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THE ELECTORAL PARADIGM AND ITS IMPACT ON PERFORMANCE OF MUNICIPAL AND REGIONAL ADMINISTRATION – THE CASE OF THE CZECH REPUBLIC AND SLOVAKIA

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Abstract

In 2000 the Czech Republic and subsequently in 2001 Slovakia held the first elections to the regional councils. The new element was implemented in both countries of the former common state in order to introduce the approach of public governance towards citizens and can be considered as the next stage of decentralization of public administration.

The authors focus on different electoral models and options used in the regional administrations of the respective countries. While in the Czech Republic the chairman is selected by before-elected representatives and therefore the chairman is essentially a reflection of the political majority in the regional council; Slovakia adopted separate model of electing the chairman and deputies so it is possible that the leader and the majority can represent different political camps.

What is better – the derived option or direct choice? Which model leads to greater stability and greater credibility of these institutions?

Key words: municipality, region, Czech Republic, Slovakia, elections, Mayor

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Introduction

There is by far one of the most discussed question in the frame of the municipal policy in Slovakia – whether it is appropriate to elect the mayors of the cities and municipalities³ directly by citizens, or to adopt the subsequent and separate elections of deputies and mayors. From the retrospective sight on the previous municipal elections conducted every 4 year intervals since 1990 we witness the situation that the significant proportion of cities and communities the elections cause heterogeneous political affiliation of the majority of the city councils and the mayor's political camp. This ultimately causes the condition that the decision-making mechanisms at the level of local politics are often blocked. For the adoption of any binding decision it is not only necessary to obtain a majority in the municipal council, but also a favorable consent of the Mayor. Just different political orientation in many cases cause that proposals of either party are ultimately pushed to the background in spite of a major part of the resistance from the opposite camp, and this may cause malfunction of the system as a whole. We shall not forget also that electoral system at the municipal level allows to run an independent person, or different associations of independent candidates. If such candidates are prospective and successful in the electoral battle, the struggle continues – a new element in political competition emerges. Moreover, when we get back to the electoral results this factor is playing more and more vivid role at this policy level. Let's focus on the electoral laws related to the elections of municipalities, the city councils and mayors.

The electoral process and its paradigm

The system of elections is formulated under the Law 346/1990 on the elections to the municipal self – government bodies. From the formalized approach the law was amended already 13 times up to this date and once the law was changed by the finding of the Constitutional Court of the Slovak Republic under the Law 318/1998. According to this legal norm the elections are held on the principle of general, equal and direct suffrage by the secret ballot. The right to vote is given to the residents of the city or community who are at least 18 years old. The obstacle in executing the vote might be only the limited freedom of the person in order to protect the health of the people, imprisonment, deprivation or restriction of legal capacity, and in special cases the military service or an alternative service.

3 In Slovak language the head of the city (primátor) and the head of the community (starosta) refer both to English equivalent - Mayor

Considering the candidacy, the passive voting right is applied at the same principle as the active voting, but there are some limitations in the mayor candidates. The candidate running for Mayor shall be of minimum 25 years of age to be elected.⁴

There is a significant difference though, when comparing the elections to the National Council or the presidential elections with the municipal ones; the electoral law does not specify the condition for a candidate to have the Slovak citizenship. In such regulation there is only the need for the permanent residence of the candidate in the community, or the permanent residence in Slovakia for foreign candidates (Svák, Cibulka, 2009: 554-555).

The municipal elections are organized into multimandate electoral districts with as much as 12 deputies in one electoral district, and the candidates are elected proportionally to the community population. If there are only 12 or less candidates to be elected the single electoral district might be created. The difference comes with the Mayor elections. Every municipality represents the single mandate electoral district. The electoral precinct is more likely to represent approximately 1000 voters, in the specific cases where geographically requested there can be the precinct with minimum of 50 voters created.

The major pillars of the electoral bodies are established in the district electoral commissions, in the case of more districts local electoral committees. At the local level they are commanded by the regional electoral commissions and from the national point of view the main patronage of the elections lies in the hands of Central electoral commission. The membership in such commission is estimated by the voters who are not candidates for any of the elected positions. An interesting fact is that the commissions created due to the date of municipal elections operate in any subsequent and additional elections during the contemporary electoral period of the self-governmental unit. At the communal level the district electoral commission must consist of at least 5 members, if there is any obstacle in arranging this number, the remaining members are nominated by Mayor.⁵

The candidates' lists on Mayor election can be proposed by the political parties or party coalitions.⁶ The legal norm allows the individuals to

⁴ See §1-4 of the law SNR No. 369/1990 on municipal establishment

⁵ More details in §9-15 of the law SNR No. 369/1990 on municipal establishment

⁶ According to §21 Art.1 of the law

candidate. In such case, the part of the candidacy must be the supporting list signed by the voters obliged to vote. The amount of candidacy support is bound by the population of the specific municipality. In general, the only precondition is the requested age and permanent residence in the municipality the candidate runs for. The law enables the joint candidacy on Mayor and deputy at the same time. The ballot ticket is created in one document where are registered candidates listed in alphabetical order. Regardless of standards personalities as names and titles, age and occupation the ticket contains also the political party affiliation that supports the candidacy or a note about the independent candidate.⁷

Setting up the term of Election Day is the competence of the parliamentary speaker. The law assumes that both forms of communal elections are held in the primary elections in one term, the same day all over the republic.⁸ The electoral campaign is defined as the actions related to support of the political party or an independent candidate with usage of commercials and advertisements in the means of radio and TV broadcasting, mass information, posters or other information carriers, such as billboards. The political campaign itself starts 17 days and ends 48 hours before the Election Day. It is also restricted to carry a campaign beyond the set time but the law does not reflect other forms of candidates' presentation before the electoral campaign, for example in the means of image campaigns. From the principle of the equality for all the candidates there is guaranteed the specific time in media and information capacities. Even though it is also allowed to gain specific commercial time in the public media, this option is rarely used and mostly by the candidates in the regional cities in Slovakia or the capital, Bratislava. The reason might be very simple – in doing so the candidate must spend not minor financial expenses to cover his time in the public media with no real extent of the prospective voters.⁹

The ballot is executed in the voting room or the voter can in specific health conditions ask the commission to give the vote outside the voting room, more likely at home or in the health center. Such ballot is possible only in the area of the electoral district where the commission was established. The secrecy of the ballot must be confirmed in either way. The voter gets the ticket where he circles the order number of the

⁷More details in §21-24 of the law SNR No. 369/1990 on municipal establishment

⁸According to §25 Art.1 and 2 of the law

⁹§25 a 30 of the law SNR No. 369/1990 on municipal establishment

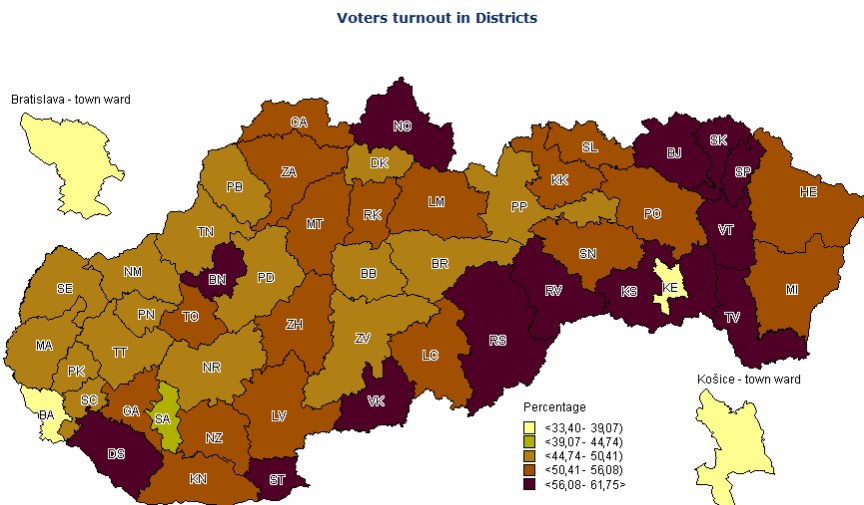
candidate and gives him the vote. This act is only possible in the restricted area, otherwise the commission would not let the voter to vote. If the voter claims making mistake, the commission issues a new ticket upon request.¹⁰ The counting of the votes is established right after the final hour of elections. The results from the district commissions are delivered to the local electoral commission. Subsequently it counts the votes and announces the full results in the municipality. In case of any doubts it can ask for every voter's list including the tickets from the district commissions. Apart of the final results of the candidates the commission states the number of actual voters, the number of valid tickets. To the post of a Mayor is elected a candidate that obtains the biggest amount of valid votes. In the case of equal votes for different candidates, the new elections must occur.¹¹ Nevertheless, the candidate takes the post by taking the oath.

This electoral system is in the theory of politics considered as majoritarian electoral system with relative majority of votes, which ensures in most known situations the election of the candidate to the offered post. The only discussion and problem might be the potential legitimacy of the elected candidate. The electoral system is based on the principle that winner takes all, so the simple majority of votes is enough to get to the office. In the most exaggerate case we can talk about the single vote difference (Horváth, 2005: 63-74). The other problematic can be found in the electoral turnout. The winner of the elections will be clear even where there is a single voter turnout. So in relatively low electoral turnout, which is in long perspective below 50% of eligible voters, the Mayor can be a candidate who is not representing even the quarter of all eligible voters. Even in this case we can conclude that the municipality is headed by a Mayor that citizens merit.

¹⁰ §31 of the law SNR No. 369/1990 on municipal establishment

¹¹ §35-43 of the law SNR No. 369/1990 on municipal establishment

Picture 1: Voters turnout in districts – 2010 municipal elections in Slovakia



Source: Statistical Office of the Slovak Republic

The municipal and regional differences with the Czech Republic

In the Czech Republic the election of Mayor of the municipality is a quite different method than in Slovakia. The major difference is the election itself. The Slovak example presents the direct suffrage by the citizens of the municipality. In the Czech Republic the Mayor is elected by yet incumbent deputies of the municipality. So in comparing the Czech and Slovak cases we can set up the main principle – while in Slovakia the filling of the office is the preference of the majority of the citizens, in the Czech Republic the selection is the outcome of a political consent and compromises of the elected municipal deputies. It is quite clear that the Mayor elected by the incumbents has guaranteed the political support in the municipality or, the different position – when losing the support it can even lead to the possible removal of the Mayor. Apart from the fact that the Czech law does not recognize the direct elections, regarding the fact that the future Mayor must have first been elected as a municipal member we can observe some interesting remarks in scope of the law interpretation.

The electoral law is set in the Law 491/2001, while amended 3 times until now. The common value with the Slovak norm is the same electoral period of the municipalities given to every 4 year term. The elections are as well performed as general, equal and direct suffrage by secret ballot. The first significant difference is the electoral method. While in Slovakia the deputies are elected in majoritarian system with multi mandate

districts, the Czech legal norm sets the proportional electoral system. In respect to the candidates, there is additional difference. The Czech legislative is more precise but also complicated in setting the conditions for candidates. It explicitly assumes that it must be a citizen of the Czech Republic, in special cases the citizen of a different country who must be given the voter's right by international agreement adopted by the Czech Republic and published in the Collection of international agreements.¹² There is also the age precondition; a voter must be at least 18 years old.

Since the Mayor of the municipality in the Czech Republic is elected indirectly it might appear that the electoral rules are not implemented in the previously discussed electoral law, but there is a separate legal norm specifying the competences and other issues related in the Law on municipalities 128/2000. The Czech legislators through the parliament define the municipality as the basic territorial community of citizens with self-government which is measured by the frontiers of the municipality. Similarly to Slovakia they also use the variables for city and municipality; the Slovak government has competence to change the status from municipality to city, in the Czech Republic this precondition is set more explicitly: the community with minimum of 3000 inhabitants can be claimed as city if confirmed by the speaker of the House of Deputies after the governmental decision.

The Slovak legal norm in spite of cities gives specific characteristics to the capital Bratislava and the second largest city Košice.¹³ On contrary, the Czech legislation defines specific position to the so called „statutory cities“ consisting of 19 cities.¹⁴ This special arrangement can be seen in particular that the territorial areas can be divided into city circuits or city boroughs with own self-governmental units.¹⁵

The authorities of the Slovak municipalities are the city council and Mayor. As revised in the book *Politický systém České republiky*, the authors *Karel Vodička* and *Ladislav Cabada* state that the municipality is in the executing of its activities bound only by laws. The most important

¹² §1-4 of the law No. 491/2001 on the elections to city councils

¹³ This is experienced in subdivision of the cities into multiple city boroughs and subsequent level in the administration system of the municipality

¹⁴ Kladno, České Budějovice, Plzeň, Karlovy Vary, Ústí nad Labem, Liberec, Hradec Králové, Pardubice, Jihlava, Brno, Zlín, Olomouc, Ostrava, Opava, Havířov, Most, Teplice, Karviná, Mladá Boleslav.

¹⁵ §1-4 of the Law No. 128/2000

authority was selected the city council. The competences of this body cover the decision making of the most important activities of the municipality, such as the land plan, municipal budget or property issues. In our perspective the most significant competence is rather different: the selection and removal of the Mayor, deputy Mayor and other members of the city council. The number of the citizens subsequently gives the proportional number of the deputy members, from 5 to 9 in the least populated municipalities up to 35 to 55 in the largest cities such as Brno, Ostrava and Plzeň. The capital Prague has the highest number of deputies – 70 members (Vodička, Cabada, 2011: 388). The role of the municipal executive is represented in the Board of the municipality. It can be considered as the executive authority in the agenda of the municipality. The Board consists of the Mayor, deputy Mayor and other members. From the practical decision making it is just to have odd number of members, which is also derived between 5 and 11. This authority is absent in spite of the municipalities where the total number of deputies is lower than 15.

The municipality is officially represented by its Mayor. His function as well as the function of the Mayor deputy(ies) is elected from the members of municipality council. The fact they are elected by them strengthens their political responsibility. From the practical point of view this means if they lose trust of the majority of the deputies, they can be simply removed (Vodička, Cabada, 2011: 388-9).

Similarly to the elections of the head of the state we can find serious arguments for direct elections of the Mayor by the citizens' vote but, on the contrary there might be several critical junctions for selection of the head of the municipality by the elected deputies. The proponents of the indirect elections mostly operate with the argument, that it is essential to keep the political continuity and responsibility in line with the council representation to avoid situations when both authorities would search for different approaches in policy making and management. Given the popularity of implementing the aspects of direct democracy in our geographical region it is quite predictable that sooner or later in the conditions of the Czech Republic the similar model which is performed in Slovakia, could be applied. The example can be seen also in the recent adoption of the systematic change of the election of the president. From the point of view of the Slovak political issues it is interesting to follow the arguments of the facilitators of the proposed legislative changes and to review it in the context of Slovak realities from 1990's.

From the vast number of arguments and studies related to the discussion at the top of the communal organization in the Czech Republic (also known as the Association of Towns and Villages) we can

select the paper from the Mayor of the municipality Hladké Životice which was presented at the IX. Diet of the Association. The author stated that the current system of proportional representation practically deforms the will of the people. Even though the mostly used argument for the original system was built upon the hypothesis that the leadership of the municipality shall be presented by all the variety of ideological platforms, from the practical point of view there are often created unnatural coalitions. The weakness of such coalition building is the product of hunger for political power without the voice of the people. It was yet questioned the institution of direct election, according to which the leadership of the municipality would be consisting by the medially known people but with less or none political experience with the communal policy. The other argument for the new legislation is to give the voters the right to choose their „first man“ on the basis of his own electoral program and not as a product of political agreements and mutual cooperation of the political actors without the proper citizens' control. In such consideration, the acquired mandate would give the candidate more political responsibility on the one hand and, simultaneously could strengthen some of its political competences and powers. The vision and practice of the Mayor's daily agenda would change from the current „official one“ as an incumbent officer who manages the elementary routines and functioning of the municipality to the representative of the community with enough trust to apply and implement the vision and real political agenda with the already foreseen priorities given from his political program. The other advantage shall be provided given the fact that he cannot be at the same time the deputy member – the Mayor would not be bound by the respective political parties represented in the municipality council. In this sense, the Mayor could also serve as a judge and referee in the suspicious policy making and could arrange the actions that oppose such disadvantageous threats (Petržela, J., 2005).

The reform of public administration after the political changes in post 1989 years in Slovakia continuously brought the model of setting and power distribution into two major pillars:

- 1, there are directly elected deputies at the municipal and regional level
- 2, there are directly elected Mayors and heads of the region

So that, the people have the options to select deputies in both authorities. We witness huge discussions after every such election on the purpose of electing both of the highest local or regional authorities directly. There are plenty of cases when the final battle is between the representatives of different political camps. The sense of spirit of law related to regional or municipal authority is assumed by adopting the

compromises to effectively govern; to support each other and to control. In general, we assume that the common sense leads to finding such solutions that the final verdict is in advantage for the municipality or the whole region. As far as we are aware of the real functioning at the national parliamentary level, the political parties usually create the grievances among themselves, following marginal and parochialistic interest; we can predict that the same situation might occur at the lower level policy making. Usually we can explain the Czech model where the people choose and select little parliaments and from the then coalition majorities the Mayor is selected.

The first government coalition led by MikulášDzurinda passed the adoption of constitutional amendment in February 2001 on extending the territorial self-government to higher territorial units. By passing this act there were established the bodies of regional councils and the head of the regional unit. So in division of the Slovak territory the deputies finally followed the established model of dividing the state authorities into 8 regions.¹⁶

The regional paradigm

With regards on to the topic of this paper we cannot neglect the law on the elections of the higher territorial authorities. The legislative framework is vested in the Law 303/2001 and similarly to every other elections in Slovakia there is the basic principle of general, equal and direct suffrage with secret ballot. As we explored the communal elections before there are the legal norms for active and passive voting rights. The right to vote is obliged to everyone older than 18 years as well as the foreigners with permanent residence in the higher territorial unit. The only limits in voting are the same as at the local level.¹⁷ As for the candidates in the regional elections the candidate must reside in the territory which is under the regional competence. The special limitation for the candidates to the heads of the regional authority is the age of 25 which has, as well only technical character – the legislators assume that the candidates have already finished the university studies.¹⁸ There is also the possibility for the independent candidates to run for the post. If the candidate runs with the support of a political party the candidate's list is submitted by the representative of the political party. If there is an

¹⁶ There were established the regions of Bratislava, Trnava, Trencin, Nitra, Zilina, BanskaBystrica, Presov and Kosice

¹⁷ §1 and 2 of the Law No. 303/2001 on the regional elections

¹⁸ §3 and 4 of the Law No. 303/2001 on the regional elections

independent candidate the legislative requires at least 1000 supporting signatures by the citizens of the region. Similarly to municipality elections, the candidates may run both for the deputy council and the head of the region.¹⁹ The elections are held in a single day from 7:00 to 22:00.²⁰ Even with this type of election it is difficult to respect the election campaign, as well as in this case it means that many candidates are using all possible means for its promotion at a much earlier period than officially allowed. We can then observe the image campaigning which is run even more than one year before the elections take place. The specifics of the regional elections in Slovakia comparing to the parliamentary ones might be seen in very close time periods in between both of them. The regional elections of 2001, 2005 and 2009 were relatively very timely close to the parliamentary elections of 2002, 2006 and 2010. The parties' headquarters viewed the regional elections as the first real political testing ground before the national elections. Also this might evoke the very unreal and unlike party coalitions just to pretend the possible failures at the national level. In the case of Nitra regional unit the elections were also remarkable in relation to the minority questions.

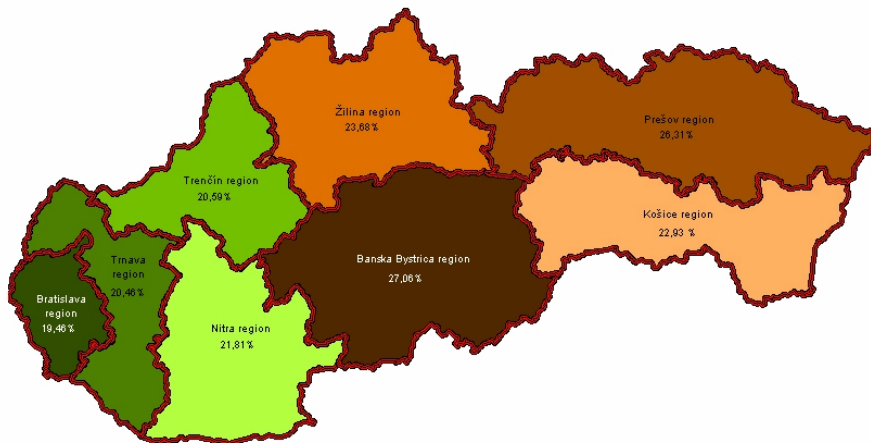
The political dimension has significantly influenced the law on regional elections in that part of leader elections. From this point, the only real demand on changing the electoral law in comparison to communal elections was the fear of the option that the role of the head of Trnava and Nitra regional unit would be appointed to the representative of that time strong and united Hungarian political party around Party of Hungarian Coalition (SMK). It was not surprise that at the local level the political parties instability was the key factor in winning the seats for Hungarian representation. The Slovak legislators tried to change such possibility by raising the electoral quorum from simple to absolute majority of the votes. By then, the elections of 2001 and 2005 in Nitra were won by the SMK candidate in the first round but since he did not obtain the necessary majority the second round was typical by joining and supporting the counterpart by the other political representations on the ethnic principle. These elections actually did not reflect the citizens' vote of appropriate candidate but emphasized the national and ethnic principle that was manifested in later inability of the regional governments to effectively adopt the policies.

¹⁹ § 19 of the Law No. 303/2001 on the regional elections

²⁰ § 22 and 23 of the Law No. 303/2001 on the regional elections

Picture2: The voter turnout in self-governing regions – first round (2009)

Voter turnout by self-governing regions



Source: Statistical Office of the Slovak Republic

Despite many patterns of regional politics there is also an example of huge penetration in national level politics and subsequent coalition building. We experience this in the previous elections; in 2001 and 2005 only the head of Bratislava region was elected yet in the first round while in 2009 there were successful more candidates with the support of SMER – SD. These elections have raised the strong dominance of this vector on the left side of the political spectrum which was also demonstrated in the 2012 parliamentary elections.

Conclusions

The results of the regional elections in spite of the voters' low turnout did not clearly show that the reform of the public administration was the proper move in order to raise the quality of life of the ordinary citizens. Despite many different arguments that support the other opinion, we cannot neglect the democratic criteria which also demands the electoral turnout as one of the main purposes of the existence of institutions or offices. In the conditions of the Slovak Republic the turnout does not directly reflect the consent of the people with its existence since the problem is not seen in the competences and powers but the real juncture regarding the self-governmental unit performance is the model of territorial establishment. If the model is closer to the ordinary citizens, we would be able to confirm the coexistence and direct cooperation between the people of the region and the region itself. It is rather difficult to answer the questions on what connects the inhabitant of the city Dunajská Streda and Skalica or why the Spiš castle and Spišské podhradie are not in the same regional unit which stood

undivided as integral twins for centuries. In such consideration it is kind of easy to deny the logics of existence of such regional governance. On one hand, Slovakia's regional subdivision is not logic due to the low number of citizens to be represented by the regional governments. The other view is that the EU demands creation of rather big units in order to seek grants from the European institutions. Perhaps, the sentiment from the previous times especially before 1989 would have been the most effective solution. Slovakia was divided into four broad categories: Bratislava as capital, western Slovakia, middle Slovakia and eastern Slovakia. There is, though, huge request for political will to adopt such change and we cannot predict this as the very future probability.

There should also be strong political will and consent in regard on the electoral participation in the second round of election of the head of the region. The possible change could be the compliance and unity with the municipality elections and the system adopted in local politics. In addition to this, the only real threat has been already eliminated; there is no longer the dilemma of the only pro Hungarian political party in Slovakia.

To conclude the paper we can confirm that the Slovak legal norms and the concept and election of the Mayor are closer to the thoughts of the representative democracy with some aspects of direct democracy. It is more than better if the highest authorities of the municipalities have the legitimacy straight from the people they govern. In this perspective their performance creates adequate support for real acting of the functions. If there is a serious conflict in policy making, the voters can show their consent in the future elections and compare what is good for the majority. The direct elections of Mayors are positively viewed also by the permanent turnout of around 50 % of eligible voters since 1990. In different words, it is attractive for citizens to have the responsibility and influence on their representatives who care of the city they live in. This can also be observed if we compare the electoral turnout and the trust of the regional self-governance. Even though most of the regions vote for the head of the region in the second round, the electoral turnout does not give us even half of the numbers observed in municipal elections. In this sense, we do not claim that the current electoral laws are subject to change.

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