts and logic required to determine whether proposed bills will achieve their stated aims. Without adequate information about the facts and reasons underlying a bill’s details, however, the deputies cannot adequately assess either the likelihood of its effective implementation or its probable social consequences.

36 For the most part, the deputies seemed mainly to describe the social problems, and to base their arguments for the bill’s enactment or rejection on their personal sentiments or (implicit or explicitly stated) ideologies. By implication, the Constitutional provision (Art. 52(1)) that “A deputy of Parliament shall not be bound by any imperative mandate” required the deputies to take into consideration, not narrow partisan concerns, but the general public interest.21 In the event, however, deputies apparently primarily tend to describe the serious social problems confronting their constituents, and to criticize the government’s failure to deal adequately with them. They seem to have had few ideas about how to conceptualize the kinds of legislation that might effectively solve those problems in ways that would advance the general public interest. Elsewhere, that has become a formula for Parliamentary debate marked by invective and assertion, not deliberation marked by reason informed by experience.

37 The deputies’ effectiveness in their role in the evaluation process also seems problematic. Most deputies fully recognized their responsibilities as elected representatives of their constituents. Apparently many have reported to their constituents about actions taken by

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21 Cf. Amy Gutman and Dennis Thompson, Democracy and Disagreement (Cambridge, MA: Harvard U.P., 1996); Gerald F. Gaus, Public Reason and the Rule of Law, in The Rule of Law (Ian Shapiro, ed.), Nomos XXXVI (1994) at 328, 331 (“...the liberal commitment to public justification implies a commitment on the part of each liberal citizen to making only those moral demands on others that can be justified to them. If, for instance, Alf wishes to justify to Betty a rule requiring that she redistribute some of her holdings to Charlie, he must advance considerations that from Betty’s perspective are reasons for redistributing.”) To meet the criteria of generality and reciprocity, however, requires justifications that rest on reason informed by experience. Ann Seidman, Robert B. Seidman, and Theodosio Uate, “Building Legislative Capacity to Assess Bills in Light of the Public Interest,” 17 Statute L. Rev. (1999)
Parliament. They seemed to have less clear ideas about why their responsibilities require two-way channels of communication to their constituents, or how to develop those channels. They apparently have done little to work with them to monitor and evaluate the actual implementation of laws and their social impact. (In fact, they can inform their constituents about the aims and implementing mechanisms of particular laws, and work with them to monitor and evaluate the actual implementation of those laws and their social impact, especially on the most vulnerable segments of the population: the poor, women, children, old persons, and minorities). The Committees' difficulties in obtaining relevant information at public hearings also tended to make deputies' efforts to evaluate legislation's implementation and impact more difficult.

38 Finally, most of the bills enacted by Parliament contain very vague and general prescriptions. These effectively endow the President and Government with wide discretion to make implementing regulations. That discretion allows Ministries to negate the Parliamentary intent by failing to enact implementing decrees, failing to appropriate money as proposed by the Parliament, and occasionally by promulgating decrees that actually contradict the legislation. Given that discretion, Ministries may introduce decrees which make it easier for officials to engage in arbitrary and even corrupt decision-making. Discussions with the Director of the Human Rights Commission indicated the danger, too, that officials' arbitrary decisions might violate human rights.

39 A good deal of Parliament's ineffectiveness lies in the relatively limited capacity of its staff. Nobody interviewing the staff could help but be impressed by their obvious intelligence and devotion. The key members of staff for Parliament's law-making function work in the Legislation Departments, the Information Center, and in the Departments that provide general support for the Committees of the Majilis and the Senate. The Legislation Departments prepare analyses and commentaries concerning pending bills. When time permits, they expend a great deal of effort upon the research, in particular finding relevant articles, CIS countries' parliamentary documents and model laws, and relevant Kazakhstan legislation. The Committees' Departments service the several Committees of the Majilis and the Senate, arranging hearings, preparing law drafts for committee consideration, and maintaining calendars of pending legislation. The quality of the analyses these departments present, however, apparently varies widely in depth and acuity.

40 The relative ineffectiveness of Parliament's participation in the law-making process, and the low level of stakeholder participation in the law-making process comprise the primary foci of the proposed Project. These problems consist of the following sets of social actors and their behaviors:

40.1 The members of Parliament, who find it difficult to assess bills, and even harder to initiate them; whose discourse in debate seems inadequate to develop true legislative deliberation in the public interest; who need assistance in establishing a two-way communication system with their constituents, who enact excessively vague bills, and overall, tend not to include inputs from the institutions of civil society.
40.2 The deputies in their capacities as Parliamentary committee members, who encounter problems in gathering and presenting the essential information required to facilitate deputies’ efforts either to assess or to initiate bills, or to exercise the oversight function.

40.3 The Parliamentary staff (including the not-yet-identified staff of the proposed Legislative Center) who apparently do not possess fully satisfactory capacities to prepare adequate assessments of bills presented to the Parliament, or to draft bills at the request of deputies.22

41 The proposed UNDP Project will center on strengthening the capacity of these institutions and actors to play a more effective and democratically responsive role in carrying out their Constitutionally-delegated representative and law-making responsibilities. To accomplish these goals, problem-solving’s second step requires identifying the causes of the three sets of Parliamentary actors’ problematic behaviors.

b. Explanations for these problematic behaviors

42 To ground the proposed UNDP Project on reason informed by experience – that is, on logic and Kazakhstan’s realities -- the problem-solving methodology requires analyzing the causes of the central problematic behaviors that have hindered Parliament from playing a more effective role in a democratic law-making process. This part reviews the likely causes of these behaviors of the deputies, the committee members and the staff members who comprise them. These behaviors depend upon the formal rules of the various bill-drafting, law-enacting and evaluation institutions, and the capacities of deputies and staff.

The unclear processes of Parliamentary decision-making:

43 The Parliamentary processes by which deputies decide what bills to enact – from whom and what kinds of information they receive – remain unclear.

Whose and what inputs do the Deputies receive?

44 Throughout the world, deputies receive both informal and formal inputs from their constituents. By virtue of their position, in most countries, deputies tend to form part of the elite. They rub elbows with society’s powerful and privileged. Daily, they receive information -- inputs -- from other members of the elite. They receive inputs from the disinflicted only through what formal channels exist. Until Kazakhstan’s deputies develop formal channels that transmit inputs from the poor and disinflicted, until they hear about interests frequently disregarded by power and privilege, democracy in Kazakhstan will be incomplete.

22 Only two officials, the Director (appointed during our stay in Astana) and the Deputy Director, has received an appointment to the Center. The Parliamentary leadership must still appoint six staff lawyers. It is expected that on appointment the six staff lawyers will have had little or no experience or training in drafting.
Everywhere, in practice, weak and impoverished constituents cannot readily provide direct inputs into deputies' decision-making processes: Those constituents comprise too many for deputies to meet with them individually. They make too large a crowd. At best, they can receive inputs from organizations of civil society that represent their interests -- NGOs, trade unions, farmers' cooperatives and the like.

Institutional structure

Today, the formal rules make it difficult for ordinary constituents or even NGOs to see deputies. The security measures in Parliament make access to the deputies difficult. Some deputies have offices in their home districts, but none are staffed. Neither ordinary citizens or the organizations of civil society can easily even learn about pending Parliament business. They cannot make inputs about pending bills of which they have no knowledge. We understand that a Department within Parliament, the Information Center, has been gathering information about how deputies work with their constituents. That information will surely prove helpful in developing legislation to improve the Parliament's processes for gathering information from constituents.

Inputs from the institutions that represent the mass must come primarily from formal, not informal contacts. For two reasons these channels seem few and far between. First, the former Soviet society apparently did little to encourage the institutions of civil society. Parliament has under consideration a law that aims to facilitate the organization and maintenance of non­government organizations (NGOs). Completing the drafting and the enactment of that law may well constitute a high priority for strengthening constituents' inputs into Parliamentary law-making processes.

Second, most Parliaments receive formal inputs in their deliberations through Committee hearings; a few, especially in the drafting stage, from publication of proposed bills, inviting comment ('notice and comment' procedures). At present in Kazakhstan, no rules or practices of Parliamentary require hearings or provisions for notice and comment. Formulation of such rules might help to ensure that the deputies hear the voices of all social groups and interests.

Why overly-vague and overly-general bills?

Two additional sets of institutional constraints seem to inhibit deputies' efforts to engage in effective Parliamentary law-making. This subsection focuses on the first, the Constitutional and institutional context that may help to explain deputies' seeming penchant for enacting vague and general bills ill-suited to ensuring effective implementation. (For the second, the staff's limited capacity to service the deputies and the Committees of the Senate and the Majilis, see para. ?? below.)

Several Constitutional provisions seem to foster the deputies' past seeming reluctance to initiate bills. The Constitution, Article 61(3), limits Parliament's right to issue "laws" to ones that "regulate the most important public relations, [and] establish fundamental principles and standards." On its face, that language does not prohibit Parliament from enacting 'direct' laws.
To some deputies, however, it seemed to state that the Parliament could only enact general laws, from their very generality requiring an implementing Decree.

51 Besides laws, Parliament also has the power to issue other "legislative acts," which regulate "all other relations" except those regulated by "laws." 23 "Legislative acts" not only include laws, but also "resolutions of the Parliament, resolutions of the Senate and the Majilis having obligatory force on the entire territory of the Republic." 24 The Constitution provides that resolutions of the Parliament and its Chambers must violate neither the Constitution nor the laws. 25

52 Moreover, nothing in the Constitution forbids the Parliament from hedging executive power to issue Decrees. The Constitution endows the President with the power "on the basis of and with the exercise of the Constitution and the laws" to "issue decrees and resolutions which are binding on the entire territory of the Republic." 26 The Government can issue "resolutions on the items of its jurisdiction: having "obligatory" force in Kazakhstan. 27 The Prime Minister has an analogous right to issue "directions" with "mandatory" force. 28 Neither of these may "contradict the Constitution, legislative acts, decrees and resolutions of the President of the Republic." 29 If a law contains procedural or substantive limits on the power to issue regulations, the executive must obey.

53 Nothing forbids the Parliament from granting to a specified Minister the power to issue regulations under a bill, or from limiting that power by narrowly drawn criteria, or by specified procedures. In none of the very few bills translated into English and therefore available to us, however, has the Parliament attempted to exercise this Constitutionally-granted power to hedge executive discretion. We have heard of no instance when the deputies have attempted to draft a resolution specifying the details required for implementing a law.

54 To become effective, a "law" (but no other "legislative act") must receive the President’s

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23 Constitution, Art. 61(3).
24 Constitution, Art. 62(1).
25 Constitution, Art. 62(7). The Constitution, however, while requiring presidential approval of "laws," at least in its English translation seemingly does not require presidential approval of either "resolutions" or other "legislative acts."
26 Constitution, Art. 45(1).
27 Constitution, Art. 69(1).
28 Constitution, Art. 69(2). It seems unclear whether the language used in subsection (1) and (2) results from translation problems or whether they actually express different concepts.
29 Constitution, Art. 69(3).
approval. Moreover, the Government must approve a bill that touches the public fisc. These provisions seem to reinforce the deputies’ reluctance to initiate bills.

55 In the event, the deputies do not seem to have even tried to contest the broad discretion that bills drawn by the Ministries and the Government’s central drafting office lawyers so often in effect grant to the President or the Government. Their seeming acceptance of the Government’s domination of the law-making process helps to explain why they enact so many laws seem to facilitate poor governance. In designing or assessing a bill, too, they seem to lack an intellectual framework -- a ‘map’ to help them identify what social facts count as important.

The capacities of the actors on the Parliamentary stage

56 The deputies’ difficulties in assessing whether specific bills seem likely to prove effectively implementable -- let alone drafting them -- seem to stem also from their inability to analyze the available evidence about a social problem and devise a legislative solution for it. When initiating, assessing, debating, or communicating with constituents about a bill, or engaging in oversight about a law’s implementation, a deputy must investigate, not only the existing relevant laws, but also the unique Kazakhstan circumstances within which the addresses of the proposed law live and work. The possible factual propositions that fully describe those actors’ environment number in the billions. To find a way through that maze, a deputy needs a map -- a conceptual framework, a legislative theory -- to identify the fields of inquiry that will likely prove fertile, and that excludes irrelevant materials from consideration.

The Deputies

57 In addition to the constraints imposed by Parliament’s unclear practices and procedures, the deputies and their staff members confront constraints imposed by their own inexperience and lack of capacity.

The Deputies

This subsection discusses the deputies' lack of a well-defined conceptual framework to guide their law-making efforts; and their lack of knowledge and skills in drafting effectively implementable legislation.

(a) Absence of a legislative theory or methodology

58 Like most people, most of the deputies seemed to have no well-defined conceptual map about how law functions in society. Without that framework, unable to frame an argument based on facts and logic, inevitably the deputies’ unexamined values or attitudes tended to influence their behaviors in respect to the identified problematic behaviors. Many deputies seemed to

30 Constitution, Art. 61(6).
accept the world-wide\textsuperscript{31} myth that a country like Kazakhstan could simply adopt a law that seemed to work elsewhere -- an international model law, or some law that lay on the books in New York or Paris -- that some consultant told them (usually without explanation) embodied 'international best practice.' Important Kazakhstan Codes (for example, the Civil Code, Civil Procedure Code, Penal Code and Criminal Procedure Code, and others) track Russian models, themselves often copied from elsewhere. That innocent trust in law's mythical transferability ignores the reality: Kazakhstan's unique circumstances inevitably causes its citizens to respond differently to laws copied from elsewhere than did those laws' addressees in their countries of origin.

When initiating, assessing, debating, or communicating with constituents about a bill, or engaging in oversight about a law's implementation, a deputy must of course investigate the words of the existing relevant laws. A deputy should learn about foreign experience with similar problems. The most important body of information that a deputy must have, however, consists of the unique Kazakhstan circumstances within which the addresses of the proposed law will live and work.

The possible factual propositions that fully describe those actors' circumstances number in the billions. To find a way through that maze, a deputy needs a map -- a conceptual framework, a legislative theory -- to identify the fields of inquiry that will likely prove fertile, and that excludes from consideration all else.

The absence of a conceptual 'map' (a legislative theory and methodology, a 'framework'), showing how law affects social behaviors, constitutes a significant explanation for the deputies' difficulties in performing their Constitutionally-designated tasks. Without a conceptual framework, a deputy has difficulty imagining how to law can help to solve such diverse social problems as the failure of government to pay pensions, degraded air and water, mining conditions hazardous to workers, or capital flight. Without that framework, a deputy has difficulty in conceiving a proposed law's social consequences, and therefore has difficulty in assessing it. Without that framework, a deputy even has difficulty in asking relevant questions at a public hearing, either about a pending bill or the implementation of existing law, or communicating with constituents about proposed legislation or an existing law's social impact. Without that framework, a deputy has difficulty in determining whether a proposed law will help to ensure government makes decisions through open, accountable, participatory processes, or fosters arbitrary and corrupt decision-making.

It became apparent that none of the deputies could accurately assess how a bill might work in society because, without a legislative theory and methodology, they had no way to analyze and assess that bill's detailed measures -- or lack of them -- for implementing its

\textsuperscript{31} See the chapters by World Bank, Asian Development Bank, and other authors in A. Seidman, R.B. Seidman, and T. Walde, eds., \textit{Legislative Theory for Market Reform} (Kluwer Law International, 1999).
provisions. For reasons discussed below, the deputies' construed the Constitution in such a way as to inhibit them from even considering how the law would work.

63 The deputies' negative attitudes towards law also influenced their behaviors. Some perceived law as simply a tool of those in power. A number expressed the cynical attitude that, whatever actions they tried to take, the Government authorities would determine the final policy. Others seemed persuaded that enactment of improved laws could do little to overcome Kazakhstan’s current economic woes; better to restrict government ‘interventions,’ apparently on the assumption that the markets ‘invisible hand’ would ensure the best possible allocation of resources. Either attitude tended to cause the deputies to throw up their hands in despair without even trying to exercise their law-making role more effectively.

64 In the event, most of the deputies tended to agree that much of Kazakhstan’s existing corpus of laws, many of them copied wholesale from other countries, had proven unimplementable in Kazakhstan. This experience tended to further undermine their confidence that they could use law to solve the major social problems confronting their constituents.

(b) Absence of legislative techniques to narrow official discretion

65 Finally, deputies seemed to have no knowledge of legislative techniques useful for limiting the grant of discretionary power to officials to the minimum required by the nature of the case. To many, seemingly no alternative existed between a 'direct' law that contained complete provisions for its own implementation, and a law that contained no such provisions. In fact, many such techniques exist, mainly concerned with prescribing criteria and procedures for the exercise of discretion. In every modern society, to govern, government officials require discretion. Every grant of discretion holds the seeds of arbitrary government -- and arbitrary government quickly becomes corrupt government. To make good governance more likely, techniques to structure discretion become an essential part of the drafters' and deputy's equipment.

(ii) The Committees of the Majilis and the Senate

66 The deputies who serve as members of the Committees of both Houses comprise the second, specialized set among the deputies. Each House has a separate set of committees of deputies, each of which deals with specific areas of legislation.32

67 The same kinds of subjective and objective factors as those which affect deputies in general also affect the deputies who participate in these Committees. They, too, lack the theory, methodologies, and techniques required to assess or initiate bills, and especially to assess the bills’ implementation provisions, or to debate them adequately. They also experience difficulties in obtaining the facts essential for carrying out their special responsibilities in these respects. They, too, interpret the Constitution to limit the Parliament to enacting general bills that grant

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32 For details, see Project Proposal, op. cit., pp.1-3.
broad discretionary powers to Government agencies, including the power to make implementing regulations.

68 The inadequacy of Committee procedures comprises another important factor limiting the deputies’ efforts to assess Government bills or initiate their own drafts. In none of those that we have seen (very few justifications have been translated into English) does the memorandum provide the facts and logic that supposedly underpin a proposed bill’s detailed measures. Government bills come before the relevant House Committees unaccompanied by anything but the most flimsy of memoranda, typically a page or less in length, which does little more than state the bill’s purported objectives. The explanation (translated into English) that accompanied the Lobbying Bill -- almost every section of which raised difficult constitutional and practical issues -- totaled 13 typewritten lines. The only justification provided for the details of the Mass Media Bill consists of assertions that similar clauses appear in the legislation of "USA, Germany (federal land Hamburg) France, Sweden and a number of others."

69 The Committee members may hold hearings at which the deputies and interested members of the public may comment on the bills. Most of those who testify at those hearings consist of experts testifying by request. The society’s most vulnerable – especially the poor, women, children, older folk, and minorities – generally remained uninformed about the few hearings that took place. Even had they known, few had the funds required to attend.

70 Committee members suffer from all the weaknesses in capacity of other deputies; in addition they remain plagued by institutional difficulties. A major explanation both for the weaknesses in the deputies’ and the committees’ work, however, lies in the support they receive from the staff.

(iii) Parliamentary Staff

71 For purposes of law-making, the essential tasks of the Parliamentary staff consists in the Legislation Department of each House, which supplies analyses and commentaries on pending bills, the Information and Analytical Center, which provides background information to deputies in both Houses, and the Department of Working with Committees of each House, which services the several Committees of the Senate and the Majilis. The staff of the new Legislation Center will focus on drafting of deputies’ proposed bills. The analyses and commentaries supplied by staff members vary greatly from bill to bill. Discussion with staff members suggests that for the most part, they provide mainly existing relevant Kazakhstan legislation; summaries of relevant articles; and materials from CIS and other countries’ legislation on similar problems, frequently including model laws. Generally, the staff members provide little or no information about Kazakhstan’s unique social circumstances that shape the lives and behaviors of Kazakhstan’s people and of the officials assigned to implement the laws.

72 The staff's limited support of deputies’ efforts to assess and initiate bills has multiple explanations. This Project focuses on three: The staff’s limited capacity to undertake meaningful analyses and commentaries on bills; its technical drafting capacity; and its institutional arrangements.
Like the relative ineffectiveness of Parliamentary law-making, the staff's difficulties seem to arise in the first place because the members have no intellectual framework to guide them in gathering relevant information as to the causes of existing social problems and the behaviors that comprise them; and, on that basis, in providing the information required to assess a bill's likely behavioral consequences and their social benefits and costs. Just as, without a legislative theory and methodology, deputies cannot readily assess bills, and far less initiate legislation, so, without a legislative theory and methodology to guide their analyses staff members cannot readily gather the relevant information to assist them in those tasks.

That many staff members have a legal qualification does not imply that they have such a theory or methodology. Hardly a law school in the world teaches one; hardly a law school in the world even teaches legislative drafting techniques. For the most part, in the world’s market economies, law schools teach lawyers how to guide their clients through the forest of existing laws to emerge profitably on the other side. Few if any offer courses where law students may study the theory and methodology for determining what the law ought to be. (Fortunately, people become lawyers often because they are intelligent and quick, and some intuit their way to a sensible law. In market economies, most defend clients’ interests in courts of law; few engage in drafting laws to channel behaviors to ensure more constructive market outcomes. Too often, those who draft lack a map to guide them. They fall back on intuitive methods. They simply copy model laws developed elsewhere that seldom fit their own countries’ unique circumstances; or declare unwanted behavior criminal; or canvass conflicting interest groups to draft a compromise that tends to favor those with power and privilege. Laws so drafted effectively change society in beneficent directions at best accidentally.)

The Parliament’s new Legislative Drafting Center proposes to employ six lawyers as staff members. Whether these come to the Center directly from law school, or from years of practice in government or the private sector, they will likely have had no instruction either in a legislative theory appropriate for guiding the process of translating policy into law, or even in legislative drafting techniques. Some present members of staff also seem to lack those drafting skills.

The staff members lacks the resources necessary to provide the information required by the deputies and their committees. Their library resources remain insufficient, both in terms of volumes of relevant documents and materials and buildings in which to house them. The Internet, which the Staff with donor assistance, is only now making available to them, should give them access to comparative laws and experience, but the staff members lack training, not only in the skills required to search the web (including skills to translate information available only in languages other than Russian or Kazakh); but also in assessing the relevance of whatever information they may find.

The Ministry of Justice has a legal database which include all Kazakhstan’s laws and regulations, based on which it sells the information in the form of CD-RAMs. In addition, without the cooperation of the Justice Ministry, the Parliamentary staff’s Engineering Department has developed its own data base, primarily for Parliament’s use. This one includes not only existing laws and regulations, but draft laws and regulations not enacted. It seems,
however, that few deputies or staff members know about or have access to this latter source of information. If we understood him (through translation) correctly, the Director of the Information Center, a political scientist who also heads a Eurasian University research institute, seemed specifically to assert that no such a database exists. It seems obvious that, as soon as possible, the Engineering Department should inform all staff members and deputies of the Parliamentary data base. The Engineering Department apparently has capacity to provide the training the staff members need to use the database, but as yet has not been able to provide equipment to give the individuals the access they need.

49 To date, donor assistance has made available to the Parliament one line of access to the Internet. The Deputy Director of the Engineering Department, however, explained the necessity of obtaining a web (for an estimated $10,000) to enable all staff members and deputies to use it. In addition, he hoped, with further donor assistance, to install software (at an estimated $35,000 to $40,000 dollars) which would enable the staff and deputies to gain access to the Internet's vast sources of international information, including extensive comparative law and experience. The Engineering Department then proposes to set up a Parliamentary web site to give Kazakhstan's citizens, as well as foreigners, access to information about Kazakhstan's progress in building a democratic legal order and strengthening the rule of law. All of these steps should contribute to increasing the efficiency of the deputies and their staff in gathering the information necessary to improve the performance of their triple tasks of assessing and initiating bills and oversight of laws once enacted. To start with, a technically-qualified law librarian should review the existing status and possibilities of cooperative use of both databases, and, in any case, work with the Engineering Department and the staff to design a cost-effective system of making the information (in translation as needed) available to the staff members and, initially through them, to the deputies.

78 Beyond a seemingly prevalent difficulty in conceptualizing how to translate policy into effectively implementable law, the Parliamentary staff members also experience institutional obstacles. Some deputies and knowledgeable staff members noted the absence of existing clear rules prescribing staff members' tasks, and especially the procedures for providing information and assisting in drafting bills on a deputy's initiative. Several spoke of the general lack of job descriptions and regulations defining clear lines of authority. Staff members apparently have no clear procedures for appealing authorities' potentially arbitrary decisions. The lack of clearly defined criteria and procedures for channeling the staff's daily work seem likely to foster duplication and perhaps dissatisfaction.

Summary

79 The causes of Parliament's relative ineffectiveness in law-making consist of the following:

(1) The absence of formal lines of communication to the organizations of civil society, especially, the regulations and practices of open committee hearings.
(2) The absence of a legislative theory and methodology by deputies and staff;
(3) the existing seemingly widespread lack of knowledge about and skills in using
legislative drafting techniques among both deputies and Parliamentary staff, which will probably appear among the future staff of the new Legislative Drafting Center;

(4) the current beliefs and practices among deputies and staff about the limits on Parliament's constitutional capacity to write detailed legislation, including controls over administrative discretion, especially in writing regulations;

(5) the current ways that bills come to the Parliament with only the barest of explanations from the executive branch drafters; and

(6) unclear institutionalized criteria and procedures seem likely to contribute to inefficient use of the Parliament’s limited staff personnel.

PROGRAM

a. The expected end of the project situation

1. At the end of the Project, leading Parliamentary deputies and staff members will have institutionalized an on-going process to strengthen Parliament’s capacities to obtain appropriate inputs from the organizations of civil society, and to draft, enact and evaluate effectively implementable legislation designed to meet the needs of Kazakhstan's people. That process will take place by stages, for which donors might provide assistance, each designed to strengthen central features of Kazakhstan’s Parliamentary democracy. Regular evaluations will take place during and at the end of each stage to evaluate the progress made and plan for the next stages.

2. The first stage consists of introducing a learning-by-doing process designed to accomplish the following:

   a. To develop preliminary drafts of Parliamentary bills and regulations, with accompanying research reports and social impact statements. Their subjects will concern Parliamentary processes for assessing, initiating and drafting bills, and other Parliamentary processes as specified by the Parliamentary leadership, and at least four additional sets of regulations or bills, selected by the Parliamentary leadership, to contribute to overcoming priority social problems. These might include some or all of the bills and regulations mentioned in Annex 2, or others.

   b. To establish a core of five or more relatively senior Parliamentary staff members as facilitators who will institutionalize an on-going learning process to strengthen deputies’ and staff members’ capacity to draft competent bills, and use facts and logic in writing research reports to justify bills, and in assessing and debating bills introduced in the Parliament. This core of facilitators will include at least at least two drafters from the Parliamentary Legislative Drafting Center, and one lawyer each from the Legislation Departments of the Senate and the Majilis. If it can be arranged, at least one lecturer from a law school in a Kazakhstan University should also have played a role as a facilitator.

3. The Project’s First Stage will have involved five principal activities:
a. At the three week workshop mentioned below, the preparation of the five preliminary draft bills and research reports and social impact statements.

b. In preparation for the workshop, the facilitators will have undertaken the necessary participatory investigations preparatory to drafting the five bills mentioned above, and their accompanying research reports. Grounded in reason informed by experience, those reports will have demonstrated that the resulting laws would likely effectively enhance Kazakhstan’s transition to a market-driven economy that, characterized by good governance, would serve the people’s needs.

c. The three week workshop held in Kazakhstan will have helped to strengthen the capacity of selected Parliamentary deputies and staff members to draft bills and their accompanying research reports and social impact statements, to assess bills and evaluate the implementation of laws.

i. The drafters assigned to the Parliament’s Legislative Drafting Center, together with two deputies from each Parliamentary Committee and two from each of the Parliamentary staff departments, will have attended that three week workshop.

ii. Some drafters from other C.I.S. states will have attended as observers.

iii. The workshop participants will have studied intensively legislative theory, methodology and techniques for drafting bills and their accompanying research reports and social impact statements, for assessing bills and for evaluating enacted legislation, and for drafting for the rule of law and defensively against corruption (including specific techniques to structure and constrain executive discretion).

iv. In the workshop, as an essential feature of a learning-by-doing process for learning to draft, assess and evaluate bills, working in teams of four to six persons, the participants will have developed a first draft of the five bills and research reports and social impact statements mentioned above. To ground their reports and bills on the facts of Kazakhstan's circumstances, the participants will work closely with experts from relevant Ministries.

d. The Parliamentary Legislative Drafting Center will have in Russian and the Kazakh language a legislative drafting Manual to employ as a guide to Kazakhstan's drafters, not only to draft bills in clear and unambiguous language but also to write adequate research reports that provide the facts and logic required to explain and justify those bills, and their associated social impact statements.

e. Working with the Project Administrators and the CTAs, the facilitators will have laid the sound foundation for the workshop’s success, and participated in conducting it. Through practice in that context, they will have acquired the knowledge and skills required to initiate the next steps in institutionalizing an on-going learning-by-doing process for drafting priority bills that, over time, will equip all the deputies and
Parliamentary staff members with the necessary legislative theory, methodology, and techniques for assessing, drafting, and overseeing the effective implementation of legislation.

4. The Project’s **Second Stage** will have seen to the strengthening of the five or more facilitators’ capacity to institutionalize an on-going learning-by-doing process to build deputies and staff members capacity to assess and initiate draft legislation, as well as to carry out Parliament’s oversight tasks.

   a. By working together, and critically evaluating each others’ role as they institutionalize the learning process, the facilitators will themselves continually deepen their understanding of the theory, methodology and techniques of drafting and how best to equip the members of Parliament and their staff to use them most effectively in strengthening Parliament’s role in Kazakhstan democracy.

   b. If it proves necessary, the Project Administrators may have provided the facilitators with a more advanced course in legislative theory, methodology and drafting techniques by one of several routes (distance course linked to a drafting center abroad; the return of Seidmans to provide an additional one or two week workshop; or employment of a Russian-speaking expert in legislative theory, methodology and techniques) depending upon availability not only of funding but of Russian-speaking personnel already trained in legislative theory, methodology and drafting techniques:

5. The Project’s **Third Stage** will have developed activities designed to complete the five priority bills and see the continued expansion of the learning-by-doing process, ensuring that all deputies and staff will have acquired the necessary theory and skills to assess and initiate legislation, and effectively undertake their oversight responsibilities; and, in the course of those activities, had produced many more bills accompanied by well-structured research reports and social impact statements. These activities will have consisted of the following:

   a. On the completion of the distance course, in cooperation with the Legislative Drafting Center, the facilitators will have taken leadership in establishing the following:

      i. An on-going Kazakhstan-led learning process to equip the deputies, especially key committee members, and office staff personnel, with the theory, methodology and techniques they need to fulfill their responsibilities in assessing effectively implementable legislation and, when necessary, initiating and having drafted their own bills, research reports and social impact statements.

      ii. A course in legislative theory, methodology and techniques in the regular curriculum of a Kazakhstan Law Faculty with a view to (a) training future drafters and, (b) through ongoing scholarship, deepening and improving the legislative theory, methodology, and drafting techniques.

   b. The Project will have organized several one week conferences, including
conferences to finalize the bills whose preliminary drafts the three week workshop will have completed, each probably with a foreign consultant in attendance.

c. The Project will have arranged a two-week workshop, with the assistance of a foreign consultant with relevant expertise, to formulate legislative devices to restrict administrative discretion to the minimum that the nature of the circumstances permit.

b. Target beneficiaries and direct recipients

1. Target beneficiaries

6. The target beneficiaries consist of the following:

a. The organizations of civil society, who will have improved access to input channels to deputies.

b. The deputies' constituents who will have increased opportunities to understand and participate in a more transparent and accountable law-making system, indirectly through increasingly effective representation in Parliament; and in monitoring and evaluating legislation as an important contribution to their deputies' oversight responsibilities.

c. The members of Parliament who will have improved capacity to assess Government bills and to draft (or have drafted by staff) their own bills, research reports and social impact statements, and work with their constituents to monitor and evaluate the implementation and social impact of legislation.

d. The general public which will benefit from the elected Parliament's more effective role in a democratic law-making process designed to enhance overall good governance.

e. The Parliamentary staff of other C.I.S. states, one of whose members has attended the three-week workshop, who will have been exposed to legislative theory and methodology and its potential for empowering deputies and Parliamentary staff.

2. Direct Recipients

7. The direct recipients will include:

a. The Parliamentary deputies, especially their Committee members, and the Parliamentary Office departmental staff members, particularly those from the Senate and Majilis Legislative Departments and the new Parliamentary Legislative Drafting Center. Some 40 deputies and staff members will participate in the first three week workshop to learn legislative theory, methodology and techniques in the course of drafting bills and research reports and social impact statements. All deputies and staff members will have an opportunity to participate in similar workshops conducted by the facilitators in the Project's subsequent stages.
b. The facilitators, who help to organize and conduct the workshop and, if necessary, additional training, They will acquire a sufficient knowledge of legislative theory, methodology and drafting techniques to undertake to institutionalize an on-going learning process for all deputies and staff members.

SECTION C.
THE PROGRAM

8. The program will involve the following main strategic moves:

a. The Project Administrators, composed of the heads of the Senate and Majilis Legislative Departments, with the advice of the Parliamentary leadership, and in cooperation with the UNDP and ABA/CEELI staff, will administer the Project.

b. The project budget will include $_______ to finance the evaluation of the first stage. The provisions for evaluation may not be reduced without written agreement by all parties to the project document.

c. A time schedule of reviews, reports and evaluation is attached as Annex II.

SECTION D.
DEVELOPMENT OBJECTIVES

9. This Project has the following development objectives:

a. To produce preliminary drafts of required Parliamentary regulations and laws including regulations to ensure that deputies have the capability of initiating and drafting bills, and their accompanying draft research reports and social impact statements (or of having them drafted by staff), and that this initiating and drafting takes place in participatory, transparent, and accountable ways, and pursuant to rule.

b. An increased probability that the laws that the Parliament enacts will, in accordance with the requirements of good governance, induce in governmental decision-making a high degree of accountability, transparency, popular participation and decision by rule, and strengthen the capacity of deputies, both as individuals and as Committee members, and members of staff (including Legislative Drafting Center staff) --

i. to initiate bills;

ii. draft (or have drafted by staff) bills, research reports and social impact statements;

iii. to assess bills;
iv. to engage in parliamentary debate conducive to deliberation in the public interest;

v. to help evaluate bills by effective interaction with constituents;

vi. to participate effectively in Parliament’s oversight functions; and

vii. to enact laws that limit official discretion as much as effective government under the circumstances of a particular bill permits.

c. To institutionalize a long-term program for training Kazakhstan's deputies, and Parliamentary drafters and staff so that, over time, all deputies and members of staff – including those newly elected or appointed – can contribute effectively to realizing Parliament’s Constitutionally-designated role in an increasingly democratic national legal order.

SECTION E
IMMEDIATE OBJECTIVES, OUTPUTS AND ACTIVITIES

[See Annex 1 for time sequence]

10. Immediate Objective 1

To enhance the capacity of thirty to forty Parliamentary deputies and staff members to draft high quality transformatory bills responsive to national needs that meet the requirements of good governance, that is, that when enacted will induce a high degree of effectiveness, and, in the decision-making institutions affected by the law, maximize accountability, transparency, and participation, and decision by rule (see Annex 2 for a list of some of the bills mentioned during the course of the Mission).

a. Outputs for Objective 1

i. Thirty to forty deputies and members of staff with substantially increased capacities to initiate and draft legislation; assess and debate bills based on logic and facts; evaluate the executive branch’s implementation of laws; and engage in Parliament’s oversight function.

ii. Five staff members and a member of a Kazakhstan university law faculty staff with a somewhat greater exposure to legislative drafting theory, methodology and techniques with capacity to extend an on-going learning process to all deputies and staff members.

b. Success criteria for Objective 1
i. Increased capacity of deputies to initiate and Legislative Drafting Center personnel to draft high quality transformatory bills, research reports and social impact statements, as evidenced by the technical quality of the bills, the persuasiveness of the research report, and the accuracy of the social impact statements.

ii. Increased capacity of deputies (a) to assess bills in terms of their potential effectiveness and social consequences; (b) to debate bills in terms of the public interest; (c) with the aid of constituents, to engage in the evaluation of bills, and (d) to engage in oversight functions.

iii. The production of high-quality preliminary drafts of bills, research reports and social impact statements in the course of the training described.

c. Activities for achieving Objective 1

i. Preparations for the 3-week workshop:

(1) By 1 April, 2000, Project Administrators, in consultation with Speakers, Chairs of Committees and Department Directors of both Houses identify:

(a) At least four priority social problems, in addition to the presently unclear processes governing the Legislative Drafting Center's role in Parliament's bill-drafting process, for which a legislative solution seems desirable and feasible.

(b) At least five relative senior members of staff (including at least two from the Legislative Drafting Center staff) and a staff member from a Kazakhstan University law faculty to serve as facilitators, with a specific responsibility for working on one of the priority bills, at the three week workshop and to institutionalize an ongoing learning process for all deputies and staff members.

(2) By 1 April, 2000, Project Administrators write letters inviting other C.I.S. Parliaments to send an observer to attend the workshop.

(3) By the start of the three-week workshop (exact date to be decided) each facilitator assigned to work on one of the bills identified will:

(a) Read and discuss with the other facilitators at least Chapters 1, 2, 4 and 5 of the Drafting Manual; and

(b) from the relevant Ministries and elsewhere collect as much factual material as possible about the social problem addressed by
the bill for which that facilitator has responsibility as it appears in
Kazakhstan; and about governments’ efforts to use laws to deal
with the same problem in other countries.

(c) depending on when the first workshop takes place, begin to
outline the research report according the outlines in chapters 4 and
5 of the Manual; organize the available material according to that
outline; and formulate the proposed bill’s initial structure.

(4) Before the start of the workshop, the Project administrators will work
with the Parliamentary Committees and Departments to select up to 40
participants, including:

(i) at least 5 members of Parliamentary Departments on
Legislation,

(ii) 6 to 8 deputies from the committees responsible for the
problem areas addressed by the bills,

(iii) two members from the Parliamentary Office Staff;

(iv) if possible, at least one senior expert from each of the relevant
ministries; and

(v) other members as seem desirable, including experts from
Kazakhstani institutions with scientific knowledge about one or
more of the problems the proposed bills aim to resolve.

ii. 3 week workshop in Astana, date to be fixed (as early as can be arranged, if
possible May; perhaps early September.)

(1) Content:

(a) Working in teams, participants will write preliminary drafts for
at least five priority bills and regulations as earlier mentioned, and
research reports and social impact statements; in the process they
will learn legislative theory, methodology and legislative drafting
techniques, and, in addition, foreign law and experience relevant
to priority bill they propose to draft.

(i) A bill will include provisions to limit executive rule-
making discretion as much as the nature of the bill permits.

(ii) A the bill will include provisions to limit implementing
agency officials’ discretion as much as possible while
nevertheless empowering them to resolve the problem in Kazakhstan's circumstances; and, in Ministerial or agency decision-making, to make more probable stakeholder participation, accountability, transparency and decision by rule.

(ii) In the last week of the workshop, the teams working on each bill will submit their bills, reports and impact statements for systematic critique by the workshop participants.

(iii) The workshop will include a component on drafting bills to limit official discretion to the least amount consistent with the circumstances involved, and to make participation in decision-making, accountability, transparency and decision by rule more probable.

(2) *Responsible parties:*

(a) **Project Administrators** in consultation with the relevant Parliamentary Committees and Departments of both Houses, will select priority bills and select the workshop participants.

(b) **Workshop facilitators:** The CTAs, working with facilitators designated pursuant to Paragraph will conduct the workshop

11. **Immediate Objective 2**

To ensure that deputies have the capability to initiate and draft bills, reports and impact statements (or have the staff draft them), in participatory, transparent, and accountable process, pursuant to rule.

a. **Success criteria for Immediate Objective 1**

The presentation to the Majilis of a final draft of rules and regulations that provide for --

(a) the regular appointment of drafting groups from the Parliamentary staff and deputies serving on the committees dealing with the problem areas the bills concern;

(b) opportunity for stakeholders and the public to make inputs into the drafting process; and

(c) requiring research reports and social impact statements in an
appropriate, specified form for bills designed to make significant contributions to Kazakhstan’s transition and to good governance.

b. Output for Immediate Objective 2

The final draft of regulations conducive to achievement of Immediate Objective 2, and their presentation to the Senate and to the Majilis.

c. Activities to achieve Immediate Objective 2

i. In the preliminary phase mentioned in Immediate Objective 1, the five facilitators mentioned under Immediate Objective 1 will gather material relevant to the draft set of regulations mentioned in paragraph 62.1, and the necessary research report and social impact statement. If possible, they will structure those materials according to the research report outlines in Chapters 4 and 5 of the Manual.

ii. During the three-week workshop mentioned under Immediate Objective 1, a drafting group mentioned under that Objective will complete a preliminary draft of each of the rules and regulations mentioned in paragraph 89.3.1.1.1, accompanied by a research report and social impact statement.

iii. After the three-week workshop, the team that made the preliminary drafts of the regulations, reports and social impact statements, will consult with members of the Legislative Drafting Center and the Senate and Majilis Departments on the drafts, and, if deemed necessary, a foreign consultant with expertise on Parliamentary procedures, in order to complete the regulations for submission to each Chamber of the Parliament, accompanied by a persuasive research report and a social impact statement.

Responsible Parties:

(a) Project Administration.

(b) If required, the CTAs will nominate at least three possible foreign consultants with expertise relating to the regulations’ substance; the Project Administrators will make the final choice.

12. Immediate Objective 3

Institutionalization of an on-going non-formal education learning process to enable all deputies and Parliamentary staff to learn legislative theory and methodology, legislative drafting techniques, and the use of foreign law materials in the drafting process; and the establishment of a practical course in those subjects in a Kazakhstan law faculty.
a. **Success criteria for Immediate Objective 3**

i. If evaluation by CTAs, Project Administrators, and facilitators demonstrates its necessity, by June, 2001, the five persons selected as facilitators pursuant to Paragraph 61.3.1.1 will have successfully completed *either*—

   (a) a distance training course in legislative theory and methodology, legislative drafting techniques, use of social science for drafters, methods of non-formal education and the use of comparative law materials in drafting;

   (b) a residence course in Astana on those subjects, led by a foreign facilitator with a competence in the Russian language; or

   (c) or a two week focused workshop in Astana conducted by the Seidmans.

ii. By year 2003, substantially all deputies and Parliamentary staff members will have attended at least a three-week course in legislative theory and methodology, legislative drafting techniques, and the use of comparative law materials in drafting, in the course conducted by one or more of the facilitators, during which they will have drafted selected priority bills accompanied by research reports.

iii. By the year 2003, at least one Kazakhstan law faculty will have in its regular curriculum for law students a course in legislative theory, methodology and techniques.

b. **Activities for achieving Immediate Objective 3**

i. If deemed necessary, the facilitators will complete one of the three alternative training programs mentioned in Immediate Objective 3.

   (1) *The distance course alternative:*

      (a) Project administrators will negotiate agreements from employers of the five facilitators to give the five facilitators appropriate time off from their employment to complete the distance course assignments.

      (b) Project Administrators, in consultation with Speakers, Chairs of Committees and Department Directors of both Houses identify five new priority social problems in Kazakhstan for which a legislative solutions seems desirable.

      (c) To enhance their study of theory, methodology, and
techniques, the five will complete bills designed to solve those social problems, accompanied by well-structured research reports and social impact statements.

(d) As part of the distance course the five participants will undertake a program of supervised reading and research on the Internet relating to foreign law and experience in the problem-areas their bills address.

(2) The residence course alternative

(a) Beginning as soon as possible, a foreign consultant with expertise in legislative theory, methodology and technology, with a Russian language competence will conduct a course for the five facilitators in Astana, working on bills addressed to problem areas chosen as under the distance teaching option; in the process, the consultant will review with them ways of improving the use of legislative theory, methodology, and techniques.

(b) The foreign consultant will also assist the Legislative Drafting Center staff to study legislative theory, methodology, and techniques by working on additional bills.

(3) Third alternative:

(a) CTAs return to run a two week seminar for the facilitators:

   (a) The facilitators will work on bills and reports chosen as in alternative 1, in the course of which the CTAs will review with them their understanding of how to teach legislative theory, methodology, and techniques;

   (b) The remainder of the Legislative Drafting Center staff will work with the facilitators in the workshop, helping to draft the research reports and bills, while deepening their knowledge of theory and methodology.

Responsible parties:

(a) The Administration of the Project will arrange for enrollment in the selected distance course, or, alternatively, arrange the site and facilities for the residence course whether conducted by a Russian speaking legislative drafting expert, or the CTAS, and arrange the accommodation of the conductors as necessary.
(b) Anne-Marie Bereshak, of ABA-CEELI/Astana, will serve as local facilitator of the distance course.

(c) The CTAs to advise on distance course availability, or to nominate a candidate for the foreign facilitator.

ii. By year 2003, the facilitators will conduct at least four one-week workshops in legislative theory and methodology and elementary legislative drafting techniques for deputies, which substantially all deputies will attend.

iii. By year 2003, the facilitators will conduct at least two three-week course in legislative theory and methodology, legislative drafting techniques, use of social science for drafters, methods of non-formal education and the use of comparative law materials in drafting, which all members of Parliamentary staff will attend.

iv. By the year 2003, at least one Kazakhstan law faculty will have in its regular curriculum for law students a course in legislative theory, methodology and legislative drafting techniques.

**Responsible parties**

(a) The Project Administrators will select the teams of participants who will attend each workshop, including at least one member of the Legislative Drafting Center, members of the Legislative Staffs of both the Senate and the Majilis, and deputies from the relevant Parliamentary committees;

(b). Two facilitators will work together to conduct the workshop, ensuring the participating teams learn the theory, methodology and techniques while completing their bills and reports.

(c) Project Administrators, assisted by the other facilitators, will monitor the team’s progress.

(d) After the workshop, each team in each workshop will assume responsibility for completing the draft bill and research report.

13. **Immediate Objective 4**

Complete final drafts for the four or more bills considered at the initial three-week workshop, accompanied by well-structured research reports.

a. **Success criteria for Immediate Objective 4**

Presentation of final draft bills and research reports to the Majilis.
b. **Outputs for Immediate Objective 4**

A final draft of each bill and research report considered by the three-week workshop.

c. **Activities for Immediate Objective 4**

i. After the three-week workshop, each team that made the first draft of the one of the four bills (other than the regulations and research report on initiating legislation), in consultation with members of the Legislative Drafting Center and the Senate and Majilis Departments on Legislation and, if deemed necessary, a foreign consultant with expertise in the substantive area of the bill in question, will complete the draft bill for submission to the Majilis, accompanied by a persuasive research report and a social impact statement.

**Responsible Parties:**

(a) Project Administrators together with facilitators.

(b) If required, CTAs to nominate at least three possible foreign consultants; final choice by Project Administrators in consultation with facilitators.

14. **Immediate Objective 5**

Write a Manual for Legislative Drafting Practice for Kazakhstan

a. **Outputs for Immediate Objective 5**

A legislative drafting manual in the Russian and Kazakh languages that includes not only details about legislative drafting techniques for drafting bills and other laws, but also about writing competent research reports and social impact statements.

b. **Success criteria for Immediate Objective 5**

A legislative drafting manual as described.

c. **Activities for achieving Immediate Objective 5**

i. Edit Manual prepared by CTAs, translated into Russian for the initial three week workshop (2000), where possible and relevant substituting Kazakhstan examples and rules for Russian (and Kazakh) languages, as basis for a Kazakhstan legislative drafting manual.

ii. **Responsible parties**
(a) Two facilitators, one of them from the Legislative Drafting Center, assigned to complete the Kazakhstani Manual.

(b) Project Administrators to monitor progress made.

15. Immediate Objective 6

Make the existing computerized data base (currently established by Parliament’s Engineering Department, the Ministry of Justice and the President’s Office), a consolidated data base of all national and provincial laws, amendments and subsidiary legislation, available to all deputies and Parliamentary staff members.

a. Outputs for achieving Immediate Objective 6

The existing computerized Parliamentary data base of Kazakhstan's laws, subsidiary legislation, regulations, and other rules promulgated by the government, available to the deputies, the Parliamentary staff and the general public with computer access.

Training of all members of Legislative Drafting Center, and, as soon as possible thereafter, all members of the Legislative Staffs of the Senate and the Majilis, to use the computerized data base.

If possible, coordination of Parliamentary data base with those of the Ministry of Justice and the President’s Office.

b. Success criteria for Immediate Objective 6

(a) Installation of an internal web to give Committees and Departments access to legislative data bases;

(b) All members of Legislative Drafting Center, the facilitators and the Legislative Staff of both Senate and Majilis, trained to access the data base.

c. Activities for Achieving Immediate Objective 6

Review of existing data base by a qualified law librarian with the relevant computer programming skills (ABA is sponsoring a law librarian to come in February to undertake this task)

i. Selection of a qualified firm to establish and provide equipment for centralized computer system for all officials and teaching institutions responsible for improving national and provincial capacity to produce high quality transformatory legislation.
Responsible parties

(a) Project Administrators.

(b) Engineering Department of the Parliament.

16. Immediate Objective 7

Building capacity in staff and deputies to ensure that bills confine executive and administrative discretion as much as the nature of the case permits.

a. Success Criteria for Immediate Objective 7

Analyses and commentaries supplied to Committees by Parliamentary staff members will explicitly call attention to excessive discretion in bills presented to the Parliament for enactment; staff members suggest concrete amendments to narrow discretion, and to make participation in governmental decision-making, accountability, transparency, and decision by rule highly probable. As required, deputies propose amendments in conformity to staff suggestions.

b. Outputs for Immediate Objective 7

All staff of the Legislative Drafting Center and of the Legislation Departments of the Senate and the Majilis, and a number of leading deputies, have participated in a two week workshop on the problems of discretion and its control.

c. Activities for achieving Immediate Objective 7

i. Conduct a two-week workshop, with a foreign consultant with expertise on the use of legislation to limit and control administrative and executive discretion.

Responsible parties.

(a) Project administrators to administer the workshop.

(b) CTAs to nominate at least three possible consultants; Project Administrators to select.

17. Immediate Objective 8

To provide selected staff and deputies with knowledge about how other Parliaments solve problems of stakeholder participation in law-making, control executive rule-making, and initiate and draft legislation.

a. Success Criteria for Immediate Objective 8
Selected deputies and staff members visit selected countries to observe how their Parliaments solve problems of stakeholder participation in law-making, control executive rule-making, and initiate and draft legislation.

b. Outputs for Immediate Objective 8

Visits of a number of selected deputies and staff members to selected countries to observe how their Parliaments solve problems of stakeholder participation in law-making, control executive rule-making, and initiate and draft legislation.

c. Activities for achieving Immediate Objective 8

i. Select deputies and staff to participate in a tour to visit the Parliament in one or more selected countries, consult with deputies and staff of that Parliament, and observe Parliamentary hearings and other devices for participation of stakeholders in law-making, to control executive rule-making, and to initiate and draft legislation.

(1) A person may only participate in a tour if that person has participated in either the three-week workshop or a later workshop conducted by the facilitators.

SECTION F

INPUTS

Government

(a) Parliament _____ tenge

(b) Training

Costs of running 3 three week workshops in Astana
...........................................tenge

Costs of giving participants in distance course time off for study
...........................................tenge

(c) Land and buildings

(d) Equipment..................................瓷

(Equipment now available or to be procured for Project use, including expendable supplies, operational costs, computers)
UNDP (Partial estimates; need further information as indicated)

a) Personnel .................................................................

CTAs to conduct a three-week learning-by-doing training workshop for Parliament in Astana

Honorarium: 2 x $300 x 18 .............. $10,800
Per diem, 2 x 141 x 21 .................. $ 5,922
Travel, 2 x $3500 (?). .................. $ 7,000
Mission costs .................................

Three one-week training workshops on specific bills

Honoraria 3 x $300 x 6 .................. $5,400
Per diem: 3 x 141 x 7 .................. $2,961
Travel 3 x $2500 .................. 7,500.

b) Distance teaching

Tuition (5 x $1000) ........ $5000
Translating services (3 hours/week @ ???)

c) Foreign facilitator for residential course

Salary: six months ...................... $10,000

Complete translation of manual @ $6 x 400 $ 2,400

Centralized computer system .......... (get from UNDP office in Astana)

Software for consolidation of laws, amendments, and subsidiary legislation

(Specifications for major equipment items are provided in Annex IV)

SECTION G
RISKS

18. Potential risks

a. At the outset of the Project:
i. This proposal if completed will bring about some deep-seated changes in the Parliamentary system of assessing bills and drafting bills in Kazakhstan, and the Parliamentary deputies’ and staffs’ attitudes towards law and their role in the law-making process. Extensive discussions with Parliamentary deputies, Parliamentary Committees and Parliamentary Office staff indicate their recognition that that kind of change seems necessary to strengthen the Parliamentary system as an aspect of building democracy. in general.

b. During Project:

i. Because leaders change, if new leaders take the place of those who presently support the Project, by explaining to them its objects, purposes and underlying methodology and theory, as soon as possible the new leaders come to 'own' the project.

SECTION H
PRIOR OBLIGATIONS AND PREREQUISITES

19. Prior obligations

None

20. Prerequisites

a. The Project Administrators, consisting of heads of the Legislative Departments of both Senate and Majilis, a senior member of the Legislative Drafting Center, a member of the International Department, working with the heads of all the Parliamentary Committees, UNDP staff and a representative of ABA/CEELI, are well-qualified to administer all aspects of the proposed Project. Once four key staff members, together with a lecturer in a university law school in Kazakhstan have received sufficient training to institutionalize an on-going learning-by-doing drafting process, they should carry out on-going informal instructional functions. A university law school lecturer who has participated in the workshop, using the Manual, and who has completed the distance training course, should be able to introduce a university-level course on legislative drafting.

b. The relevant Parliamentary Committees and Departments have agreed to cooperate with the Project Administration in the assignment of well-qualified deputies and staff members to participate in drafting teams at the workshop and afterwards to complete the priority transformatory bills selected for the Project.

c. The employers of the facilitators must agree to give them time off to pursue their studies.

d. The Project Document will be signed by the UNDP, and UNDP assistance will be provided only if the prerequisites stipulated above have been or are likely to be fulfilled. When anticipated fulfillment of one or more prerequisites fails to materialize, the UNDP
may, at its discretion, either suspend or terminate its assistance.

SECTION H
PROJECT REVIEWS, REPORTING AND EVALUATION

21. At each stage, the CTAs, the Speakers of the Senate and the Majilis, and the Project Administration will conduct evaluations of the specific features of the project, and plan its next stages.

22. The project will be subject to tripartite review (joint review by the Speakers of both Houses of Parliament together with the Project Administrators, the UNDP, and the CTAs) at least once every 12 months. The first such meeting will take place within the first 12 months of the start of full implementation of the first Stage. The Project Administrators shall prepare and submit to each tripartite review meeting a Project Performance Evaluation Report (PPER). If necessary, additional PPERs may be requested during the Project.

23. A terminal project report will be prepared for consideration at the terminal tripartite review meeting. It shall be prepared in draft at least four months prior to the terminal tripartite review to allow review and technical clearance by both Speakers of Parliament.

[Who prepares this? Should this proposal include recommendation for an outside evaluation mission, with costs included in the Project budget?????????????????
(see p. 135 of 'How to Write a Project Document')]

SECTION I
LEGAL CONTRACT

[see the UNDP Manual of writing a Project Document]