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U.S. Department of State

Kazakhstan Country Report on Human Rights Practices for 1998

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KAZAKHSTAN

The Constitution of Kazakhstan concentrates power in the presidency. President Nursultan Nazarbayev is the dominant political figure. The Constitution, adopted in 1995 in a referendum marred by irregularities, permits the President to legislate by decree and dominate the legislature and judiciary; it cannot be changed or amended without the President's consent. President Nazarbayev was elected to a new 7-year term on January 10, 1999 in an election that fell far short of international standards. Previous presidential elections originally scheduled for 1996 did not take place, as President Nazarbayev's term in office was extended in a separate 1995 referendum, also marred by irregularities. Under the 1995 Constitution, Parliament's powers are more limited than previously. However, members of Parliament have the right to introduce legislation and some bills introduced by Parliament have become laws. The judiciary remained under the control of the President and the executive branch. The lack of an independent judiciary made it difficult to root out corruption, which was pervasive throughout the Government.

The Committee for National Security (the KNB, successor to the KGB) is responsible for national security, law enforcement activities on the national level, and counterintelligence. An external intelligence service, Barlau (the Kazakh word for intelligence) was created in 1997, but during the year, Barlau's functions were reabsorbed into the KNB. The KNB reports directly to the President. The Ministry of Internal Affairs, which is subordinate to the KNB, supervises the criminal police, who are poorly paid and widely believed to be corrupt. The KNB continued efforts to improve its public image by focusing on fighting government corruption, religious extremism, terrorism, and organized crime. Members of the security forces committed human rights abuses.

Kazakhstan is rich in natural resources, chiefly petroleum and minerals. The Government has made significant progress toward a market-based economy since independence. After a 5-year decline, overall production began to rise in 1996, although the rate of growth slowed in 1998. The Government has been successful in stabilizing the local currency (tenge) and reducing inflation to less than 10 percent a year. The average annual wage was approximately \$1,500. The agricultural sector has been slow to privatize. The Government has privatized successfully small and medium-sized firms and most large-scale industrial complexes. However, living standards for the majority of the population continue to decline. According to several surveys, in 1997 approximately 33 percent of citizens lived below the government-defined poverty line of \$50 per month.

The Government generally respected the human rights of its citizens in some areas, but serious problems remain in others. Democratic institutions are weak. The Government infringed on citizens' right to change their government, notably in its flawed conduct of preparations for the January 1999 presidential election. The Organization for Security and Cooperation in Europe (OSCE) publicly cited flawed election preparations in declining the Government's request for election observers. The Government used a new amendment to the presidential decree on elections to prohibit some government opponents from running in the election because they were found guilty of participating in unauthorized public meetings and demonstrations. The Government repeatedly harassed its opponents during the election campaign and appeared complicit in at least four assaults on perceived opponents.

The legal structure, including the Constitution adopted in 1995, does not fully safeguard human rights. Members of the security forces often beat or otherwise abused detainees, and prison conditions remained harsh. There were allegations of arbitrary arrest and detention, and prolonged detention is a problem. The judiciary remains under the control of the President and the executive branch, and corruption is deeply rooted. A political prisoner, Labor Movement leader Madel Ismailov, was sentenced to 1 year in prison for insulting the President. The Government infringed on citizens' rights to privacy.

Government tolerance of the independent media markedly deteriorated, as some opposition newspapers and other media outlets were ordered to close, forced to sell to progovernment interests, or brought under pressure by regulatory authorities. The Government reportedly pressured media not to cover the opposition during the presidential campaign. The media practiced self-censorship and the Government maintained control of most printing presses and facilities. Academic freedom is not respected. Freedom of assembly sometimes was restricted. Some organizers of unsanctioned demonstrations were arrested and fined or imprisoned. Freedom of association, while generally respected, sometimes was hindered by complicated and controversial registration requirements that restrict this right for organizations and political parties. Domestic violence against women remained a problem. There was discrimination against women, the disabled, and ethnic minorities. The Government discriminated in favor of ethnic Kazakhs. The Government limited worker rights; it tried to limit the influence of independent trade unions, both directly and through its support for state-sponsored unions, and members of independent trade unions were harassed. The courts removed the legal status of two independent unions in Kentau for holding unauthorized demonstrations to protest unpaid wages.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political killings.

There were a number of deaths due to brutal hazing and mistreatment in the army (see Section 1.c.).

Villagers in Podgornaya alleged that Interior Ministry militiamen had badly beaten Yalkynzhan Yakupov, a suspected thief, whose body was found hanging in the Chunja District police station (see Section 1.c.).

There have been no arrests or known government investigation in the case of the young man killed while in detention in Almaty in January 1997.

The Interior Ministry reported in September that

1,290 prisoners, or more than 1 percent of all prisoners, had died since the beginning of the year of disease, mostly tuberculosis, aggravated by harsh prison conditions and inadequate medical treatment (see Section 1.c.). Estimates by human rights monitors are not substantially different from government figures.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution states that "no one must be subject to torture, violence or other treatment and punishment that is cruel or humiliating to human dignity;" however, there were credible reports that police beat or treated detainees abusively to obtain confessions. Human rights observers report that detainees sometimes are choked, handcuffed to radiators, or have plastic bags placed over their heads to force them to divulge information. Training standards for police are very low and individual law enforcement officials often are supervised poorly. According to television reports in November, villagers in Podgornaya near the Chinese border alleged that Interior Ministry militiamen had beaten badly Yalkynzhan Yakupov, a suspected cattle thief whose body was found hanging in the Chunja District police station. A man arrested with Yukupov, Renat Yemelyanov, reportedly suffered kidney damage from police beatings. The International Human Rights Bureau reported that an official medical investigation concluded that a man detained by Interior Ministry militiamen in May in Almaty suffered hemorrhages and other injuries as a result of blows from a blunt object while in custody. An television station reported that a disabled man detained by Almaty police in March was beaten with an iron object while handcuffed.

On August 29, Amirzhan Kosanov, the press secretary to former prime minister and presidential contender Akezhan Kazhegeldin, was robbed and beaten by four masked assailants as he and his wife approached their home in Astana. Human rights observers contended that the attack probably was motivated politically because the assailants were masked and asked the victim whether his name was Kosanov before they attacked him. On October 24, an unknown assailant beat Yelena Nikitenko, a public relations adviser to Kazhegeldin's presidential campaign, outside her apartment in Almaty. She suffered a broken nose and other injuries. The assault came at the end of a week in which she was forced to resign from the Al-Farabi National University faculty for "unpatriotic" activities and interrogated by the tax police about her political consulting business. A private course on political consulting organized by Nikitenko might have provoked these actions against her. The course ended prematurely as a result of the attack. The attack appeared politically motivated and government sanctioned (see Section 3). On December 8, two assailants beat German journalist Minette von Krosigt and a Kazakhstani colleague, shortly after they returned to Almaty from a reporting trip to Semipalatinsk and Kurchatov. The

assailants took von Krosigt's camera equipment and film. The attack might have been motivated politically because von Krosigt's earlier reporting had been critical of the Government, but the evidence is inconclusive (see Section 2.a.). On December 22, three assailants beat a Kazakhstani employee of a foreign embassy in Almaty outside his apartment. The employee, whose work included assisting embassy officers to maintain contacts with political opposition and human rights figures, suffered a cracked rib and some internal injuries, and required stitches around both eyes to close wounds from blows to his face and head. The attack appeared to be motivated politically (see section 3).

On October 13, former Prime Minister Akezhan Kazhegeldin reported that two gunshots were fired at him as he was riding a horse on the outskirts of Almaty. The shooting came on the eve of Kazhegeldin's formal announcement of his intention to run against President Nazarbayev in the January 1999 presidential elections. Kazhegeldin believes that the shots were intended to scare him, but not to harm him. A few days before the shooting, the Government withdrew the business license and seized the weapons of the private security company that protected Kazhegeldin.

Victor Mikhailov, chairman of the "Lad" Slavic movement of Kazakhstan, was attacked and beaten by an unknown assailant on November 6. Human rights observers believe that the attack was politically motivated because the attacker did not try to rob Mikhailov. The attack followed Mikhailov's strong criticism of President Nazarbayev at an October 31 Lad meeting and Lad's public announcement that it would not support Nazarbayev in the upcoming presidential election. On November 8, Lad's accountant, Natalya Zubenko, was beaten and robbed as well.

Opposition leader Madel Ismailov alleged that following his arrest in June 1997 for organizing an unauthorized demonstration against the Government, he was forced to stand for hours and deprived of sleep. Ismailov was sentenced to 9 months of "corrective labor" accompanied by garnishment of

15 percent of his wages. He is currently serving a sentence of 1 year in prison for insulting the President. In December 1997, four assailants beat Petr Svoik, one of leaders of the political opposition movement Azamat, at his hotel in Bishkek, Kyrgyzstan. Despite a request by President Nazarbayev for a cooperative investigation with Kyrgyz authorities there has been no apparent investigation and no arrests have been made.

Army personnel subjected conscripts to brutal hazing, including beatings and verbal abuse. The Deputy Chief of the General Staff reported 17 cases of death due to mistreatment as of May 20, a 50 percent decline over the same period in 1997. Reportedly the Government has taken action occasionally against officials charged with abuses, levying administrative sanctions such as fines for those found guilty. The Army launched an aggressive campaign to punish violators of a new antihazing policy, but at year's end there were no specific details on the results of the program.

Prison conditions remained harsh due to inadequate resources. The Interior Ministry Chief of Prisons reported that his Department received from the national budget only 19 cents

(15 tenge) out of the \$1.62 (130 tenge) needed to cover daily expenses for each prisoner. The Minister of Interior requested \$142.5 million (11.4 billion tenge) to maintain the prison system, but only \$58.7 million (4.7 billion tenge) was allocated by the Government. However, the Government faced a large budget deficit and planned to cut the allocation by

30 percent. In September the Ministry of Interior reported that there were 87,000 prisoners (including 27,000 in halfway houses) and another 15,000 detainees in facilities designed to hold 60,000. Local human rights observers agreed with these figures. In July and August, a prisoners' rights activist and

state television reported that approximately 70 prisoners attempted suicide by cutting open their stomachs and slitting their throats and veins to protest mistreatment at the Shangis Tobe prison in the East Kazakhstan oblast. Three senior officials of the prison were fired. There were no reports of action by the Government at the maximum security prison in Aktyubinsk where 10 prisoners reportedly cut open their stomachs in October 1997 to protest administrative regulations and prison conditions.

Overcrowding, inadequate prison diet, and a lack of medical supplies and personnel contributed to the spread of tuberculosis and other major diseases. In September the Chief of Prisons reported that 1,290 prisoners had died since the beginning of the year of disease, including 962 from tuberculosis. These figures represented an improvement over the same period in 1997, when 1,491 prisoners died of disease, 1,034 from tuberculosis. The official Russian-language newspaper reported in September that 12,600 prisoners suffered from tuberculosis or nearly 15 percent of all prisoners.

The Kazakhstan International Bureau for Human Rights and the Rule of Law (IBHR) estimated that 17,000 prisoners suffer from tuberculosis and other major illnesses. In July the IBHR visited a prison near Pavlodar, where it reported that 1,200 of 1,350 prisoners suffered from tuberculosis. In 1997 the Government also acknowledged that AIDS is becoming a concern. Prison guards, who are poorly paid, steal food and medicines intended for prisoners. Violent crime among prisoners is common.

The General Prosecutor's Office reported that there were no amnesties in 1997 or 1998. In the past, the Government has used mass amnesties to reduce prison overcrowding. However, the Ministry of Internal Affairs reported that through August 6,434 persons were released from prison under provisions of the new Criminal Code that allow retroactive application of new sentencing guidelines favorable to prisoners.

Prisoners are allowed one 4-hour visit every 3 months, but additional visits may be granted in emergency situations. Some prisoners are eligible for 3-day visits with close relatives once every 6 months. Juveniles are kept in separate facilities.

Human rights monitors wishing to visit prisons must receive authorization from the MVD. The Government was reluctant to work with local human rights groups to improve prison conditions and created obstacles for those who requested access to prisons. One activist for prisoners' rights complained that she sometimes was denied access to prisons. The IBHR, however, reported that its representatives regularly received authorization. The IBHR visited men's prisons in addition to women's and juveniles' prisons during the year. Two international NGO's, the Dutch interchurch Aid and Penal Reform International, accompanied IBHR on prison visits in Pavlodar.

d. Arbitrary Arrest, Detention, or Exile

The Government used minor infractions of the law, frequently related to unsanctioned assembly, or manufactured charges to arrest and detain government opponents arbitrarily. Under a May amendment to the presidential decree that serves as the election law, convictions on such charges allowed the Government to exclude government opponents from running for president or other public office (see Section 3). In October, less than a week after the Government called for early presidential elections, an Almaty court summoned five leading government opponents with less than 24-hour notice on charges of participating in a meeting of an unregistered organization called For Fair Elections. All five--Akezhan Kazhegeldin, Dos Kushim, Irina Savostina, Petr Svoik, and Mels Yeleusizov--were convicted. Svoik and Yeleusizov served 3-day jail sentences. The others paid fines. On September 18, police in the new capital, Astana, arrested Mikhail Vasilenko, an advisor to former prime minister and presidential contender Kazhegeldin, as he delivered documents proposing constitutional and election law reforms at

Parliament and government offices. The next day Vasilenko was convicted of hooliganism for allegedly refusing to leave the Parliament building when asked by guards, and using foul language with the guards. (Although the new Criminal Code eliminated the old Soviet criminal offense of hooliganism, Vasilenko was convicted under the Administrative Code, which still contains provisions against hooliganism.) He was released 2 days after the conviction (see Section 1.e.). In February following a meeting of the Popular Front opposition movement, Almaty police arrested Labor Movement leader Madel Ismailov in connection with charges that he insulted President Nazarbayev during a November 1997 political rally (see Section 1.e.). Labor Movement activist Yuriy Vinkov was arrested at the same time for interfering with law enforcement officials as they arrested Ismailov. Vinkov's case was dismissed in September after he fled to Russia. In June the director of the Almaty office of Kazakhstan 1 television and radio corporation, Yermek Torsynov, was detained by KNB officers for allegedly misappropriating corporate funds. The detention followed a press conference at which Torsynov had accused the president of the corporation of embezzling the station's advertising revenue. Torsynov was released the next day following a protest by the IBHR, which alleged that the charges were baseless. Authorities filed no charges against Torsynov, who nevertheless lost his job. (see Section 2.a.). Two youths were detained for 5 months prior to their trial for spraying antipresidential graffiti on a building (see Section 2.a.). The Government also arbitrarily arrested, detained, fined, and sometimes imprisoned demonstrators (see Section 2.b.).

The February 1997 arrest of Leonid Solomin for currency law violations was dismissed in September 1997.

The law sanctions pretrial detention. According to the Constitution, police may hold a detainee for 72 hours before bringing charges. The new Criminal Code (in effect since January) allows continued detention for up to 12 months with the approval of the General Prosecutor of the Republic.

Lower-ranking prosecutors may approve interim extensions of detention. The General Prosecutor's office acknowledged that some cases do not come to trial within prescribed limits, but stated that they are rare. However, in practice police routinely hold detainees, with the sanction of a prosecutor, for weeks or even months without bringing charges, and prolonged detention is a serious problem. Additionally, short (3-hour) and long (72-hour) detentions for "suspicion" are used widely.

According to the General Prosecutor's office, a system of bail created in 1997 is not widely used. No statistics were available.

According to the Constitution, every person detained, arrested, or accused of committing a crime has the right to the assistance of a defense lawyer from the moment of detention, arrest, or accusation. This right generally is respected in practice. However, Mikhail Vasilenko (see Section 1.e.) reported that he was denied access to a lawyer during his detention and trial. Human rights activists allege that members of the security forces have pressured prisoners to refuse the assistance of an attorney, sometimes resulting in a delay before the accused sees a lawyer. Detainees may also appeal the legality of detention or arrest to the prosecutor before trial, but in practice most persons refrain from making an appeal from fear that they will be punished for doing so. If the defendant cannot afford an attorney, the Constitution provides that the State must provide one free of charge. Human rights organizations allege that many prisoners are unaware of this provision of the law. Although some lawyers are reluctant to defend clients unpopular with the Government, there were no reports of attorneys being sanctioned by the Government for their decisions to defend particular clients.

The Constitution prohibits forced exile, and the Government does not use it.

e. Denial of Fair Public Trial

Government interference and pressure compromised the court system's independence throughout the year--a situation codified in the Constitution's establishment of a judiciary fully under the control of the President and the executive branch.

There are three levels in the court system: local; oblast (provincial); and the Supreme Court. According to the Constitution, the President proposes to the upper house of Parliament (the Senate) nominees for the Supreme Court. (Nominees are recommended by the Supreme Judicial Council, a body chaired by the President, which includes the chairperson of the Constitutional Council, the chairperson of the Supreme Court, the Prosecutor General, the Minister of Justice, senators, judges, and other persons appointed by the President). The President appoints oblast judges (nominated by the Supreme Judicial Council) and local level judges from a list presented by the Ministry of Justice. The list is based on recommendations from the Qualification Collegium of Justice, an institution made up of deputies from the lower house of Parliament (the Majilis), judges, public prosecutors, and others appointed by the President.

According to legislation passed in December 1996, judges are appointed for life, although in practice this means until mandatory retirement at age 65. The 1995 Constitution abolished the Constitutional Court and established a Constitutional Council. The President directly appoints three of its seven members, including the chairman. The Council rules on election and referendum challenges, interprets the Constitution, and determines the constitutionality of laws adopted by Parliament. Under the Constitution, citizens no longer have the right to appeal directly to a court about the constitutionality of government action; this appeal is now the sole prerogative of the courts. The Constitution states that "if a court finds that a law or other regulatory legal act subject to application undermined the rights and liberties of an individual and a citizen, it shall suspend legal proceedings and address the Constitutional Council with a proposal to declare the law unconstitutional." However, it does not grant citizens the right to approach the courts on a constitutional issue.

Local courts try less serious crimes, such as petty theft and vandalism. Oblast courts handle more crimes, such as murder, grand theft, and organized criminal activities. The oblast courts also may handle cases in rural areas where no local courts are organized. Judgments of the local courts may be appealed to the oblast-level courts, while those of the oblast courts may be appealed to the Supreme Court. There is also a military court. Although they do not currently exist, specialized and extraordinary courts also can be created--for example, economic, taxation, family, juvenile, and administrative courts--which would have the status of oblast and local courts.

The Constitution and the law establish the necessary procedures for a fair trial. Trials are public, with the exception of instances in which an open hearing could result in state secrets being divulged, or when the private life or personal family concerns of a citizen must be protected.

According to the Constitution, defendants have the right to be present, the right to counsel (at public expense if needed), and the right to be heard in court and call witnesses for the defense. Defendants enjoy a presumption of innocence, are protected from self-incrimination, and have the right to appeal a decision to a higher court. Legal proceedings are to be conducted in the state language, Kazakh, although Russian also may be used officially in the courts. Proceedings also may be held in the language of the majority of the population in a particular area.

In most cases, these rights are respected. Cases involving government opponents, however, frequently are closed. Courthouse guards did not allow the public to observe the October 15 trial of five

government opponents on charges of attending a meeting of an unregistered organization (see Section I.d.). The trial in March and April of Labor Movement leader Madel Ismailov for insulting the honor and dignity of the President was closed to the public and press. Mikhail Vasilenko (see Section I.d.) reported that his September trial for hooliganism was held in secret and that he was not given access to a lawyer, allowed to call witnesses in his defense, or to hear and cross-examine witnesses against him.

The problem of corruption is evident at every stage and level of the judicial process. Judges are poorly paid; the Government has not made a vigorous effort to root out corruption in the judiciary. According to press reports, judicial positions can be purchased. Anecdotal evidence stemming from individual cases suggests that judges solicit bribes from participants in trials and rule accordingly.

In May 1996, the Government instituted a procedure that required recertification of all judges. Completed this year, the process was intended to ensure that judges are familiar with current law. The recertification resulted in a significant turnover of personnel, particularly at the lower levels. Although the recertification process addressed a legitimate need to improve judicial competence, it was used in some cases by local governments to remove individual judges for political reasons.

A new Criminal Code took effect on January 1. Although human rights organizations considered the new criminal code a step forward, they raised a number of concerns regarding the code's effect on individual political and civic rights. The new code extends the maximum term of imprisonment from 15 to 30 years and gives judges and law enforcement officials more flexibility in determining appropriate charges. Previously, after a certain number of civil code violations, a defendant automatically would be charged with a criminal offense. The new code also eliminated a number of legal holdovers from the Soviet period, including public condemnation as a punishment, enforcement of restrictive passport regulations, and prosecution for vagrancy or a parasitic way of life.

There was one political prisoner. In April an Almaty district court sentenced Workers Movement leader Madel Ismailov to 1 year's imprisonment for insulting the honor and dignity of President Nazarbayev, a constitutional offense, during a November 1997 political rally in Almaty. Ismailov reportedly called President Nazarbayev "a scoundrel." Ismailov was convicted of the most serious form of insulting--using the mass media to insult the honor and dignity of the President--because an independent television station had recorded Ismailov's offending remark. In June the conviction was upheld on appeal by an Almaty court. Ismailov, a resident of Almaty, was sent to serve his sentence in a prison in the North Kazakhstan oblast. In an appeal to the General Prosecutor that remains pending at year's end, lawyers for Ismailov contended that his imprisonment in the North Kazakhstan oblast violated the Criminal Executive Code, which stipulates that "Persons sentenced to imprisonment should serve out their terms in prisons located on the territory of the oblast where they lived before their arrest or where they were sentenced."

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

Despite constitutional protections, the Government infringed on these rights. The Constitution provides that citizens have the right to "confidentiality of personal deposits and savings, correspondence, telephone conversations, postal, telegraph and other messages." Limitation of this right is allowed "only in cases and according to procedures directly established by law." However, the KNB and Ministry of Internal Affairs, with the concurrence of the General Prosecutor's office, can and do arbitrarily interfere with privacy, family, home, and correspondence. The law requires the police, who remain part of the internal security structure, to obtain a search warrant from a prosecutor before conducting a search, but they sometimes search without a warrant. The KNB has the right to monitor telephone calls and mail, but under the law it must inform the General Prosecutor's office within 24 hours of such activity. Some human rights observers complained that the Government monitored their movements and telephone calls

(see Section 4.)

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution and the 1991 Press and Media law provide for freedom of the press, but the Government closed or otherwise harassed much of the independent media. A new law on national security passed in June gave the General Prosecutor of the Republic the authority to suspend the activity of news media that undermine national security. Following the government decision in October to call early presidential elections, many members of the independent media reported government pressure not to cover opposition candidates. In late April, the General Prosecutor publicly charged that 10 newspapers violated the Press and Media Law, although the Minister of Information publicly opposed the action and none of the cases came to trial. The Government continued to own and control most printing and distribution facilities and to subsidize periodicals, including many that supposedly were independent. The potential for government control and widespread belief that the Government was cracking down on independent media resulted in widespread media self-censorship. The key subject considered "off limits" by journalists was personal criticism of the President and his family. The press generally was permitted to criticize government decisions, official corruption, and the powerlessness of the Parliament.

In September the Ministry of Justice issued an order revoking the legal registration of the Russian-language opposition newspaper Twenty-First Century (XXI Vek). The official notice delivered to the publisher gave no reason for the revocation. The notice arrived 2 days after an unknown person tossed a firebomb into the newspaper's office. The day before the firebombing, Twenty-First Century had published extensive coverage of the arrest of Mikhail Vasilenko, an advisor to former prime minister Kazhegeldin (see Section 1.d.). Ministry of Justice officials subsequently notified Twenty-First Century that they would take no immediate action to enforce the order closing down the newspaper, which continued to publish at year's end although the order revoking its registration has not been withdrawn.

In July tax police raided the offices of the only national Kazakh-language opposition newspaper, Dat. ("Dat" is a Kazakh language expression used after interruptions to mean, "let me speak"). Tax police allegations of financial irregularities against Dat did not appear credible. According to a press release issued by Dat, tax agents acting without a required warrant seized the newspaper's computers, records, and payroll money. The press release suggested that the newspaper closed because it regularly published articles exposing government corruption and criticized the President and his family.

On November 4, Dat was raided again by the customs police and the Internal Affairs Police (MVD), who seized all copies of the current week's edition as well as leftover previous editions. The pretext for the raid was that the paper allegedly had failed to file a customs declaration for the current issue when it was brought from Russia. When the editor-in-chief produced the customs declaration later that day, the MVD changed its tactics. It charged that since the newspaper had not paid a \$500,000

(35 million tenge) civil judgment for "publication of false information" about the President of the state television station KAZ-1, it was authorized to seize all available copies of the newspaper and other newspaper assets. The court reportedly levied 5 million of the 35 million tenge judgment against the editor-in-chief personally. As a result, on October 22 the tax police and militia sealed his apartment and impounded his personal property until his portion of the civil judgment was paid. Dat filed an appeal to revoke the judgment. On December 3, a court ordered Dat to close following the newspaper's failure to pay its fine. The judgment was issued in favor of the President of the Kazakhstan 1 Television and

Radio Corporation, who alleged that Dat had slandered him by publishing a transcription of a Radio Liberty interview in which a former Kazakhstan 1 employee accused him of embezzlement (see Section 1.d.).

In early November in Astana, the customs office seized all copies of the current issue of the independent newspaper Center. After the seizure, Center was subjected to a series of inspections by the tax and customs offices and the Ministry of Information. The Ministry first charged that the newspaper officials had not filled out the customs declaration properly and then said that they failed to fill out a special form for importing newsprint from Russia. Throughout November the editor-in-chief and staff members of Center received threats of death and violence.

On December 8, two assailants beat a visiting German journalist, Minette von Krosigk, and a Kazakhstani colleague, shortly after they returned to Almaty from a reporting trip to Kurchatov and Semipalatinsk. The assailants took von Krosigk's camera equipment and the film and notes that she had taken during the trip. Von Krosigk had been investigating the continuing medical and social effects of nuclear testing carried out near Semipalatinsk during the Soviet era. During her trip, von Krosigk reportedly collected information about the current disposition of hazardous nuclear materials. The attack on von Krosigk and her colleague, and the theft of their journalistic materials, might have been motivated by official concern over her reporting, but the evidence is inconclusive.

According to credible observers in the independent press and human rights community, in June the tax authorities coerced the owners of the independent Karavan media group--composed of the Karavan newspaper, KTK television station, and the Franklin Press publisher--into selling the group to business interests closely associated with the President. Several months after the sale, three independent newspapers reported that Franklin Press, previously Kazakhstan's only independent newspaper publisher, doubled the price of newsprint and cancelled its contracts with the newspapers. The newspapers all sought new publishing contracts outside Kazakhstan with mixed success. By autumn the Government ordered customs officials to seize any newspapers coming from Kyrgyzstan. Some newspapers are being printed in Russia.

In April the General Prosecutor announced that the Russian-language newspapers Tselina, Lad, Rabochnaya Zhizn, Communist, Azamat Times, Karavan, Kazakhskaya Pravda, and Biz-My would receive subpoenas to appear before the police. Among reasons given for the subpoenas was "imprecise coverage" of strikes in 1997. In June the General Prosecutor announced indictments under the Law on Press and Mass Media against Karavan, Kazakhskaya Pravda, and Biz-My, as well as the Kazakhstan edition of the Russian newspaper Argumenty i Fakty. The General Prosecutor cited articles about relations between Kazakhs and ethnic Russians in Kazakhstan and an article that allegedly violated the privacy of prominent persons as bases for indictments. No further action on these cases had been taken by year's end. In October the Government brought criminal charges of inciting interethnic ethnic discord, which carry a possible sentence of 7 years imprisonment, against opposition leader Petr Svoik for his newspaper article about relations between ethnic Russians and Kazakhs. Subsequently the case was suspended indefinitely.

In November guards at an army base in Almaty destroyed the equipment of two crews from the independent KTK television station who were attempting to enter the base to report on a recruit's suicide.

The newspaper Ekonomika Segodnya, which came under government pressure in 1997 for publishing criticism of the President, closed following the emigration of its editor-in-chief. The Communist Party's national newspaper, which the Government closed in 1997, has not been able to resume publication.

About 80 percent of newspapers are subject to direct government control. All daily newspapers are government-run. There are also a large number of newspapers that are produced by government ministries, for example, Kazakhstan Science, published by the Ministry of Science. However, many newspapers receive a government subsidy, including about 90 percent of Kazakh language newspapers, although most of these would call themselves independents. Therefore, including newspapers that receive subsidies, about 80 percent of newspapers are government-run. Each major population center has at least one independent weekly newspaper. There are seven major independent newspapers in Almaty.

The Government controls nearly all broadcast transmission facilities. Independent television and radio stations were threatened with closure or nonrenewal of their broadcast licenses. On June 17, the Minister of Information said, in the context of new frequency auctions, that it would be necessary to close certain stations or refuse to renew their broadcast licenses, if they were not in conformity with the rule requiring

50 percent Kazakh language content in broadcasting. At that time, reportedly no stations (government or private) met the 50 percent Kazakh requirement, but the threat of nonrenewal was directed at a few, out-of-favor independent stations.

There are 35 independent radio and television stations. Twelve of these are in Almaty. In November 1996, there were 57 independent stations in the country; 8 were in Almaty. Of the 26 stations that went out of business in 1997, half closed due to government auctions of radio and television frequencies. The other 13 went bankrupt before the auctions began or joined forces with other broadcasting companies to compete in the auctions. There are only two government-owned, combined radio and television companies; however, they represent five channels and are the only stations that can broadcast nationwide. Regional governments own several frequencies; however, independent broadcasters have arranged with local administrations to use the majority of these. An Association of Independent Electronic Media of Central Asia (ANESMI) exists, but it is fractured and weak.

The Government continued to auction radio and television broadcast frequencies. A change in rules allowed the Government to award a frequency in cases where only one bidder participated in an auction; a minimum of two bidders was required previously. Many members of the independent media and human rights activists believed that the Government used the auctions to harass and even eliminate independent media. High minimum bids required by the Government deterred many small independent broadcasters from competing for frequencies, particularly in the provinces. Auctions of frequencies this year, however, reportedly appeared to be based on merit. Nevertheless, the Minister of Information, who chairs the commission, effectively can impose his decisions at any time.

There was no further action by the Prosecutor General concerning the legality of the frequencies auction in 1997, given the absence of a response from the Prime Minister to the Prosecutor's request for a ruling on the law guiding the auctions. There was no law passed on the tender procedures during the year.

The only independent electronic media in Shymkent, the television station Otyrar and radio station Umax, were threatened with closure for failing to comply with the

50 percent Kazakh language requirement imposed by the Press and Media Law. Application of this law, which generally is not enforced, against the stations appeared arbitrary, especially since the stations broadcast more Kazakh language programming than most other stations. According to credible although unverified reports, owners of these stations and other media might have been under legal pressure to sell their outlets to business interests favorable to the Government.

The Constitution provides for the protection of the dignity of the President and the law against insulting the President and other officials remained on the books. Labor movement leader Madel Ismailov was sentenced to 1 year in prison for violating the law (see Section 1.e.). In February a court in Uralsk convicted three youths--Ainur Kurmanov, Sergey Kolokolov, and Vasya Nikolayev--of insulting the honor and dignity of the President after they were arrested in 1997 for spraying antipresidential graffiti on a building in Uralsk. Two of the youths, who had been detained for 5 months, were sentenced to 2½ years on probation. The third, a minor who had been released into the custody of his parents, received a sentence of 1 year on probation.

Several laws control advertising in the mass media. One law restricts alcohol and tobacco advertising on television, as well as "pornography" and "violence" during prime viewing hours. Another law restricts advertising in each issue of a newspaper to 20 percent of the total material. The Minister of Justice and the Minister of Information have interpreted this law as restricting paid articles, but not commercial advertisements.

Academic freedom is circumscribed. As is the case for journalists, academics cannot violate certain taboos, such as criticizing the President and his family. There were widespread credible reports that universities and schools coerced faculty, students, and the parents of schoolchildren to sign nominating petitions for the reelection campaign of President Nazarbayev. The Al-Farabi national university in Almaty forced Yelena Nikitenko, an adviser to opposition presidential candidate Akezhan Kazhegeldin, to resign from the faculty in October because of her outside political activities (see Sections 1.c. and 3). An academic critic of the Government, Nurbulat Masanov, was not reappointed to his position in the political science department at the same university; some independent observers alleged that government pressure was responsible for the decision. Course topics and content generally are subject to approval by the university administration.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for peaceful assembly; however, the Government and the law impose significant restrictions. In June the Government passed a new law on national security that defined as a threat to national security "unsanctioned gatherings, public meetings, marches, demonstrations, illegal picketing, and strikes" that upset social and political stability.

According to the law, organizations must apply to the local authorities for a permit to hold a demonstration or public meeting at least 10 days in advance, or the activity is considered illegal. In some cases, local officials routinely issued necessary permits. However, human rights activists complained that complicated procedures and the 10-day notification period made it difficult for all groups to organize public meetings and demonstrations. They reported that local authorities, especially those outside of the capital, turned down the majority of applications submitted or refused to allow rallies to take place in central locations. Municipal authorities in Uralsk rejected requests by Communists in May and June to hold commemorative rallies for victims of political repression. Authorities in Karaganda denied permission for Communists to hold a rally in June. An amendment to the presidential decree on elections that bars candidates for public office who have been convicted within the preceding year of criminal or administrative offenses was used against leading government opponents who participated in unsanctioned meetings and demonstrations (see Section 3).

In January the President announced a "year of political accord" and asked political and social movements to agree to a 1-year moratorium on political actions. Although many state-supported organizations agreed, most independent organizations refused.

There were numerous peaceful, unsanctioned demonstrations by workers and pensioners protesting difficult economic conditions and the nonpayment of wages and pensions. For the most part, law enforcement authorities did not interfere in the demonstrations, and no action was taken against the individuals who participated. However, pensioners were arrested occasionally at the peaceful, monthly pensioners demonstration in front of the city hall in Almaty.

There were also cases in which the Government arrested, detained, fined, and sometimes imprisoned the participants and organizers of unsanctioned rallies. In June 124 persons were summoned to Kentau city court for participating in an unsanctioned protest march calling for payment of back wages. Fourteen persons received prison sentences ranging from 5 to 15 days, two were fined, and the rest received warnings. A Kentau court subsequently stripped two unions of their legal status for holding repeated unsanctioned demonstrations (see Section 6.a.).

In February police in Almaty arrested five participants in an unsanctioned protest organized by the ethnic Kazakh political movement Azat and the antinuclear testing movement Attan. The demonstration was in support of metallurgical workers striking for unpaid wages in southern Kazakhstan. Four of those arrested were convicted of disturbing the peace and received 3-day sentences; the fifth received a warning. In November the Central Elections Commission cited the jail sentence given to Attan leader Amantai Asylbek as its justification for refusing his application to run for president (see Section 3).

Madel Ismailov, leader of the Worker's Movement, was convicted in September 1997 of "active participation in or organization of public disorder" and sentenced to 1 year of "corrective labor." He appealed the sentence, but no action was taken on the case after Ismailov was sentenced in another case to 1 year in prison for insulting the President (see Section 1.e.).

The Constitution provides for freedom of association; however, the Government and the law impose significant restrictions on this right. Organizations, movements, and political parties that conduct public activities, hold public meetings, participate in conferences, or have bank accounts must register annually with the Government. Registration on the local level requires a minimum of 10 members and on the national level, a minimum of 10 members in at least 7 of the 14 oblasts. In addition a registration fee is required, which many groups consider a deterrent to registration. Many groups had difficulties trying to register with local officials. According to the Pokoleniye pensioners movement, registration documents submitted by its affiliate in Ust-Kamenogorsk were rejected on technicalities in September 1997, and officials made the movement pay another application fee.

The Government harassed organizers of a new association called "For Fair Elections." Five leading government opponents who participated in the group's October 2 and 3 meeting in Almaty were convicted of participating in a meeting of an unregistered organization (see Section 3). Approximately 10 law enforcement officials observed and videotaped, but did not disrupt, the proceedings. Group members argued that the meeting was a constituent assembly of a newly formed organization called in order to discuss administrative issues such as registration. The group reported that it applied for registration on October 13, but received no response from the Ministry of Justice, despite a legal requirement for action on registration applications within 15 days.

On October 20, the Medeo district court in Almaty convicted former prime minister Kazhegeldin in absentia of the administrative violation of participating in this meeting. The court assessed a fine of approximately

\$75 (6,000 tenge).

The Constitution prohibits political parties established on a religious basis. The Government has refused to register ethnic-based political parties on the grounds that their activities could spark ethnic violence. The Constitution bans "public associations"--including political parties--whose "goals or actions are directed at a violent change of the constitutional system, violation of the integrity of the republic, undermining of the security of the state (and), fanning of social, racial, national, religious, class, and tribal enmity." Nonetheless, unregistered parties and movements hold meetings and publish newspapers. All of the major religious and ethnic groups have independently functioning cultural centers.

To participate in elections, a political party must register with the Government. Under current law, a party must submit a list of at least 3,000 members from a minimum of 7 oblasts. The list must provide personal information about members, including date and place of birth, address, and place of employment. For many citizens, submitting such personal data to the Government is reminiscent of the tactics of the former Soviet KGB and inhibits them from joining parties. The nationalist Alash Party and the Social Democratic Party have refused to register on the principle that they should not have to submit personal information about their members to the Government. Under the law, members of unregistered parties may run for elected office as individuals, but not as party members.

The manager of an Almaty hotel tried to block an October 20 news conference that was to be held at the hotel to report about former prime minister Kazhegeldin's conviction for participating in a meeting of an unregistered organization (see Section 3). The hotel manager reportedly said that the Government had told the hotel not to permit the press conference. The press conference was held anyway, even after the hotel turned off the lights.

Leading government opponents headed by former prime minister and disqualified presidential candidate Akezhan Kazhegeldin began efforts in December to form the new Republican People's Party. The group held its first congress in Moscow to avoid government harassment directed at Kazhegeldin and other members of the opposition during the run-up to the January 1999 presidential election (see Section 3). According to conference organizers, authorities at the Moscow hotel where the congress was to have been held denied the group access to conference facilities on the eve of the meeting. Organizers said that approximately 10 other Moscow hotels subsequently refused to allow the group to use conference facilities before organizers found a suitable location. Organizers of the congress credibly alleged that Kazakhstani authorities used influence with Russian officials to try to disrupt the congress.

There are no statistics available regarding the number of registered political parties (approximately 25 are registered nationwide). Representatives of the Communist Party and the labor movement report frequent difficulties in registering and reregistering. During the year, the Workers Movement disbanded as a national movement following the imprisonment of Ismailov and the departure of Vin'kov, but its Almaty branch was registered. The Communist Party also was registered.

The Constitution prohibits foreign political parties and foreign trade unions from operating. In addition the Constitution prohibits the financing of political parties and trade unions by foreign legal entities and citizens, foreign states, and international organizations. In January independent trade union leader Leonid Solomin was accused of violating the Constitution by accepting foreign financial support (see Section 6.a.). The case was dismissed in October when the General Prosecutor's office dropped its appeal.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the various denominations worship without government interference. However, the Constitution also requires that the appointment by foreign

religious centers of the heads of religious associations must be carried out "in coordination with the Government," as must the activities of foreign religious associations. The chief of the KNB testified to Parliament in June that preventing the spread of Islamic and Christian "religious extremism" was a top priority of the internal intelligence service. In general the Government does not interfere with the appointment of religious leaders or the activities of foreign religious associations. However, during the year, criminal and deportation proceedings were brought against foreign Muslim missionaries perceived to be teaching "radical fundamentalist Islam." Other foreign missionaries, unwelcome to some Orthodox and Muslim citizens, have complained of occasional harassment by low-level government officials. In particular evangelical Protestants working in NGO's and social services have alleged government hostility toward their efforts to proselytize.

In July the KNB and the General Prosecutor launched a criminal investigation of the activities of Muslim missionaries from Egypt, Sudan, and Jordan in the southern Kazakhstan oblast. Investigators alleged that the activities of the foreign missionaries violated Criminal Code and National Security Law provisions against threatening the national constitutional system. In September the authorities detained and issued deportation orders against six unaccredited Muslim missionaries from Pakistan who planned to attend a religious conference in the Zhambyl region. A Muslim missionary from Uzbekistan reportedly was deported in the latter half of the year for preaching "radical Islamic fundamentalism" in Kyzyl Orda.

In April Almaty police prevented members of the Union of Semirechiye Cossacks dressed in traditional military uniforms from entering the Holy Ascension Cathedral on Orthodox Easter. Law enforcement authorities considered that wearing such uniforms was a violation of the provision in the law on public associations against the creation of "military organizations with military uniforms and special signs." District and appeals courts in Almaty rejected subsequent efforts by the Almaty city prosecutor's office to suspend activities by the Union of Semirechiye Cossacks.

The Islamic mufti and the Russian Orthodox archbishop appeared together several times in public to promote religious and ethnic harmony, usually at the invitation of and with the President.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the right to emigrate and the right of repatriation; both are respected in practice. The new law on national security prohibits persons who had access to state secrets through their work from taking up permanent residence abroad for 5 years after leaving government service. Citizens have the right to change their citizenship, but are not permitted to hold dual citizenship.

According to the Constitution, everyone who is legally present on the territory of the Republic has the right to move freely on its territory and freely choose a place of residence except in cases stipulated by law. This provision formally abolished the "propiska" system of residence permits, a holdover from the Soviet era, and replaced it with a system of registration. However, in practice, citizens still are required to register in order to prove legal residence and obtain city services. Registration in most of the country generally was routine, but it was difficult to register in Almaty due to its relative affluence and local officials' fears of overcrowding. The Government can refuse to register a citizen, just as it did under the propiska system, in order to limit the number of persons who can move to a certain city or area.

There were a few reports of government efforts to restrict the movement of foreigners around the country. Foreigners were detained for wandering into restricted areas that were not clearly marked. Some foreigners reported that they either were denied access or required to pay exorbitant entry fees to ostensibly free national parks. Internal visas are no longer required for foreigners traveling outside

Almaty.

An exit visa is required for citizens who wish to travel abroad, although refusals are rare. There have been reports of some officials demanding bribes for exit visas. It is usually necessary to meet a number of bureaucratic requirements before the exit visa is issued. For example, close relatives with a claim to support from the applicant must give their concurrence. Intending emigrants also must obtain evidence that they have no outstanding financial obligations. Foreigners must have exit visas, although they receive them routinely as part of their entry visa. Foreigners who overstay their original visa, or who did not receive an exit visa as part of their original visa, must get an exit visa from the immigration authorities before leaving. Foreigners staying at least 3 days in the country, regardless of whether they are staying 3 days in any individual city, must register with the local visa registry office. Many have complained that the process is bureaucratically cumbersome. Immigration authorities refused to allow foreigners without proof of registration to leave the country.

The Government accords special treatment to ethnic Kazakhs and their families who fled during Stalin's era and wish to return. Kazakhs in this category are entitled to citizenship and many other privileges. Anyone else, including ethnic Kazakhs who are not considered refugees from the Stalin era, such as the descendants of Kazakhs who moved to Mongolia during the previous century, must apply for permission to return. However, it is the stated policy of the Government to encourage and assist all ethnic Kazakhs living outside the country to return, if they so desire.

The Government cooperates with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. There were no reports of the forced expulsion of refugees. Following the passage of a 1997 migration law and creation of the Agency for Migration and Demography, the Government began in April to register asylum seekers and to determine their status in consultation with the UNHCR. Ethnic Kazakh migrants are automatically eligible for citizenship. Migrants from other Commonwealth of Independent States (CIS) countries are not considered to be refugees as they may travel and settle freely in any CIS country. All non-CIS citizens are considered to be intending immigrants. In practice, however, the Government is tolerant in its treatment of local refugee populations. Only the President can grant political asylum. The issue of the provision of first asylum has arisen, but the Government has not passed legislation and implementing procedures in conformity with internationally recognized norms.

The UNHCR estimated that there were approximately

14,000 forcibly displaced persons in the country (about 6,000 each from Tajikistan and Chechnya and 2,000 from Afghanistan). By October the Government had registered approximately 900 asylum seekers and accorded refugee status to about 10 percent of them. The Government continues to give priority to the return of ethnic Kazakhs in order to increase the percentage of Kazakhs in the overall population and to offset the large-scale emigration of ethnic Russians and Germans. Since independence approximately 155,000 ethnic Kazakhs, mostly from other CIS countries, Iran, Afghanistan, Mongolia, Turkey, China, and Saudi Arabia have immigrated. The Government struggled to find resources for integration programs for these immigrants, some of whom lived in squalid settings.

Agreements between Kazakhstan and Russia that established broad legal rights for the citizens of one country living on the territory of the other, and provided for expeditious naturalization for citizens of one country who moved to the other, entered into force in 1997.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Although the Constitution provides for a democratic government, in practice the Government infringed on the right of citizens to change their government. The Constitution concentrates power in the presidency, granting the President considerable control over the legislature, judiciary, and local government. The Constitution cannot be modified or amended without the consent of the President. In 1995 President Nazarbayev extended his term of office to the year 2000 by referendum without a contested presidential election (which, according to the Constitution then in force, should have been in 1996).

The President appoints and dismisses the Prime Minister and the Cabinet. He has the power to dismiss Parliament and to rule by decree should he so choose. He appoints judges and senior court officials and appoints all regional governors. The President also directly appoints the chairman of the Central Election Commission and the members of the Commission.

On October 7, President Nazarbayev and the Parliament passed, without any prior public notice, a series of 19 constitutional amendments that enabled them on the following day to call for an early presidential election on January 10, 1999. Nazarbayev won the election. Among other changes, the constitutional amendments extended the presidential term of office from 5 to 7 years and lifted the 65-year age limit on government service. (President Nazarbayev will be 65 before the end of his 7-year presidential term beginning in January 1999.) The constitutional amendments also extended the terms of Members of Parliament from 4 to 5 years for the lower house (Majilis), and from 4 to 6 years for the Senate. Government opponents and international observers criticized the short-notice call of early elections because it did not leave enough time for the Government to implement promised electoral reforms and for intending candidates to organize effective campaigns.

The Government imposed onerous requirements on candidates hoping to qualify for the presidential ballot. Candidates were required to submit petitions with approximately 170,000 signatures collected in equal proportions from at least 11 of the country's 14 regions. They also were required to pass a Kazakh-language test and to make a nonrefundable payment of 1,000 times the minimum monthly wage (approximately \$30,000), though an equal sum was then provided to each registered candidate for campaign expenses. Although three candidates, in addition to President Nazarbayev, qualified for the ballot, two of them, Senator Engels Gabassov and Customs Committee Chairman Gani Kasymov, were known as supporters of the President and widely believed to be running at government behest.

Less than a week after the early presidential election was called, the Government resorted to a new amendment to the presidential decree on elections, signed into law in May, that prohibited persons convicted of criminal or administrative offenses from running for public office within 1 year of their conviction. On October 14, a district court in Almaty summoned on less than 24 hours' notice 5 leading government opponents--former prime minister Akezhan Kazhegeldin, Azat (ethnic Kazakh) movement leader Dos Kushim, Pokoleniye Pensioners Movement leader Irina Savostina, Azamat movement co-chairman Petr Svoik, and Tabigat ecological movement leader Mels Yeleusizov--to face charges of participating in the October 2 and 3 meeting of an unregistered organization called For Fair Elections. The court convicted all five. Despite the judgment against him, Kazhegeldin, widely considered the strongest challenger to President Nazarbayev, applied for registration as a candidate in the presidential election. The presidentially-appointed Central Elections Commission (CEC) disqualified his candidacy on October 27 under the May amendment to the presidential decree on elections that serves as the election law. The Supreme Court upheld the disqualification on November 24. The CEC also used the election law amendment retroactively to disqualify the presidential candidacy of Amantai Asylbek, leader of the Attan antinuclear testing movement, because of the 3-day jail sentence he received in February for participating in an unsanctioned demonstration (see Section 2.b.).

The Government harassed the opposition throughout the presidential election campaign. According to

credible reports, government agents repeatedly pressured managers of conference facilities to deny access at the last moment to government opponents who had arranged to use the facilities for meetings and press conferences. When opposition meetings and press conferences did take place, electricity at the facilities was often interrupted. Government attempts to disrupt opposition meetings appeared to have extended beyond national borders when management of a Moscow hotel withdrew permission at the last moment for a December 4 and 5 opposition congress (see Section 2.b). Communist Party leader Serykbolsyn Abdildin, the only candidate from the ranks of the preelection opposition who qualified for the presidential ballot, publicly complained that local officials loyal to the President impeded his attempts to hold campaign rallies and meetings.

Unsolved assaults on Kazhegeldin and two of his advisers appeared to be politically motivated and, government critics alleged, sanctioned by the Government. In October two gunshots of unknown origin were fired at Kazhegeldin on the eve of the press conference at which he announced his presidential candidacy. Unknown assailants beat his press spokesman, Amirzhan Kosanov, and one of his public relations advisers, Yelena Nikitenko (see Section 1.c.). Several days before the attack, officials of the Al-Farabi national university in Almaty forced Nikitenko to resign from the faculty because of her political work. Government officials alleged that the Kazhegeldin campaign staged all three attacks.

Kazhegeldin's chief of staff, Mikhail Vasilenko, was jailed for 3 days in Astana in September after he was arrested while distributing Kazhegeldin's proposed reforms to the election law and Constitution at Parliament (see Section 1.d.). Following the announcement of Kazhegeldin's candidacy, the first deputy chairman of the National Security Committee (KNB) held an unprecedented press conference at which he made admittedly unsubstantiated allegations of financial malfeasance against Kazhegeldin. The tax authorities brought an action against Kazhegeldin during the campaign and, according to credible reports, threatened actions against other government opponents. At a news conference, the Kazhegeldin campaign showed videotape of police repeatedly pulling over Kazhegeldin's car for unspecified "inspections." Kazhegeldin also claimed that border control officials at the Almaty airport tried to prevent him and his family from taking a flight out of the country. An attack on a Kazakhstani employee of a foreign embassy also appeared to be politically-motivated and, human rights observers believe, sanctioned by the Government. On December 22, three men beat the employee outside his apartment building as the employee returned home from work at his regular time. The employee suffered a cracked rib, some internal injuries, and required stitches to close wounds near both eyes. The attackers made no attempt to take the employee's money or other valuables. The absence of robbery as a motive and the fact that the employee's responsibilities included assisting embassy officers in contacts with political opposition and human rights figures suggested that the attack was politically motivated.

The Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE) announced in December that it would not meet the Government's request to send a presidential election observation mission. In its public explanation, ODIHR cited concerns about the exclusion of two opposition candidates, unequal access to the media, and coerced support for President Nazarbayev. ODIHR sent a small election assessment team to report to OSCE on the full election process.

A bicameral legislature took office in January 1996. The lower house (Majilis), consisting of 67 members, was elected directly. Under amendments to the Constitution passed in October, Majilis membership will be increased at the next election by 10 seats. The new seats will be assigned proportionally to political parties based on the percentage of votes they receive nationally (with a minimum vote threshold of 7 percent). The upper house (the Senate), with 42 members, was elected indirectly, by members of oblast and city parliaments, with 7 of its members appointed directly by the President. (The number of Senate seats was reduced in 1997 in accordance with the Government's decision to reduce the number of oblasts from 19 to 14.) The election law requires candidates for both houses to meet minimum age and education requirements, and to pay a nonrefundable registration fee of

100 times the minimum monthly wage (in a by-election in June, this fee was about \$3,000 (240,000 tenge). The election law does not require Majilis candidates to collect a certain number of signatures in order to be placed on the ballot; however, Senate candidates must obtain signatures from 10 percent of the members of the local assemblies in their oblasts in order to be placed on the ballot. Opposition figures, human rights monitors, and OSCE/ODIHR believe that the election requirements, especially the registration fee, are a barrier to participation. The Constitution mandates that participation in elections is voluntary. One of the constitutional amendments passed in October rescinded the requirement that at least 50 percent of eligible voters participate in order to make an election valid. Experts had cited the old requirement as one of the causes of fraud and vote inflation in past elections.

The legislature cannot exercise oversight over the executive branch. However, the Parliament has asserted itself with regard to the budget, rejecting, for example, a presidential austerity proposal to pay only 67 percent of the minimum wage until 2004. Should Parliament fail to pass within 30 days an "urgent" bill brought by the President, the President may issue the bill by decree. While the President has broad powers to dissolve Parliament, Parliament can remove the President only for disability or high treason, and only with the consent of the Constitutional Council, which largely is controlled by the President.

Although the President has the right to legislate by decree, he respected the parliamentary procedures laid out in the Constitution. During the Parliamentary session from September 1997 to June 1998, none of the four bills that originated in Parliament became law. One of the bills, which would have established an independent auditing agency, was reintroduced by Parliament following a presidential veto. Parliamentary activity decreased compared with 1997, when Parliament introduced 19 draft laws, largely due to the move of Parliament and much of the rest of the Government to the new capital, Astana.

In general political parties are very weak, and with the exception of the Communist Party and some of the ethnically-based political movements, they have very little influence outside the former and new capitals, Almaty and Astana, with total membership estimated at about 100,000. The majority of parliamentary deputies are independents; they are active in Parliament, but most support the President and the Government. Parties represented in the Parliament include several pro-presidential parties, the Communist Party, and the Socialist Party. Most opposition leaders decided not to participate in the flawed December 1995 elections and therefore are not represented in the Parliament.

Although most activities of Parliament remained outside public view, the Parliament held some open committee meetings with nongovernmental participants. Topics included the nonpayment of wages and the national educational and health care systems. Draft bills were held closely and published in the press only after passage and signature by the President. Constituent relations were virtually nonexistent, although in August a group of parliamentarians met members of the Pokoleniye pensioners movement and in November a group of parliamentarians took part in a town hall meeting with voters in Shymkent.

In a parliamentary by-election in June in Almaty, local poll officials in approximately one-third of the voting precincts did not allow candidates' representatives and independent observers to observe the vote count. Authorities in the remaining precincts counted the votes openly. Municipal and national election commission officials did not publish precinct-by-precinct tallies or make them available to international observers. Observers also reported the extensive use of mobile ballot boxes, which are hard to monitor, as well as repeated cases of family voting and voting by individuals without identification.

The Constitution significantly constrains the independence of the judiciary. A Constitutional Council replaced the Constitutional Court in August 1995 when the new Constitution was adopted. The President appoints three of its seven members, including the chairman. A two-thirds majority of the Council is

required to overrule a presidential veto. All judges are appointed directly by the President.

According to the Constitution, the President selects governors of oblasts (the "akims"), based on the recommendation of the Prime Minister; they serve at the discretion of the President, who may annul their decisions.

Opposition parties, including the intellectuals' movement Azamat, the Communist Party, the Socialist Party, the ethnic Kazakh movement Azat, the ethnic Slavic movement Lad, and the Workers Movement held an organizational meeting for their new People's Front in February. The movement was disbanded in December. Another attempt to form a unified opposition movement began in December with the formation of the Republican People's Party under the leadership of former prime minister and disqualified presidential candidate Akezhan Kazhegeldin (see Section 2.b.). However, some other opposition figures declined to join and announced the formation of their own parties.

All adult citizens (at least 18 years of age) have the right to vote. Membership in political parties or trade unions is forbidden to members of the armed forces, employees of national security and law enforcement organizations, and judges.

There are no legal restrictions on the participation of women and minorities in politics, but the persistence of traditional attitudes means that few women hold high office or play active parts in political life. At the end of the year, there was one female minister, but no female provincial governors (akims). Of 47 Senate members, 6 are women; of 67 Majilis members, 9 are women.

Although minority ethnic groups are represented in the Government, Kazakhs hold the majority of leadership positions. Non-Kazakhs head only 3 of 14 government ministries. Non-Kazakhs are well represented in the Majilis and the Senate.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Almaty Helsinki Commission and the Kazakhstan Bureau for Human Rights (formerly the Kazakhstan-American Bureau on Human Rights) are the most active of a small number of local human rights organizations. They cooperate on human rights and legal reform issues. Although these groups operated largely without government interference, limited financial means hampered their ability to monitor and report human rights violations. Some human rights observers complained that the Government monitored their movements and telephone calls.

The Government permitted international and foreign nongovernmental organizations (NGO's) dealing with human rights issues to visit the country and meet with local human rights groups as well as government officials. The International Labor Organization, the International Federation of Red Cross and Red Crescent Societies, and the UNHCR have permanent offices in the country. The Organization for Security and Cooperation in Europe (OSCE) in which Kazakhstan is a member, opened an office in Almaty in January 1999. The Constitution forbids "the financing of political parties and trade unions by foreign legal entities and citizens, foreign states and international organizations." In January the independent Confederation of Free Trade Unions and its leader, Leonid Solomin, were charged for the second time within a year with violating this provision (see Section 6.a.).

The Civil Code requires NGO's to register with the Government and most NGO's are registered; however, some continue to operate without legal standing. Although some government officials made an effort to work with domestic and foreign NGO's, others persisted in asserting that foreign NGO's

promote instability. Some NGO's chose not to register because they objected to the requirement of registration in principle or because they did not have the money to pay the registration fee. Others believe that they were not eligible to register because they promoted the interests of one ethnic group or religion and are considered by some to violate the constitutional ban on inciting social, racial, national, religious, class, and tribal enmity. The new Criminal Code that took effect in January criminalized the activity of NGO's that are not registered. Five leading opposition figures were convicted for participating in a meeting of an unregistered NGO, the "For Fair Elections" group (see Sections 1.d., 2.b., and 3).

The Presidential Commission on Human Rights is a consultative body. For the first time the Commission made public its annual report to the President by publishing its report for 1997 on December 29. The report focused almost exclusively on "economic and social rights," for example, the right to a decent standard of living. It concluded that the country consistently abides by human rights principles and suggested that those who blame the Government for social problems should realize that individual well-being ultimately is the responsibility of the individual. The Commission reached out to independent human rights organizations, but made little progress in establishing itself as an ombudsman. In general the Government tended to deny or ignore charges of specific human rights abuses that were levied by human rights monitors and individual citizens. In June the Commission and the U.N. office in Almaty cohosted a human rights round table that produced a public report containing statements by both senior government officials and human rights NGO leaders. In general topics covered were either not specific to Kazakhstan or pertained to Kazakhstani law, not practice. In its report to the President for 1997, the Commission charged that many domestic NGO's are oriented towards developed countries' standards and do not realize that progress towards a market economy and civil society is a slow, gradual process. It said that NGO's sympathetic to "left-wing radicals" have nothing constructive to offer and concluded its section on NGO's by noting that citizens must recognize that "a person's well-being ... is his own responsibility."

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution states that "everyone is equal before law and court. No one may be subjected to any discrimination for reasons of origin, social position, occupation, property status, sex, race, nationality, language, attitude to religion, convictions, place of residence, or any other circumstances." However, the Government does not effectively enforce this provision on a consistent basis. The Government has favored ethnic Kazakhs in government employment and, according to many citizens, in the process of privatizing state enterprises.

Women

According to human rights groups, there is considerable domestic violence against women. A local NGO, the Feminist League, estimates that hundreds of thousands of women are the victims of spousal abuse. Police often are reluctant to intervene, considering it to be the family's business, unless they believe that the abuse is life threatening. The maximum sentence for wife beating is 3 years, but few such cases are prosecuted. The Government has not addressed the problem specifically. Law enforcement authorities reported an adjusted figure of 2,025 cases of rape for 1996. More recent figures were unavailable. The punishment for rape can range from 3 to 15 years. There is very little coverage of rape in the press, and rapes often go unreported. There is no law specifically against spousal rape, which is proscribed under general rape laws.

Women's rights groups and the International Organization for Migration report anecdotal evidence of trafficking in women from Kazakhstan. No observers have tried to quantify the extent of trafficking and the Government has no programs to target trafficking in women.

There is no legal discrimination against women, but traditional cultural practices limit their role in everyday society and in owning and managing businesses or real property. The President and other members of the Government speak in favor of women's rights and official state policy (adopted in March 1997) states that constitutional prohibitions on sex discrimination must be supported by effective government measures. Women are severely underrepresented in higher positions in government and state enterprises and overrepresented in low-paying and some menial jobs. Women have unrestricted access to higher education. Approximately 30 women's rights organizations are registered, including the Feminist League, Women of the East, the Almaty Women's Information Center, and the Businesswomen's Association.

Children

The Government is committed in principle to children's rights, but as in many other areas, budget stringencies and other priorities severely limit its effectiveness in dealing with children's issues. Education is mandatory through the eleventh grade, although students may begin technical training after the ninth grade. There is no societal pattern of abuse against children. Rural children normally work during harvests (see Section 6.d.).

People with Disabilities

Citizens with disabilities are entitled by law to assistance from the State. There is no legal discrimination against people with disabilities, but in practice, employers do not give them equal consideration. There are laws mandating the provision of accessibility to public buildings and commercial establishments for the disabled, but the Government does not enforce these laws. Disabled persons are a low priority for the Government. Mentally ill and mentally retarded citizens can be committed to institutions run by the State. These institutions are poorly run and inadequately funded. The NGO, Kazakhstan Bureau for Human Rights, reported that the Government provides almost no care for the mentally ill and mentally retarded due to a lack of funds.

National/Racial/Ethnic Minorities

The population is between 16 and 17 million and consists of approximately 45 percent Kazakhs and 35 percent ethnic Slavs (Russians, Ukrainians, Belorussians, and others) with many other ethnic groups represented. In 1997 for what appeared to be political reasons, the Government announced that ethnic Kazakhs composed 51 percent of the population; most neutral observers agree that this figure is not accurate.

The Government continued to discriminate in favor of ethnic Kazakhs in government employment, where ethnic Kazakhs predominate, as well as in education, housing, and other areas. However, the Government has continued to back away from its "Kazakhification" campaign of the first year of independence (1991-1992). President Nazarbayev has emphasized publicly that all nationalities are welcome, but many non-Kazakhs are anxious about what they perceive as expanding preferences for ethnic Kazakhs. Many ethnic Kazakhs believe that such preferences are needed to reverse 200 years of discrimination. In April President Nazarbayev stated that some 1.5 million Russians and some 800,000 Germans had emigrated to date. He argued that many of these persons were descended from deportees and had chosen to return to their ancestors' lands.

Most of the population speaks Russian; only about one-half of ethnic Kazakhs speak Kazakh fluently. According to the Constitution, the Kazakh language is the state language. The Constitution states that the Russian language is officially used on a basis equal with that of the Kazakh language in

organizations and bodies of local self-administration. Some ethnic Russians believe that Russian should be designated as a second state language. The Government is encouraging more education of children in the Kazakh language, but has done little to provide Kazakh-language education for adults. A 1997 language law intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages has not been funded sufficiently to make Kazakh language education universal. In 1997 the Parliament committed itself to compile a list of positions requiring Kazakh language fluency but at year's end had not completed the task.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the Labor Code provide for basic worker rights, including the right to organize and the right to strike; however, the Government at times infringed on worker rights. Activist unions came under government pressure for holding unsanctioned demonstrations and marches. The courts dissolved two unions in June for violating laws against unauthorized demonstrations, marches, and rallies.

The draft Labor Code before Parliament was withdrawn in 1997. The Government directed the Ministries of Justice and Labor to draft a new code, but by year's end it was not complete.

Most workers remained members of state-sponsored trade unions established during the Soviet period, when membership was obligatory. At most enterprises, the state-sponsored unions continued to deduct 1 percent of each worker's wage as dues. The state unions under the Communist system were, and for the most part still are, organs of the Government and work with management to enforce labor discipline and to discourage workers from forming or joining independent unions.

The law gives workers the right to join or form unions of their choosing and to stop the automatic dues deductions for the state unions. The Confederation of Free Trade Unions (CFTUK, formerly the Independent Trade Union Center of Kazakhstan) claims membership of about

250,000; however, the actual number of independent trade union members is estimated to be much lower. The state-sponsored Federation of Trade Unions claims 4 million members; however, the figure is too high. To obtain legal status, an independent union must apply for registration with the local judicial authority at the oblast level and with the Ministry of Justice. Registration is generally lengthy, difficult, and expensive. The decision to register a union appears to be arbitrary, with no published criteria. No unions were registered or denied registration during the year. The two major independent trade union confederations are registered. Judicial authorities and the Ministry of Justice have the authority to cancel a union's registration, as a provincial court did in Kentau.

The law does not provide mechanisms to protect workers who join independent unions from threats or harassment by enterprise management or state-run unions. Members of independent unions have been dismissed, transferred to lower paying or lower status jobs, threatened, and intimidated. According to independent union leaders, state unions work closely with management to ensure that independent trade union members are the first fired in times of economic downturn.

Unions and individual workers exercised their right to strike during the year, primarily to protest the nonpayment of wages and in an attempt to recover back wages owed to workers. Nonpayment of wages continued to be the priority issue for workers. According to the law, workers may exercise the right to strike only if a labor dispute has not been resolved by means of existing conciliation procedures. In addition the law requires that employers be notified that a strike is to occur no less than 15 days before

its commencement. There were numerous unsanctioned strikes throughout the country to protest the nonpayment of wages. In 1997 workers at a phosphate mining enterprise in Zhanatas began a strike to protest nonpayment of wages since 1996. Strike actions included blocking rail lines into Zhanatas. In January more than 100 of the workers began a hunger strike, which was called off when 1 worker, Zhumagali Yegentayev, died of starvation in February.

In June the Southern Kazakhstan oblast court legally dissolved two independent unions representing striking workers from the Archpolimetal metallurgical plant in Kentau. The court order found that the unions had "systematically and flagrantly violated" laws against unauthorized demonstrations, marches, and rallies. Since 1992 the unions had staged demonstrations, marches, strikes, and hunger strikes to protest chronic nonpayment of wages. Following their dissolution, union leaders and CFTUK leader Leonid Solomin announced that the unions were forming a new political party to represent workers' interests. The Supreme Court did not rule on the legality of the protest march against the Achpolimetal plant in October 1997, but the wages in question were paid. New arrears, however, have accumulated.

The workers involved in the May 1997 strike at the Kapchagai power company were paid their arrears, but it is not clear whether they were paid because of a favorable court decision.

As a result of their inability to pay salaries, many enterprises continued to pay wages in scrip rather than in cash, a practice at odds with International Labor Organization Convention 95 on the protection of wages other than in the legal currency without the express consent of the workers. Enterprise directors claimed that the enterprises were not being paid in cash by their traditional trading partners in other parts of the former Soviet Union, which also were experiencing cash flow difficulties as a result of the general economic crisis. The scrip often was not accepted at stores or was accepted only at devalued levels.

By law unions freely may join federations or confederations and affiliate with international bodies. Most independent trade unions belong to the CFTUK, headquartered in Almaty. The Independent Miners Federation of Kazakhstan and the State Miners' Union of Karaganda are members of the Miners' International Federation. Unions belonging to the CFTUK are not members of international federations but are able to maintain contacts with foreign trade union federations.

Independent unions complain about a provision in the Constitution that forbids the financing of trade unions by foreign legal entities and citizens, foreign states, and international organizations. Since independence in 1991, independent trade unions have received financial assistance from the AFL-CIO's Free Trade Union Institute (FTUI). Most of this assistance ended in 1996 when funding was reduced and FTUI now provides no funding. Independent trade unions have sought new means of support; some associations of trade unions were able to receive financing from foreign sources by registering as "public organizations" rather than labor unions.

In January CFTUK leader Leonid Solomin was summoned to court for the second time in a year on charges of violating the constitutional ban on obtaining financial support from foreign sources. The case was postponed repeatedly and was dismissed in October when the General Prosecutor's office dropped its appeal. (A case brought in 1997 against Solomin also was dropped due to lack of evidence.)

b. The Right to Organize and Bargain Collectively

There are significant limits on the right to organize and bargain collectively. Collective bargaining rights are not spelled out in the law, although in some instances unions successfully negotiated agreements with management. If a union's demands are not acceptable to management, it may present those demands to an arbitration commission composed of management, union officials, and independent

technical experts. Unions routinely appealed to arbitration commissions. There is no legal protection against antiunion discrimination.

There are no export processing zones. Several free economic zones enjoy all the privileges of export processing zones, as well as other tax privileges and abatements, but labor conditions there appear to be no different than elsewhere in the country.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced labor except "at the sentence of the court or in the conditions of a state of emergency or martial law," and it is generally not known to occur. However, in the north some persons still were required to provide labor or the use of privately owned equipment with no, or very low, compensation to help gather the annual grain harvest.

The Constitution does not prohibit specifically forced and bonded labor by children, but such practices are not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum age for employment is 16 years. A child under age 16 may work only with the permission of the local administration and the trade union in the enterprise in which the child would work. Such permission rarely is granted. Although the Constitution does not prohibit specifically forced and bonded labor by children, there were no reports of such practices (see Section 6.c.). Abuse of child labor is generally not a problem, although child labor is used routinely in agricultural areas, especially during harvest season.

e. Acceptable Conditions of Work

In 1997 the Government resumed setting a minimum wage. The minimum monthly wage was approximately \$30 (2,440 tenge) during the last quarter of the year. This amount does not provide a decent standard of living for a worker and family and fell far short of the approximately \$45 ((3,644 tenge)) a month calculated by the Kazakhstan Institute of Nutrition as necessary for minimum subsistence for one person.

The legal maximum workweek is 48 hours, although most enterprises maintained a 40-hour workweek, with at least a 24-hour rest period. The Constitution provides that labor agreements stipulate the length of working time, vacation days, holidays, and paid annual leave for each worker.

Although the Constitution provides for the right to "safe and hygienic working conditions," working and safety conditions in the industrial sector are substandard. Safety consciousness is low. Workers in factories usually do not wear protective clothing, such as goggles and hard hats, and work in conditions of poor visibility and ventilation. Management largely ignores regulations concerning occupational health and safety, which are enforced by the Ministry of Labor and the state-sponsored unions. Workers, including miners, have no legal right to remove themselves from dangerous work situations without jeopardy to continued employment.

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