



Kazakhstan

Country Reports on Human Rights Practices - [2002](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 31, 2003

The Constitution of Kazakhstan concentrates power in the presidency. President Nursultan Nazarbayev was the dominant political figure. The Constitution permits the President to control the legislature and judiciary, as well as regional and local governments; changes or amendments to the Constitution required the President's consent. President Nazarbayev was elected to a 7-year term in a 1999 election that fell far short of international standards. The law allows the President to maintain certain policy prerogatives and a seat on the Security Council after he leaves office. The Constitution limits Parliament's powers by precluding it from appropriating state money or lowering taxes without executive branch approval. However, Members of Parliament (M.P.s) had the right to introduce legislation, and some bills introduced by M.P.s have become laws. Parliamentary elections in 1999 were an improvement over the presidential election but fell short of the country's commitments as a member of the Organization for Security and Cooperation in Europe (OSCE). In 2001 experimental local akim (county-level leader) elections were held in some rural areas. Parliamentary by-elections in December were marked by serious irregularities; preliminary results of the elections conflicted with independent exit polling. The judiciary remained under the control of the President and the executive branch.

The Committee for National Security (KNB) was responsible for national security, intelligence, and counterintelligence. The KNB also played a law enforcement role in border security, internal security, and antiterrorism efforts and oversaw the external intelligence service, Barlau. The Chairman of the KNB reported directly to the President. The Ministry of Interior (MVD) supervised the police, who were poorly paid and widely believed to be corrupt. Members of the security forces committed human rights abuses.

The country undertook significant market-based economic reforms since independence: many businesses and industries were privatized, restrictions on currency convertibility removed, and wage rates were allowed to be determined by market forces. The population was approximately 14.8 million. The economy was mainly driven by revenue from the country's vast energy and mineral resources. Agriculture, which represented approximately 10 percent of gross domestic product (GDP), was slower to reform because the Government had not established a legal basis for private ownership of agricultural land. The average monthly wage in the second quarter of the year was \$131. During the year, about 29.4 percent of the population lived below the minimum subsistence level, compared with 32 percent in 2001. Real GDP growth was estimated at 9.5 percent, while inflation was 6.6 percent during the year. The official unemployment rate was 8.3 percent.

The Government's poor human rights record worsened, and it continued to commit abuses. The Government severely limited citizens' right to change their government and democratic institutions remained weak. Members of the security forces mistreated detainees on some occasions. Police tortured, beat, and otherwise mistreated detainees. Government officials acknowledged that abuses by police constituted a serious problem. Prison conditions remained harsh; however, the Government took an active role in efforts to improve prison conditions and the treatment of prisoners. The Government continued to use arbitrary arrest and detention, and prolonged detention was a problem. Corruption in the judiciary remained deeply rooted. Amendments to several laws governing the authority of prosecutors further eroded judicial independence by, among other provisions, allowing prosecutors to suspend court verdicts. The Government infringed on citizens' privacy rights, and new legislation granted prosecutors broad authorities to monitor individuals.

There were instances when the Government harassed independent media, and as a consequence, many journalists practiced self-censorship. Several opposition news outlets were attacked and/or had operations suspended during the year. The Government restricted freedom of assembly and association. The Government limited democratic expression and continued to impose restrictions on the registration of political parties. Although the Constitutional Council deemed unconstitutional restrictive amendments to the Religion Law in April, at times

local authorities harassed nontraditional religious groups or their members. Some human rights observers reported that the Government monitored their activities.

Violence against women, including domestic violence, was a serious problem. There was discrimination against women, persons with disabilities, and ethnic minorities. The Government discriminated in favor of ethnic Kazakhs. Child labor persisted in agricultural areas. Trafficking in women and children, primarily teenage girls, was a problem, although the Government continued to take steps to address the problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings by the Government or its agents; however, there were reports that police used excessive force that led to some deaths of persons in and out of custody. Information on deaths in the military as a result of mistreatment was unavailable at year's end.

One case of possible death due to excessive force by the security services was reported. On May 5, 18-year-old Andrey Cherniy died after allegedly being beaten by a Pavlodar police captain at a local disco where the police captain was on duty. Local press reported that Pavlodar police denied that the beating took place, although an eyewitness continued to maintain it did. In June police closed their investigation on the basis of conflicting eyewitness testimony and lack of forensic evidence.

There were no reports of killings in custody. During the year, the Prosecutor General reopened the case in the 2001 death of Kanat Biyembetov, who died in a Turkestan hospital following his arrest by the KNB on suspicion of being a member of an extremist group. According to signed statements by Biyembetov and his family, arresting KNB officers beat him. The KNB officers alleged that Biyembetov sustained his injuries when he jumped from a moving police car. The Government reported that Turkestan district KNB officers had violated the law and two officers were fired. No criminal charges were brought against them. The case had been closed by the MVD, but the Prosecutor's investigation continued at year's end.

There were deaths of some persons while detained or in custody. Many of these were from disease while in prison.

On June 21, 25-year-old Leila Bayseitova, the daughter of a prominent opposition journalist, died in an Almaty hospital after being taken there from police custody. She was arrested on June 16 on drug possession charges. A police investigation concluded that she tried to hang herself in her jail cell as a result of a severe drug withdrawal reaction (see Section 2.a.).

On September 11, 28-year-old Vladislav Shishov died while being held in police custody in Pavlodar. Police originally maintained that he had died suffering from violent seizures, but in December police arrested two of Shishov's cellmates for beating him continuously for 4 days. Criminal negligence charges were also filed against a medical assistant on duty at the time of death, who admitted responsibility, and the head of the detention center, who denied the charge.

In 2001 a police sergeant was acquitted on charges of inflicting bodily harm in the 2000 death of Boris Bekov. The prosecutor appealed to the Supreme Court, which ordered the district court in July to retry the case, considering evidence excluded from the first trial. The police sergeant's lawyer maintained that other officers should have been charged as well.

Additional information became available during the year about the 1999 beating death of 24-year-old Nurzhan Saparov, who was in custody following his arrest for disturbing the peace in Makhtaaralsk (Southern Kazakhstan Oblast). According to the Government, four police officers were imprisoned in 2000 for illegal detention and the fatal beating. Saparov's mother disputed this information, saying one officer was freed after serving only 2½ years of a 9-year sentence for abuse of power and premeditated murder, while three others were sentenced to 3 years probation for misconduct but then amnestied immediately.

In the 2001 killing of Dilbirim Samsakovaya, director of a charitable Uighur foundation and a well-known Uighur community activist, police reported in April that a suspect had been identified, but not apprehended. Police stated earlier that they believed that the killing was related to Samsakovaya's personal or business dealings.

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, police tortured, beat, and otherwise abused detainees, often in order to obtain confessions. Prison officials beat and mistreated prisoners.

Government officials acknowledged the seriousness of the problem of police abuse and undertook some efforts to combat it, for example by punishing violators through the criminal justice system. According to a Vice Minister of Interior, 100 criminal charges were placed against police officers for the unlawful use of physical force against citizens during the first 8 months of the year. According to the Deputy Prosecutor, 38 of these were new cases filed during the year. Human rights observers believed that these cases covered only a small fraction of the incidents of police abuse of detainees, which they characterized as routine. Training standards and pay for police were very low, and individual law enforcement officials often were supervised poorly. Law enforcement officers participating in a government conference on pretrial detention facilities in 2001 noted that beatings by officials were common in such facilities (see Section 1.d.).

On December 21, the President signed the Law on Amendments and Additions to the Criminal, Criminal Procedure, and Criminal Executive Codes which expanded the definition of torture and criminalized the deliberate infliction of physical or psychological suffering by an investigator or other official aimed at extracting a confession. The law was developed with assistance from human rights groups. The law, which had been submitted to Parliament in September, amended the Criminal Code to provide for more extensive use of alternative sentencing by reclassifying punishment requirements for more than 100 crimes.

In an April interview that appeared in the official press, the Deputy Prosecutor in Pavlodar Oblast (province) cited specific instances where police had resorted to beatings and torture. In one case, two officers shocked a suspect with electric cables to force a confession after they had planted evidence on him. One of the officers was sentenced to 5 years in prison and the other escaped. A second case cited the use of suffocation as an interrogation technique; the police officer involved was sentenced to 3 years in prison. The names of the victims of these incidents were not disclosed.

On May 5, 18-year-old Andrey Cherniy died after allegedly being beaten by a Pavlodar police captain some days before at a local disco where the police captain was on duty (see Section 1.a.).

During the year, the Prosecutor General reopened the case in the 2001 death of Kanat Biyembitov after his arrest by the KNB on suspicion of being a member of an extremist group (see Section 1.a.).

Army personnel continued to subject conscripts to brutal hazing, including beatings and verbal abuse. No statistics were available on the extent of the problem. In 2000 the Government began a program to improve the training of military forces on social and legal issues in order to reduce hazing. The Army punished violators of its antihazing policy, and the Government occasionally took action against officials charged with abuses, often levying administrative sanctions such as fines on those found guilty. In October an official TV station reported a September beating of an Army private at a military unit in Pavlodar. The hospital where he underwent surgery for kidney damage provided him with documents attesting to his injury after two Mazhilis deputies intervened. It is unclear whether the private filed a complaint. In November the press reported several military court prosecutions for hazing in Aktobe Oblast; the names of the military officials involved were not disclosed.

Prison conditions remained harsh and sometimes life threatening, although there were some signs of improvements during the year. Some instances of mistreatment occurred in pretrial detention facilities and in prisons. Guards were poorly paid and often did not have sufficient experience to supervise large groups of prisoners. Violent crime among prisoners was common. During the year there were approximately 65,000 prisoners in facilities designed to hold at least 1,000 fewer persons. A general amnesty announced in late 2001 for the 10th anniversary of the country's independence released over 10,000 persons from prisons during the year, while even more did not serve terms for which they were sentenced.

Prisons remained overcrowded. Prisoners were housed in close proximity, barracks-style facilities. The head of the Criminal Corrections Committee in the Ministry of Justice said in July that government funds were allocated to build

new correctional facilities with prison cells. Facilities rehabilitated with government funds included maximum-security penitentiaries in Zarechniy (Almaty Oblast) and Uralsk; a general-security penitentiary in Zhambyl Oblast; and a juvenile facility in Karaganda Oblast. A new women's and a new juvenile penitentiary in Eastern Kazakhstan Oblast also opened during the year. Reconstruction continued at a general-security penitentiary in Pavlodar Oblast and a juvenile facility in Aktau. Fifty percent of the prison population served their terms in facilities that, contrary to the law, were not near their places of residence.

In the past several years, the adequacy of prison diets and availability of medical supplies improved. In addition, the Government initiated training programs for prison medical staff. There were five tuberculosis colonies and three tuberculosis hospitals for prisoners. While the incidence of tuberculosis stabilized, HIV and AIDS was a growing problem. Prisoners were permitted to have visitors. The number and duration of visits depended on the security level of the prison and the type of sentence received. This could range from unlimited visits of short- (3 hours) and long-term (up to 3 days) duration for some prisoners to two each of short- and long-term duration a year for prisoners at maximum-security facilities. Prisoners were permitted to use telephones.

On January 1, control of the prison system moved to the Ministry of Justice from the MVD, in accordance with international standards. The Ministry of Justice has been active in improving prison conditions since the transfer, including through human rights training for its employees in each oblast, an extensive rehabilitation program of facilities, and cooperation with international organizations. However, control of pretrial detention facilities remained with the MVD. The Minister of Interior stated in a September interview that such facilities should not be transferred to the Ministry of Justice for some time, since they were a key tool of investigators in uncovering crimes. The head of the Criminal Corrections Committee responded that investigators would still have access to these facilities under the Ministry of Justice, and that the guards in such facilities were not investigators.

Reported incidents of self-mutilation in prisons to protest conditions declined during the year. Government statistics on self-mutilation generally matched information available to NGOs and human rights monitors. According to the head of the prison system, there were 14 such cases in the first half of the year, compared with 100 in 2001. Statistics for the entire year were not yet available. The MVD did not provide similar statistics for pretrial detention facilities that remained under its control.

On April 8, 28 inmates at a Karaganda pretrial detention facility slashed their abdomens to protest their transfer to the Dolinka 151/7 maximum-security penitentiary in the oblast, where they reportedly believed the rights of prisoners were not respected. In May three inmates at Dolinka also slashed their abdomens. In the former incident, the oblast prosecutor and the MVD initiated an investigation. The prison warden was reportedly fired and the regional prison director punished for negligence as the result of that investigation.

In August approximately 70 inmates at Juvenile Penitentiary 163/3 in Aktobe rioted to protest the failure of the prison administration to investigate the suicide of an inmate who had repeatedly complained of beatings by prison officials. To resolve the riot, the head of the facility was removed from his position and the administration promised to launch an investigation. The investigation reportedly led to the firing of the prison warden and punishment of the regional director for the prison system for negligence.

The Government was active in pursuing penal reform and projects to improve prison conditions. During the year, the Government, together with the OSCE and the international NGO Penal Reform International (PRI), continued projects providing medical and human rights training to prison officials. The Government, in cooperation with the PRI and the OSCE, expanded the Pavlodar prison personnel training project to all of the country's oblasts. The Government, again in conjunction with OSCE, held seminars during the year for the directors of pretrial detention facilities in the oblast seats of Kyzyl-Orda and Aktobe and the cities of Astana and Almaty on international standards at such facilities. The series of seminars began in late 2001 with a session in Pavlodar.

The prison (Criminal Corrections) system under the Ministry of Justice consisted almost exclusively of dormitory-style penitentiaries (including general and maximum-security facilities, and women's and juvenile facilities); there was also one maximum-security prison. There were separate facilities for men and women, and juveniles were held separately from adults. There were no special prisons for political prisoners. The MVD administered both pretrial detention facilities and police detention facilities, which were separate from facilities for convicted criminals administered by the Ministry of Justice.

Although there was no known statutory requirement, human rights observers and journalists wishing to visit prisons must receive authorization; observers and journalists generally were allowed access to penal colonies, except during protests. Access to pretrial detention centers, which were controlled by the MVD, sometimes was denied. Prison administrators were hesitant to allow civilians into the maximum-security facilities for reasons of personal security. The Kazakhstan International Bureau for Human Rights and Rule of Law visited men's, women's, and

juveniles' facilities during the year.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, arbitrary detention remained a problem. In a series of seminars on pretrial detention facilities held by the Government with participation from the OSCE, the Bureau for Human Rights, and PRI, law enforcement officials stated that cases of violation of detainees' rights and illegal detentions were common.

The Government arrested and detained government opponents and critics, sometimes for minor infractions of the law such as unsanctioned assembly (see Section 2.b.).

Oleg Okhulkov, a lawyer known to provide legal assistance to opposition figures, was held in pretrial detention from December 2000 until his conviction on April 16 for fraud in connection with a civil suit. The Kazakhstan International Bureau for Human Rights filed an appeal with the Prosecutor General to reconsider the case; that appeal was denied in December. Okhulkov's time in pretrial detention was counted toward his 5-year prison sentence.

The Constitution provides that arrests and detentions may occur only with the sanction of a court or a prosecutor. Human rights observers alleged that police routinely failed to register the name of a person arrested in order to extend the maximum 72-hour period that a person could be held without the approval of the prosecutor. The official Russian-language press reported in 2001 on an investigation into detentions by the Zhambyl Oblast Prosecutor General's Office. The office found that oblast police illegally detained more than 3,500 persons and that in some cases the registration logs of detainees were falsified. Disciplinary action reportedly was taken against police officers who were found at fault.

The Constitution also provides that 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 (see Section 1.e.). While this right generally was respected in practice, human rights observers alleged that law enforcement officials dissuaded detainees from seeing an attorney or gathered evidence through preliminary questioning before the person's attorney arrived and the formal interrogation began. Police were not required under the law or in practice to inform detainees that they had the right to an attorney.

A bail system exists, but was rarely used. Individuals generally remained in pretrial detention until their trial. The Deputy Prosecutor stated that 56 persons were released on bail in the first 8 months of the year, compared with 73 during 2001.

The law sanctions pretrial detention. According to the Constitution, police may hold a detainee for 72 hours before bringing charges. The Criminal Procedure Code allows continued detention for much longer periods with the approval of the Prosecutor General. Lower-ranking prosecutors may approve interim extensions of detention. The Criminal Procedure Code allows persons to be held for up to 1 year in pretrial detention facilities after they have been charged and were awaiting trial, with the sanction of the prosecutor. There were improvements in the respect for time limits on detentions, although individuals could still be held for weeks or months.

The MVD administered pretrial detention centers. Local human rights NGOs generally had access to pretrial detention facilities; however, there were reports of some individuals who had difficulty gaining access. Conditions and treatment in pretrial facilities remained harsh, although the Ministry actively participated in training seminars on international human rights standards for the directors of such facilities. There were more than 14,000 persons in pretrial detention centers during the year, several thousand fewer than in previous years. In September the Minister of Interior stated that, unlike the prisons, pretrial detention facilities should not be transferred to the Ministry of Justice for some time because investigators rely on such facilities to gather evidence (see Section 1.c.).

The Constitution prohibits forced exile, and the Government did not employ it.

e. Denial of Fair Public Trial

The court system's independence was compromised by legislative, administrative, and constitutional arrangements that in practice subjugate the judiciary to the executive branch of government. On August 9, new legislation covering the authority of prosecutors went into effect. The new law grants a quasi-judicial role to the Prosecutor General by, among other provisions, allowing him and his deputies to suspend court decisions. There was no time period specified for referral back to the court for a retrial. By allowing the Prosecutor General to suspend court

decisions without specifying a time period for mandatory referral back to the court, the new law further undermined the independence of the judiciary.

Corruption was evident at every stage and level of the judicial process. Lawyers and human rights monitors alleged that judges, prosecutors, and other officials solicited bribes in exchange for favorable rulings in nearly all criminal cases. Nonetheless, judges were among the most highly paid government employees. District court judges earned approximately \$300 (45,540 tenge) per month and oblast court judges earned almost \$500 (75,900 tenge) per month; Supreme Court judges could earn more than twice that. According to a November 2001 poll conducted by the Association of Political Scientists and Sociologists, only 17 percent of respondents described the court system as completely or partly free of corruption.

There are three levels in the court system: Local, oblast, and the Supreme Court. Local courts try less serious crimes, such as petty theft and vandalism. Oblast courts handle more serious crimes, such as murder, grand theft, and organized criminal activities. The oblast courts also may handle cases in rural areas where no local courts were 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 were also military courts.

According to the Constitution, the President proposes to the upper house of Parliament (the Senate) nominees for the Supreme Court. Specifically nominees were recommended by the Supreme Judicial Council, which includes the chairman of the Constitutional Council, the chairman 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 was based on recommendations from the Qualification Collegium of Justice, an institution made up of deputies from the Mazhilis, judges, public prosecutors, legal experts, and Ministry of Justice officials. The President appoints the Collegium chairman.

Under the law judges were appointed for life, although in practice this means until mandatory retirement at age 65. Procedures to remove judges were established by a December 2000 law, which specifies that the Chairman of the Supreme Court can initiate disciplinary cases against judges; Oblast Court Chairmen may initiate the procedure for judges within an oblast. Judicial collegiums review the cases and can recommend dismissal. Dismissal decisions were made by presidential decree, except in cases of members of the Supreme Court, for whom a presidential proposal to dismiss must be confirmed by the Senate. The law lists the grounds for which a removal action can be taken.

The Constitution provides for the Constitutional Council to rule on election and referendum challenges, to interpret the Constitution, and to determine the constitutionality of laws adopted by Parliament. The President directly appointed three of its seven members, including the chairman, and had the right of veto over Council decisions. The Council could overturn a presidential veto if at least two-thirds (five) of its members voted to do so. Therefore, at least one presidential appointee had to vote to overturn the President's veto for the Council to overrule the President. Citizens did not have the right to appeal to the Council regarding the constitutionality of government actions, although they were allowed to make such appeals to the former Constitutional Court. Under the Constitution, only the President, chairman of the Senate, chairman of the Mazhilis, Prime Minister, one-fifth of the members of Parliament, or a court of law may appeal to the Constitutional Council. The Constitution states that a court shall appeal to the Council if it "finds that a law or other regulatory legal act subject to application undermined the rights and liberties of an individual and a citizen."

The Constitution and the law establish the necessary procedures for a fair trial; however, trials often were not fair in practice. Trials were 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 had to be protected. The Constitution gives defendants the right to counsel and states that for those who cannot afford an attorney, the Government must provide one free of charge. However, there was no system of public defenders, and as a consequence lawyers were reluctant to take state-assigned cases when the Government often did not provide payment for their services. A Ministry of Justice official acknowledged that access to lawyers was a serious problem during a 2001 conference and said that a system of public defenders was being developed. According to the Constitution, defendants also have the right to be present at their trials, the right to be heard in court, and the right to call witnesses for the defense.

Defendants enjoyed a presumption of innocence, were protected from self-incrimination, and had the right to appeal a decision to a higher court. Legal proceedings were 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 were generally respected.

A Supreme Court interpretive decision during the year began requiring courts to base their legal reasoning on arguments presented by both the defense and prosecution, in accordance with the law. The Court had found a disproportionately high volume of written court decisions based only on the prosecution's case.

The Government selectively prosecuted political opponents. Two founding members of the Democratic Choice for Kazakhstan (DVK) movement were arrested in late March (see Section 2.b.). Both underwent trials during the summer and were convicted. Mukhtar Ablyazov, former Minister of Energy, was convicted by the Supreme Court of abuse of power and sentenced to 6 years in prison. Galymzhan Zhakiyanov, former Akim (Governor) of Pavlodar Oblast, was convicted on corruption charges in late July and sentenced to 7 years in prison. A minister also was arrested and lost his job during the year on suspicion of corruption; unlike Ablyazov and Zhakiyanov, he remained free on his own recognizance while a criminal investigation was carried out. International organizations and foreign governments, while not commenting on the guilt or innocence of either defendant, criticized the timing of the government actions. The arrests came years after the alleged crimes were committed, but only months after Ablyazov and Zhakiyanov founded an opposition political movement. In a televised appearance on September 20, President Nazarbayev stated that corrupt officials "rush to set up political parties in order to use them as cover."

Observers at the trials reported that both the judicial process and the judges themselves, particularly in the case of Zhakiyanov, heavily favored the State's case. The force of subpoena during the trials only applied to prosecution witnesses and many of the witnesses, mainly government officials, stated during testimony in court that they had been intimidated during the investigation by the threat of legal action. Many witnesses also contradicted in court their testimony during the investigations. Most motions filed by the defense were denied.

Zhakiyanov was transferred to a prison facility in Kostanay Oblast in September. He and Ablyazov remained imprisoned at year's end. President Nazarbayev stated before the trials began that he would consider exercising his constitutional power of pardon should the courts find them guilty and should they ask him for it. Local human rights groups lobbied international human rights organizations extensively to have Zhakiyanov and Ablyazov declared political prisoners.

There were no other reports of political prisoners.

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

The Constitution prohibits such actions; however, the Government occasionally 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; however, the limitation of this right was allowed in cases and according to procedures directly established by law. Laws provide that only the Prosecutor can approve limitations of these rights when they are necessary for investigative purposes. Courts may hear an appeal on such decisions by prosecutors, but cannot issue an immediate injunction to cease the limitation of rights.

New legislation on prosecutors, enacted on August 9 after a Constitutional Council review upon the request of 24 parliamentary deputies, expanded the authority of prosecutors to limit citizens' constitutional rights. The KNB, Ministry of Interior, Financial Police, and other agencies, with the concurrence of the Prosecutor General's Office, maintained their authority under the new law to infringe on the secrecy of writings, telephone conversations, telegraphic communications, and postal dispatches, as well as the inviolability of the home. The new law expanded that list to include access to confidential bank records, the freezing of bank assets, and explicit authorization to record conversations secretly and to wiretap and record communications by telephone and other devices. The Criminal Procedure Code continued to allow for investigative measures affecting the legally protected secrecy of telephonic conversations without a prosecutor's warrant only in certain urgent cases; in such cases, the Prosecutor is to be notified of the interception of conversations within 24 hours. The new law added the explicit definition of methods.

On occasion, government opponents reported that the Government monitored their movements and telephone calls. In one such instance, opposition activist Nurbulat Masanov was sued for libel after a tape originating from an alleged wiretap on his cellular phone was distributed. In June an Almaty court found Masanov guilty of slander based on comments from the tape; he was ordered to pay a fine of \$65 (10,000 tenge) and publish an apology. Masanov's appeals, which went up to the Supreme Court, were denied and a criminal contempt case opened against him in August for refusal to publish the apology. At a 2001 press conference, Masanov claimed that his telephone had been wiretapped for 2 years.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution and the Media Law provide for freedom of speech and of the press; however, throughout the year, the Government used a variety of means, including criminal and administrative charges, and, observers reported, the use of physical attacks and vandalism to silence its critics. As a consequence, many journalists practiced self-censorship.

The Media Law reaffirms the constitutional provision for free speech and prohibits censorship; however, the Media Law enabled the Government to restrict media content. For example, amendments enacted in 2001 codify the constitutional prohibition on the mass media from undermining state security or advocating class, social, race, national, or religious superiority or "a cult of cruelty and violence." The amendments also establish that owners, editors, distributors, and journalists may be held civilly and criminally responsible for content, regardless of the source of information. The law defines websites as mass media, although they were specifically excluded from some of the law's provisions. The Media Law also prohibits violence and all pornography from television broadcasts. The law also requires all media to register with the Government, although websites were exempted from this requirement. President Nazarbayev said in August that the Media Law should be amended again to further define journalists' responsibility not to undermine the State and to create a journalistic code of ethics.

The Law on National Security gives the Prosecutor General the authority to suspend the activity of news media that undermines national security; however, this authority has never been invoked. A 1999 State Secrets Law established a list of government secrets, the release of which is proscribed in the Criminal Code. The law defines, for example, certain foreign policy information as secret if disclosure of this information might lead to diplomatic complications for one of the parties. The list of state secrets enumerated in the law includes all information about the health, financial, and private life of the President and his family. Also defined as state secrets is economic information such as the volumes of national mineral reserves and the amount of government debt owed to foreign creditors.

The Media Law amendments, signed by the President in 2001, limited the rebroadcast of foreign-produced programming. The amendments require a graduated reduction in rebroadcast of foreign programming: 50 percent beginning January 1 and 20 percent by January 1, 2003. Some media outlets were sanctioned under this provision during the year, although the Government stated that the majority of outlets were compliant.

The 1997 Language Law established that the amount of time television and radio stations broadcast in the state language (Kazakh) must not be less than the sum of the volumes of transmissions in other languages. The same wording appears in the Media Law, which allowed its enforcement from the beginning of the year. The Ministry of Culture, Information, and Public Accord monitored compliance with this requirement and sanctioned some violators during the year with 6-month license suspensions.

A new Administrative Code, adopted in 2001, charges the Ministry of Culture with oversight over administrative violations of the media. The code allows the Ministry to suspend the activity of a media outlet for 3 days while preparing a legal case and to confiscate newspaper print runs.

During the year, there were several serious incidents involving journalists that were critical of government leaders or their relatives.

On June 21, 25-year-old Leila Bayseitova, daughter of opposition journalist Lira Bayseitova, died in an Almaty hospital, after being taken there from police custody. She was arrested on June 16 on charges of drug possession. The police asserted that she tried to hang herself in her jail cell as a result of a severe drug withdrawal reaction and closed the case in July. An August investigation by an independent, international NGO found that the police explanation could not be verified without a forensic autopsy and a reconstruction of the incident. In December the Government invited foreign government forensic experts to conduct another independent evaluation. These experts concluded that the police version of events was possible, including evidence of the victim's drug use as police had claimed. Neither investigation established that Bayseitova's death was linked to her mother's journalism (see Section 1.d.).

In July the KNB opened an investigation against independent journalist Sergey Duvanov for an article critical of President Nazarbayev that he published on an opposition website. On August 29, three unknown persons attacked Duvanov in the darkened hallway outside his apartment. The assailants carved a cross and several other marks on Duvanov's chest and allegedly told Duvanov that he was aware of why they were attacking him. President Nazarbayev denounced this attack, calling it a provocation, and charged Interior Minister Suleymenov with

personally leading the investigation. Suleymenov said publicly that members of the opposition had orchestrated the attack in an effort to discredit the Government. No arrests had been made in the case by the end of the year.

On October 29, Duvanov was arrested and charged several days later with the rape of an underage girl. His supporters argued that the charge was fabricated, while others demanded justice for the young alleged victim. International organizations and human rights groups were critical of the charge, noting a pattern of harassment of Duvanov during the year, and pressed the Government to conduct an impartial and transparent investigation. Court proceedings began on December 24, but were postponed until the 2003 to give Duvanov's lawyers opportunity to review the investigative materials.

The Government did not permit individuals to criticize the country's leadership and, early in the year, enforced laws limiting this aspect of freedom of speech. The Constitution provides for the protection of the dignity of the President, and the law prohibits insulting the President and other officials. Media outlets generally practiced self-censorship regarding information on the President and his family to avoid possible legal problems. Most media did not present the story, which had been widely reported internationally in 2000 and developed during the year, about foreign investigations into possible illicit payments from abroad to senior government officials, including President Nazarbayev. Local media outlets, when they did report on these charges, informally dubbed them Kazakhgate. Most media did carry an April speech before Parliament by Prime Minister Tasmagambetov claiming that a billion-dollar secret Swiss bank account in the President's name was for state emergencies.

During the year, several criminal investigations began under Section 318 of the Criminal Code, which prohibits insulting the honor and dignity of the President. A conviction carries a maximum 3-year jail term. In at least two of these cases, charges were filed, and those accused appeared in court. In a July interview that appeared in the international press, President Nazarbayev stated that it was not necessary to enforce Section 318; on September 3, local news outlets reported Interior Minister Suleymenov repeating this pronouncement by the President. Following these pronouncements, the Government did not initiate any new prosecutions under Section 318, and no new cases were reported.

In June Oksana Martynuk, a journalist with the Atyrau-based newspaper *Al Zhayik*, was acquitted on criminal charges under Section 318, pending her apology. The charges stemmed from a 2001 article reporting on new security measures designed to protect sturgeon fishing concerns. One of the companies to benefit reportedly was owned by Timur Kulibayev, the President's son-in-law.

In July the KNB began an investigation under Section 318 against independent journalist Sergey Duvanov for a May 6 article he had published on an opposition website. The article compared President Nazarbayev to Milosevic and Pinochet, among others. It also referred to the Kazakhgate allegations that had appeared elsewhere. No charges resulted from this investigation.

On September 18, Saghingali Kapizov, an oblast legislator and newspaper editor, was acquitted on criminal charges under Section 318 by an Atyrau court. The charge stemmed from an article he wrote in 2001 that appeared in the newspaper *Al Zhayik*. Kapizov was arrested on July 29 in Pavlodar for leaving the jurisdiction where the investigation was taking place and remained in custody until the conclusion of the trial.

In 2001 the Zhetisu District court of Almaty tried Yermurat Bapi, editor in chief of *SolDat* newspaper and a member of the executive committee of the RNPk, and journalist Karishal Asanov under Section 318 for two articles printed in *SolDat* in 2000, which addressed corruption and the role of President Nazarbayev in the December 1986 student uprisings in Almaty. Bapi was found guilty and sentenced to 1 year in prison; however, the conviction fell under the purview of the general amnesty and Bapi did not serve his sentence. Bapi was forced to pay \$275 (40,000 tenge) in court costs, and the press run of *SolDat* in which the articles appeared was destroyed. The oblast court denied Bapi's appeal. Asanov was acquitted of the charges.

According to government statistics, there were 841 privately owned newspapers and 319 privately owned magazines, compared with 950 and 342, respectively, in 2001. The Government ran one of the two Russian-language newspapers and the only Kazakh-language newspaper that appeared most frequently (5 times a week). In addition, a number of privately owned media were believed to be controlled by members of the President's family. Many newspapers that nominally were independent, particularly Kazakh-language print media, received government subsidies. Each major city has at least one independent weekly newspaper. Two new, nationally circulated weeklies, published by the centrist opposition *Ak Zhol* political party, began operation during the year.

The Government controlled nearly all broadcast transmission facilities. There were 77 independent television and 30 radio stations. There were only two government-owned, combined radio and television companies; however,

they represent five channels and were the only stations that can broadcast nationwide. Regional governments own several frequencies; however, independent broadcasters have arranged with local governments to use the majority of these. There were several electronic media organizations, including the Association of Independent Electronic Media of Central Asia and the National Association of Broadcasters.

The extent of government influence over mass media was not clearly defined. Many media outlets considered to be independent were controlled by holding companies which do not make public the names of their controlling investors. Several NGOs alleged that most large media outlets were controlled by members of the President's family and close circle of friends through holding companies. However, according to government statistics, there were 1,431 mass media and information agencies in the country as of August 1, nearly 80 percent of which were privately owned.

In 2001 journalist Andrey Sviridov published findings of a poll conducted among journalists, media experts, and representatives of human rights organizations on the media. The majority of those polled stated that they felt the Kazakhstani media market was controlled by Dariga Nazarbayeva (the President's daughter), Rakhat Aliyev (her husband), Timur Kulibayev (another son-in-law of the President) and other so-called oligarchs. There were no retaliatory actions reported against Sviridov for his publication of the poll results.

The Government continued to be in a strong position to influence most printing and distribution facilities and to subsidize periodicals, including many that supposedly were independent. In addition, many publishing houses were government owned.

In 2001 Yermurat Bapi, editor in chief of the independent newspaper SolDat and member of the executive committee of the opposition RNP party, alleged that his newspaper was forced to cease publication for 8 months because all local publishing houses had refused to print it.

Owners, editors, distributors, and journalists were held responsible for the content of information conveyed, regardless of its source, promoting self-censorship at each level. At times fines for libel were exorbitant and bankrupted small media outlets. Publishing houses, which also were responsible legally for the information that they publish, were reluctant to publish anything that might be perceived as undesirable by influential officials. While these actions were not government initiated, they effectively limited the media's ability to publish strongly critical items. Both the Criminal and Civil Codes contain articles establishing broad libel liability.

In January a libel lawsuit initiated by presidential son-in-law Rakhat Aliyev against the NGO Internews began. Aliyev complained that he had been libeled by an August 2001 story in the Internews web-based bulletin repeating allegations that Aliyev and his wife, Dariga Nazarbayeva, controlled several TV and radio networks in Kazakhstan. An Almaty district court found Internews guilty of civil libel on May 24 and the Supreme Court upheld the verdict on July 30. Because libel laws place the burden of proof on the defendant, Internews' case was weakened because it could not produce documents proving Aliyev was an owner. The verdict required Internews to publish as its own a retraction prepared by Aliyev.

On April 30, Atyrau prosecutors filed a criminal case against Zhumbai Dospanov, editor of Vecherniy Atyrau newspaper and RNP party oblast chief for Atyrau, for failure to pay a \$13,300 (2 million tenge) fine levied against him in 2001. In September the criminal charge was dropped. The fine stemmed from a civil conviction for publishing derogatory information about the oblast akim. Dospanov appealed the civil verdict to the Supreme Court, which had not informed Dospanov by the end of the year whether his case was accepted for appeal.

In 2001 the city court of Aktobe found journalist Oleg Adorov guilty of libel and sentenced him to 180 hours of community service. The criminal proceedings were instituted after Abay Yeschanov, a judge in the Alga district court, filed a suit stating that he had been insulted in an article Adorov wrote for Yevrika newspaper. The newspaper was fined \$2,000 (300,000 tenge).

Many observers maintained that the Government engaged in a systematic campaign throughout the year to silence its most vocal critics. Media outlets and journalists that reported on the Kazakhgate allegations and on the opposition DVK movement were often mentioned as targets of this campaign. The Government claimed the incidents commonly cited as part of the campaign were the result of provocations by those attempting to discredit the Government, or violations by media outlets of the law. However, President Nazarbayev stated in August that it was necessary to put an end to interference in the legitimate activity of both the state and nonstate press and ordered an investigation to determine whether instances of closure of some media had been done by illegal methods. Senior government officials briefed the press in early September on the status of the criminal investigations in many of these cases, attempting to dispel the concerns that had arisen among journalists.

On March 4, the broadcast license of independent Tan-TV was suspended for 6 months for what its leadership claimed were trivial infractions. President Nazarbayev publicly declared 3 days later that the suspension should be reviewed; it was lifted on March 9. On March 29, one of Tan's antenna feeder cables was severed; several days later a line of automatic gunfire knocked out the main line. On May 15, the feeder cable was again damaged and rendered inoperable after several nails were driven into it. The Government claimed these were acts of hooliganism, although no one was arrested for the crimes. Repairing the damage required the installation of new equipment, necessitating an application with the Ministry of Transport to resume transmitting. This approval was not forthcoming for several months. On September 4, Tan was sold to the media company that operated Channel 31.

Several regional television stations that had rebroadcast Tan's news stories were also closed, including Irbis and 6x6 in Pavlodar and Era in Astana. In February Irbis had its license suspended for 3 months for allegedly airing a pornographic movie that had been broadcast previously on another channel without incident. In May the Ministry of Transport and Communications revoked the broadcast licenses for Irbis, 6x6, and Era for violating their tender obligations. On June 18, Irbis journalist Kanat Tusupbekov was sentenced to 2 years in prison for assaulting three men in April; Tusupbekov claimed he had been the one beaten. Journalists and cameramen for Tan and Irbis were harassed on several occasions in the aftermath of the arrests of DVK leaders Mukhtar Ablyazov and Galymzhan Zhakiyanov (see Section 1.e.).

Throughout February and March, Respublika newspaper could not find printing presses in Almaty and Astana to publish it, after it had given extensive coverage to January's DVK convention. It found regional presses to publish individual editions. On April 12, an Almaty court suspended the newspaper for 2 months for violations of the Media Law's information disclosure requirement, since, among other alleged violations, it was not publishing the addresses of the printing houses it was using.

On August 20, three former police officers attacked and beat KTK-TV journalist Artur Platonov in his car outside his home. Platonov hosted a weekly program on political issues. He maintained that his reporting on police abuses and human rights had caused the police to retaliate. His attack sparked a series of denunciations, including from Dariga Nazarbayeva, the President's daughter, on law enforcement's inability to protect journalists. On November 26, an Almaty court convicted the three former officers of the beating and sentenced each to 1-year probation.

Some journalists alleged that the KNB or tax police threaten publishing houses if they print opposition media; concern over criminal or civil proceedings influenced publishing houses. The Al Zhayik printing house in Atyrau that prints the newspaper of the same name, as well as other newspapers in the oblast, was firebombed on May 3. Police claimed to have arrested the perpetrators. Police seized copies of Ekonomika, Finansy i Rynki from a private printing house in Almaty on September 23, although they had no authority to do so.

On May 21, the Almaty offices of the opposition SolDat newspaper were attacked, resulting in the theft of equipment and the hospitalization of one of SolDat's employees. On June 7, Almaty police announced that they had made an arrest in the case; Yermurat Bapi, SolDat's editor, disputed the connection of the person arrested to the crime. Bapi also held a press conference on September 16 to announce that the day before, KNB, police, and prosecutors raided the printing house preparing an edition of SolDat under the pretext of an anonymous bomb threat to the facility.

Following Respublika's publication of articles cataloging allegations of corruption against the President and his circle, the newspaper and its editor, Irina Petrushova, were subjected to an intense campaign of intimidation during which a decapitated dog with an attached threat note was left at the newspaper and a dog's head with another threat note was left at Petrushova's home. On May 23, Respublika's Almaty offices were firebombed. In July authorities announced that Muratbek Ketebayev, one of Respublika's cofounders, paid two people to carry out the attack. On July 4, an Almaty court found Irina Petrushova, Respublika's editor, guilty of licensing violations and sentenced her to 1½ years in prison; she was amnestied immediately under the Amnesty Law. Throughout the year, the parent company of Respublika, PR Consulting, appealed multiple court decisions that would have liquidated it.

On May 27, an Aktobe court confirmed a March 15 Ministry of Culture recommendation that local Radio Rifma's license be revoked for violations of the Kazakh-language broadcast requirements. Radio Rifma's owners also operated Aktobe's top-circulation newspaper, Diapazon, several of whose reporters local human rights activists claim had been harassed over the previous 2 years. Media rights activists cited several other regional publications that were targets of similar harassment.

The Media Law defines Kazakhstan-based websites as media outlets. There were occasions during the year when

the content of websites was material in libel lawsuits and criminal charges. Clients of the two largest Internet providers, Kaztelecom and Nursat, periodically were blocked from direct access to several opposition websites, including Evrasia, Navigator, and Kub, although access was still available through anonymous proxy servers.

The Government generally did not restrict academic freedom; however, as was the case for journalists, academics could not violate certain restrictions, such as criticizing the President and his family. In September at least one youth activist participating in a campaign against the Government's proposed Law on Youth Policy was threatened with expulsion from her university and the loss of her scholarship for continuing with the campaign.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government and the law impose significant restrictions on this right. The Law on National Security defines as a threat to national security unsanctioned gatherings, public meetings, marches, demonstrations, illegal picketing, and strikes that upset social and political stability.

Under 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, opposition and human rights monitors complained that complicated procedures and the 10-day notification period made it difficult for all groups to organize public meetings and demonstrations. They also reported that local authorities, especially those outside Almaty, turned down most applications for demonstrations in central locations. During the year, certain religious groups repeatedly were denied permits for conventions or large public gatherings. Organizers of unsanctioned gatherings, including religious gatherings, frequently were fined (see Section 2.c.).

There were at least two instances when the Government denied permits for political rallies. On January 12, DVK leader Galymzhan Zhakiyanov was denied permission to hold a protest rally in Pavlodar. On April 21, pensioners in the northern city of Petropavlovsk were also denied permission to protest; in that instance the mayor of the city claimed that such a rally would threaten the inviolability of the president's honor and dignity. DVK, the United Democratic Parties (UDP), and the Ak Zhol political party received permits to hold rallies in Almaty and other cities during the year.

On March 29, Zhakiyanov, fearing arrest, sought refuge in a foreign government's embassy after the arrest 2 days earlier of fellow DVK leader Mukhtar Ablyazov on corruption-related charges. Zhakiyanov spent 6 days in the building, attracting numerous protesters, both progovernment and proopposition.

During the summer trials of Zhakiyanov and Ablyazov (see Section 1.e.), protest rallies were held in the cities in which the trials were taking place, Pavlodar and Astana, respectively, as well as in Almaty. At a July 19 rally, several people were detained on charges of illegal assembly, including Irina Savostina, leader of the national Pokolenie pensioners' movement. A reporter covering the event, Batyrkhan Darymbet, was also among those detained, although he had shown the arresting officers his press credentials. His lawsuit against Almaty police was dismissed in August.

The Constitution provides for freedom of association; however, the Government and the law imposed significant restrictions on this right. Organizations that conducted public activities, held public meetings, participated in conferences, or had bank accounts had to be registered with the Government. Membership organizations, such as religious groups and many others, must have 10 members and establish branches in more than half of the oblasts (there were 14 oblasts; Almaty and Astana cities were special administrative districts with the status of oblast, making 16 such districts in all) for national registration. Registration at the local level required a minimum of 10 members. Political parties and labor unions were considered membership organizations, but each had specific registration requirements established by legislation. The new Political Parties Law (see Section 3), enacted in July, requires parties to have 50,000 members, including 700 in each oblast.

Nonmembership organizations, generally NGOs, must register at the national level only. These organizations were no longer exempt from taxes due to a change in the tax code during the year. A registration fee of approximately \$105 (16,460 tenge) was required for both membership and nonmembership organizations; half that amount was required for reregistration, which became necessary if the organization changed its charter, its address, or its leadership. Most organizations had to hire lawyers or other consultants to expedite their registrations through the bureaucracy, which increased the registration cost considerably. Some groups considered these costs to be a deterrent to registration. According to government regulations, registration was supposed to be granted within 15 days. Local NGOs reported that registration often took 1 month to a year because the Government may return

applications for additional information or require investigations into certain portions of the application. There were numerous cases of the activities of religious groups being suspended pending registration; the Administrative Code requires they be registered, while the Religion Law does not. The registration of some religious groups took much longer than 1 year (see Section 2.c.).

The new Political Parties Law requires that all parties registered at the time of its enactment complete a reregistration process by January 2003, according to the new criteria established by the law. Many of the 19 parties registered at that time were not expected to meet these new requirements. The new law prohibits political parties established on an ethnic, gender, or religious basis; parties established on a religious basis are specifically prohibited by the Constitution. Two small Kazakh ethnic nationalist parties, Alash and Kazakh Yely, as well as an ethnic Russian party that was granted temporary registration in April, were among the 19 registered parties during the year. The Russian party changed its name to the Compatriot Party in July to comply with the new law and in December announced that it had surpassed 50,000 members. The Democratic Party of Women announced in October that it had changed its name to Yel Dana (Wisdom of the Nation) and would meet the membership requirements of the new law. Two propresidential parties, Otan and the People's Cooperative Party, announced they had merged in late September, although a Ministry of Justice official had stated in August that political parties would not be allowed to merge to meet the new law's registration requirements. Otan and the People's Cooperative Party both claimed sufficient membership to qualify for reregistration before the merger. Three opposition parties (RNPK, Azamat, and the People's Congress of Kazakhstan) announced in September that they would merge and also that they would boycott the new law. The centrist opposition Ak Zhol party, first granted temporary registration status in March, announced in September that it had surpassed 50,000 members. On December 12, Ak Zhol was granted temporary (6-month) registration.

By year's end, three political parties (Otan, Civic, and Ak Zhol) were officially reregistered.

Joining a political party required members to provide personal information, including date and place of birth, address, and place of employment. For many citizens, the requirement to submit such personal data to the Government tended to inhibit them from joining political parties. There were credible allegations that people entering government service were required to join the propresidential Otan party.

The Constitution bans public associations, including political parties, whose goals or actions were directed at a violent change of the Constitutional system, violation of the integrity of the republic, undermining of the security of the state or fanning of social, racial, national, religious, class, and tribal enmity. The major religious and ethnic groups had independently functioning cultural centers.

Membership in trade unions or political parties and actions in support of political parties are forbidden under the Constitution to members of the armed forces, employees of national security and law enforcement organizations, and judges.

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 (see Section 6.a.).

c. Freedom of Religion

The Constitution provides for freedom of religion, and the various religious communities worshiped largely without government interference; however, the Government's concerns regarding regional security threats from alleged religious extremists led it to encourage local officials to limit the practice of religion by some nontraditional groups.

The Constitution defines the country as a secular state. The Government invited the leaders of the two largest religions, Islam and Russian Orthodoxy, to participate jointly in state events. The leaders of the Catholic and Jewish religions, which were represented by small proportions of the population, also participated in some official events. While the Government unsuccessfully sought on several occasions to amend the National Religion Law to give the Muslim Spiritual Association (a national Muslim organization) a quasi-official role, both the Government and the association denied that there was any official connection between them. There were reports that the Mufti sent Kazakh-speaking imams through the country to mosques that served Uighur and Chechen-speaking communities that had no connection to the Mufti's organization.

In contrast to laws governing other public associations, the National Religion Law does not explicitly require religious organizations to register with the Government. It states that all persons are free to practice their religion alone or together with others. Because the clause makes no reference to registration, legal experts interpret it to

ensure the right of members of unregistered groups to practice their religion. However, it does specify that religious organizations must register to receive legal status. Religious organizations had to have legal status to buy or rent real property, hire employees, or engage in other legal transactions.

The Government exempted registered religious organizations from taxes on church collections and income from certain religious activities. The Government donated buildings and provided other assistance for the construction of new mosques, synagogues, and Russian Orthodox churches.

Article 375 of the Administrative Code allows national and local authorities to suspend the activities or fine the leaders of unregistered religious organizations. Lower courts consistently cited Article 375 in sanctioning religious organizations for nonregistration, but such decisions often were overturned on appeal. In January Parliament passed amendments to the National Religion Law that included a registration requirement for religious organizations, a ban on extremist religious associations, an increase in the number of members required for registration, authorization for local officials to suspend the activities of religious groups for criminal violations of one or more of their members or for conducting religious activity outside the place where they are registered, and a requirement that foreign religious organizations be affiliated with a nationally registered organization. In April the Constitutional Council discarded the entire set of amendments after ruling that the provisions giving a quasi-official role to the Muslim Spiritual Association were unconstitutional. The Council also ruled that the amendments as a whole restricted the constitutional right to express religious beliefs freely.

In practice local officials generally insisted that religious organizations register at the local level, despite the fact that registration at the national or the oblast level legally was sufficient to obtain the rights that registration offers. Although the law specifies a maximum of 30 days for authorities to complete the registration process, many religious groups reported delays of several months.

Members of Jehovah's Witnesses attempted to register in Northern Kazakhstan Oblast for more than 4 years. On November 2, a city court in Petropavlovsk ruled in favor of Jehovah's Witnesses regarding registration in Northern Kazakhstan; however, the local branch of the Ministry of Justice did not implement the court order by year's end. The 2001 application by members of Jehovah's Witnesses to register in Atyrau Oblast remained pending at year's end.

Law enforcement authorities conducted inspections of religious groups throughout the country, claiming they were preventing the development of religious extremism and ensuring that religious groups pay taxes. These inspections provided authorities with information about the registration status of groups, which in some cases led to authorities requiring the groups concerned to suspend their activities pending registration.

Representatives of many religious organizations and religious rights observers regarded Parliament's passage of restrictive amendments to the National Religion Law in January (notwithstanding their later rejection on constitutional grounds) as the pretext for local officials to engage in a coordinated campaign of harassment directed at smaller, local religious groups. The representatives claimed that local officials began enforcing the new law upon its passage.

Neither law nor regulation prohibits foreign missionary activity; however, there was no mechanism governing such activity.

The national Jehovah's Witnesses Religious Center alleged continuing incidents of harassment by a number of local governments. It claimed that city officials in Astana, Almaty, Ust-Kamenogorsk, Kostanay, Karaganda, Aktubinsk, and Shymkent sometimes blocked the group from renting stadiums or other large public or private sites for religious meetings. Jehovah's Witnesses were registered nationally, as well as in 12 of the country's 14 oblasts. Local KNB officials disrupted some meetings in private homes of unregistered groups of Jehovah's Witnesses, Adventists, Baptists as well as other Protestants, and other nontraditional groups throughout the country.

There were several court cases against unregistered local Jehovah's Witnesses, including in the cities of Taraz, Atyrau, and Petropavlovsk and in several smaller villages. Courts typically ruled that unregistered groups were in violation of the Administrative Code and issued warnings, levied fines of up to almost half of an average monthly salary, or suspended the activities of the group. When adequate legal counsel was brought in on appeal, the decisions usually were overturned.

On January 23, according to a report by the Keston News Service, Tursunbay Auelbekov, a Baptist in the southern town of Turkestan, was arrested while distributing religious literature in a public area. Prosecutors maintained that

his activity was illegal because the Baptists in Turkestan were not registered; however, they decided not to press charges, citing Auelbekov's poor health.

In April regional authorities raided an unregistered farm run by the Society for Krishna Consciousness in the village of Yeltay in Almaty Oblast. Tax, immigration, fire, and health and hygiene officials were involved in the inspection. Police confiscated the passports of 15 foreign members of the community, 5 of whom were sentenced to deportation at a May local court hearing at which no charges were stated and the lawyers for the accused were not permitted to speak. In early June, the Hare Krishnas appealed the deportations, and the court also levied fines against three other members. Leaders of the Krishna Center, registered in Almaty City, alleged that the authorities arrived for the April inspection with television camera crews and then ordered the stations to report on the raid. In one television report, the Krishnas were described as extremists and criminals. On May 18, the Krishnas' application for registration in Almaty Oblast was approved after an 8-month delay. No members of the group were deported.

In June a Semipalatinsk court found the actions of the prosecutor in his pursuit of the local Jehovah's Witnesses congregation to be illegal. In a 2001 case in Taraz, the prosecutor's office withdrew its protest over the court's ruling in favor of the local Jehovah's Witnesses congregation.

In 2001 a court in the town of Ayaguz (Eastern Kazakhstan Oblast) convicted Pavel Leonov, a Baptist pastor, for failing to uphold a 2000 court order requiring his church to register. He was assessed a fine of approximately \$135 (20,575 tenge). By the end of the year, Leonov had not paid the fine and authorities had made no attempt to recover it.

According to an unconfirmed press report, Kulsary prosecutor Hagibula Kasymov threatened to jail Kurmangazy Abdumuratov and Askhat Alimkhanov, leaders of the Iman Kazakhstani Baptist Church, if their church continued to meet without registering. Religious freedom activists were not aware of the two subsequently being jailed. In 2001 prosecutors required them to stop meeting. Prosecutors also sought to suspend the activities of Baptist churches associated with the Council in Taraz, Serebriansk, and Kazalinsk.

Other than the brief detentions of a Baptist adherent in Turkestan and Hizb ut-Tahrir members in Kentau (Southern Kazakhstan Oblast), there were no reports of religious prisoners or detainees.

For a more detailed discussion see the 2002 International Religious Freedom Report.

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

The Constitution provides the right to those who were legally present in the country to move freely in its territory and freely choose a place of residence except in cases stipulated by law; however, in practice citizens were required to register 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 and Astana due to their relative affluence and local officials' fears of overcrowding. Persons who were suspects in criminal investigations were often required to sign statements that they would not leave their place of residence. Many individuals were detained for identity checks without suspicion of a criminal offense (see Section 1.d.).

In July 2001, the Government formally abolished the exit visa requirement for temporary travel of citizens. Although exit visas no longer were required, there remained certain instances in which exit from the country could be denied, including if there were pending criminal or civil legal proceedings, unserved prison sentences, evasion of duty as determined by a court of law, presentation of false documentation during the exit process, and travel by active-duty military. The Law on National Security requires that persons who had access to state secrets obtain permission from their employing government agency for temporary exit from the country.

The Constitution provides for the right to emigrate and the right to repatriate, and the Government generally respected these rights in practice; however, the Law on National Security prohibits persons who had access to state secrets from taking up permanent residence abroad for 5 years after leaving government service. A permanent exit visa still was required for emigrants. A permanent exit visa for intending emigrants required criminal checks, documents from every creditor stating that the applicant had no outstanding debts, and letters from any close relatives with a claim to support giving their concurrence to the exit visa. There was one reported instance of an individual being denied an emigrant exit visa for failing to document the continued support of dependents. Citizens have the right to change citizenship, but were not permitted to hold dual citizenship.

Foreigners were required to have exit visas, although they received them routinely as part of their entry visa.

Foreigners who overstayed their original visas, or who did not receive exit visas as part of their original visas, were required to get exit visas from the immigration authorities before leaving. Foreign visitors were required to register, depending on their circumstances, either with the immigration officials who admit them at the airport or with the local migration police (often referred to as OVIR, after the office that formerly had this function). Foreigners no longer were required to register in every city they visit; one registration was sufficient for travel throughout the country. Immigration authorities occasionally fined foreigners without proof of registration before allowing them to leave the country.

Foreigners were required to obtain prior permission to travel to some border areas with China and cities in close proximity to military installations. In 2001 the Government declared the following areas closed to foreigners due to their proximity to military bases and the space launch center: Gvardeyskiy village, Rossavel village, and Kulzhabashy railway station in Zhambyl Oblast; Bokeyorda and Zhangaly districts in Western Kazakhstan Oblast; the town of Priozersk and Gulshad village in Karaganda Oblast; and Baykonur, Karmakshy, and Kazakly districts in Kyzyl Orda Oblast.

The Government accorded special treatment to ethnic Kazakhs and their families who fled during Stalin's era and wished to return. Kazakhs in this category were entitled in principle to citizenship and many other privileges. Other persons, including ethnic Kazakhs who were not considered refugees from the Stalin era, such as the descendants of Kazakhs who moved to Mongolia during the 19th century, had to apply for permission to return. It was government policy to encourage and assist all ethnic Kazakhs living outside the country to return. Since independence approximately 215,000 ethnic Kazakhs, mostly from other former Soviet republics, Iran, Afghanistan, Mongolia, Turkey, China, and Saudi Arabia have immigrated. In 2001 the Government introduced a quota for returning Kazakh migrants that allowed 600 families to return annually. The Government helped provide these families with housing, stipends, and other benefits. The number of Kazakh migrants in 2001 far exceeded the 600-family quota. As a result, the quota for the year was increased to 2,665 families. The number of immigrants during the year again far exceeded the quota. The Government struggled to find resources for integration programs for those who arrived outside the quota, many of whom lived in squalid settings. International organizations and local NGOs assisted in these efforts, and the Government supported them. In October the Government announced that the quota for 2003 would be 5,000 families.

Ethnic Kazakh migrants were automatically eligible for citizenship; however, the prohibition on dual citizenship prevented many of them from receiving it immediately. Amendments to the Citizenship Law, passed in May, streamlined the acquisition of citizenship. Complicated procedures to renounce the citizenship of one's former country no longer delayed the process; the migration police simply turned in a new citizen's passport to the embassy of their former country at the conclusion of the citizenship process, which took 6 months on average. The Government made significant progress in granting citizenship before the implementation of the new procedure.

In 1999 the Government ratified the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government had not passed implementing legislation by year's end. The absence of implementing legislation left unclear many aspects of the status of refugees, such as whether they had a right to work. Following the passage of a 1997 Migration Law and the creation of the Agency for Migration and Demography, the Government began in 1998 to register asylum seekers and to determine their status in consultation with the U.N. High Commissioner for Refugees (UNHCR). The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees. The Government allowed the UNHCR access to detained foreigners and in practice was generally tolerant in its treatment of local refugee populations. Migrants from former Soviet republics were not considered to be refugees because they could travel and settle freely within the Confederation of Independent States (CIS). The Government often did not allow refugees without passports to register and in practice restricted registration almost exclusively to refugees from Afghanistan. All non-CIS citizens were considered to be intending immigrants. The Government generally respected the right of other CIS citizens to settle in the country; however, in practice it frequently did not extend this right to laborers from other Central Asian republics.

The Agency for Migration integrated the UNHCR and a local NGO, Kazakhstan Refugee Legal Support, into the process of reviewing refugee claims. The Government provided first asylum for certain categories of refugees, including certain categories of Afghan refugees. Only the President could grant political asylum, and he did not do so during the year. Nonpolitical asylum claims could theoretically be processed anywhere in the country, after the Agency for Migration established a national refugee determination committee in Astana during the year; however, in practice, claims continued to be processed only in Almaty. By October the Government had registered more than 1,300 asylum seekers and accorded refugee status to almost three-fourths of them. The UNHCR estimated that, at year's end, there were approximately 20,000 refugees in the country (approximately 12,000 Chechens from Russia, 4,000 persons from Tajikistan, 2,500 from Afghanistan, and 1,300 Palestinians, with the remainder including Uighurs and other nationalities).

Beginning with the renewal of conflict in Chechnya in 1999, a large population of Chechens fleeing the fighting came to the country; most remained during the year. Many Chechens had also entered the country during the earlier Chechen conflict and returned to Chechnya at its conclusion. Consistent with the Minsk Convention on Migration within the CIS, the Government did not recognize Chechens as refugees; however, the Government, in cooperation with the UNHCR and Chechen organizations, did grant temporary legal resident status to Chechens until they could return home to safe conditions. This arrangement functioned effectively, despite reports that some Chechens had to pay bribes to receive registration, until late October. After Chechen terrorist groups held civilians hostage in a Moscow theater in October, the Government stopped its nationwide policy of issuing temporary residence permits to Chechens. At least 100 were deported to Russia in December.

Kazakhstan and China agreed in 1999 not to tolerate the presence of ethnic separatists from one country on the territory of the other. Human rights monitors were concerned with the impact of this agreement on Uighurs from China in Kazakhstan. The Government did not consider any asylum claims by Uighurs; it was unclear whether any Uighurs applied. In general the Government was tolerant toward the Chinese Uighur population.

The deportation of approximately 100 Chechens to Russia in December constituted the only report of the forced return of persons to a country where they feared persecution. In a different case, the Government complied with its international refugee obligations by refusing to deport a prominent dissident of another former Soviet republic and allowing the UNHCR access to him. The UNHCR declared him a refugee, and arranged for his transportation to a third country. There were few reports of extrajudicial deportations during the year.

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

The Constitution provides for a democratic government with universal suffrage for those over 18 years of age; however, in practice the Government severely limited 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 President appoints and dismisses the Prime Minister and the Cabinet. His appointment of the Prime Minister, but not of cabinet members, is subject to parliamentary consent. Presidential appointments of the Prosecutor General and the KNB Chief require the consent of the Senate. The President has the power to dismiss Parliament and to appoint judges and senior court officials. The President also nominates for approval by the Mazhilis the chairman and members of the Central Election Commission (CEC), who oversee presidential and parliamentary elections. The Mazhilis has never failed to confirm a presidential nomination. Modifying or amending the Constitution requires the President's consent.

President Nazarbayev was elected to a 7-year term in a 1999 election that was held nearly 2 years earlier than scheduled and fell far short of international standards.

In 1998 the President and the Parliament passed, without prior public notice, a series of constitutional amendments enabling them to call early presidential elections. Among other changes, the amendments extended the presidential term of office from 5 to 7 years and removed the 65-year age limit on government service. (The President will be 65 years of age before the end of his 7-year term.) Government opponents and international observers criticized the short-notice elections because they did not leave time for the Government to implement promised electoral reforms or for candidates to organize effective campaigns.

The Government imposed onerous requirements on candidates for the 1999 presidential ballot, including requiring them to submit petitions with 170,000 signatures, pass a Kazakh-language test, and make a nonrefundable payment of approximately \$30,000 (2.4 million tenge). Less than a week after the presidential election was called, the Government disqualified a number of potential contenders on the basis of a provision of the presidential decree on elections that prohibited persons convicted of administrative offenses from running for public office within a year of their conviction. Five opposition leaders, including former Prime Minister Kazhegeldin, were summoned and tried for participating in a nonregistered organization. A sixth was disqualified for a previous conviction. The Supreme Court upheld the disqualifications.

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) sent a small election assessment team to report on the election. The team concluded that the presidential election fell far short of the country's commitments as an OSCE participating state, citing in particular the exclusion of candidates, the short duration of the election campaign, obstacles to free assembly and association, the use of government resources to support President Nazarbayev's campaign, unequal access to the media, and the flawed presidential decree that served as the election law.

Although in many ways an improvement over the presidential election, the 1999 elections for the Mazhilis were marred by election law deficiencies, executive branch interference, and a lack of transparent vote counts. There was convincing evidence of government manipulation of results in some cases. The OSCE mission observing the elections concluded that they were a tentative step toward democracy but fell short of OSCE commitments.

On December 28, by-elections were held for three vacant seats in the Mazhilis from single-mandate districts in Karaganda, Atyrau, and Pavlodar Oblasts. The election was announced on October 21 by the CEC, and candidates were given until November 29 to register. In Karaganda the two leading candidates—Nikolay Usatov from the pro-presidential Otan party and Bulat Abilov from the moderate opposition Ak Zhol party—were disqualified from the ballot 3 days before the election. Abilov appealed the CEC decision to the district court, which reinstated him; the oblast court upheld the CEC disqualification hours before the polls opened. In Pavlodar one candidate, Valeriy Maksimonko, was also a member of the district election commission, which under the election law should have disqualified him as a candidate. The CEC released preliminary results on December 29 that showed government-favored candidates winning all three seats. In two races, independent exit polling showed that the margin of victory was inflated for the winning candidate. In Pavlodar exit polls showed Karlygash Zhakiyanova—the wife of imprisoned former oblast akim Galymzhan Zhakiyanov—receiving more than half the votes, although Maksimonko was declared the winner (see Section 1.e.). Independent election monitors recorded violations of the electoral law, including intimidation of election monitors, relocation of polling stations with little or no notice to voters, and manipulation of voter lists. The CEC had not certified the election results by year's end.

The Election Law requires candidates for both houses to meet minimum age and education requirements and to pay a registration fee. The law requires Senate (but not Mazhilis) candidates to obtain signatures from 10 percent of the members of the local assemblies in their oblasts in order to be placed on the ballot. Political parties wishing to compete for the 10 proportionally allocated seats in the Mazhilis must be registered by the CEC and regional electoral commissions in two-thirds of the principal administrative jurisdictions (the 14 oblasts, plus the former and new capital cities, Almaty and Astana).

The introduction of 10 proportionally allocated Mazhilis seats for the 1999 parliamentary elections enhanced the role of political parties, which, with the exception of the Communist Party, were previously very weak. The Communist Party and three pro-presidential parties—Otan (Fatherland), the Civic Party, and the Agrarian Party—shared the 10 new party-list seats in the 1999 parliamentary election.

Parliament exercised little oversight over the executive branch, although it has the constitutional authority to remove government ministers and to hold a no-confidence vote in the Government. During the year, the legislature exercised its authority over proposed legislation by forwarding bills for consideration to the Constitutional Council. Although Parliament must approve the state budget, the Constitution precludes Parliament from increasing state spending or decreasing state revenues without executive branch approval. Nearly all laws passed by Parliament originate in the executive branch. The executive branch controls the budget for Parliament's operations; it has not provided funds for Members of Parliament to hire staff, a situation generally viewed as decreasing Parliament's effectiveness. The executive branch also blocked legislation on establishing Parliamentary staff, which Parliament passed in 2001; the law was found unconstitutional because Parliament may not make additions to the state budget.

If Parliament failed to consider within 30 days a bill designated urgent by the President, the President could issue the bill by decree. Although the President has never resorted to this authority, it gave him additional leverage with Parliament. While the President had 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 appointed by the President (see Section 1.e.).

Many activities of Parliament remained outside public view. During the year, the Parliament continued to become more open by publishing some draft laws; in 2001, Parliament published its voting record for the first time.

According to the Constitution, the President selects oblast akims based on the recommendation of the Prime Minister; they serve at the discretion of the President, who may annul their decisions. The oblast akims then appoint the county-level equivalent and city leaders below them. The Constitution permits direct election of such officials and in 2001 experimental local district akim (county-level equivalent leader) elections were held, representing the first tentative movement away from appointment of local district akims. In each of the 14 oblasts, elections were held to fill 2 positions. The local akims were elected by secret ballot by a group of electors chosen by local residents through a public show-of-hands vote. The OSCE noted that the procedure violated international standards requiring a secret ballot and did not provide transparency while counting and registering election results. During the year, President Nazarbayev appeared to move away from the idea of continuing experimental local elections. He stated in an August speech that there should be no haste in the matter of changing to local self-

government. In the same speech, he asserted there was international trend toward managers instead of elected officials at the local level and claimed that such direct elections would divide the country into fiefdoms, threatening stability. On several other occasions, he stated that the people were not ready for such direct democracy

The Government restricted the functioning of the political opposition. One opposition group, the DVK movement, was founded in 2001 by 11 senior government leaders, members of parliament, and prominent businessmen. Four of the senior government officials were fired several days after the founding at the request of the Prime Minister, and in December 2001 parliamentary deputy Bulat Abilov was expelled from his party slate seat in Parliament. On January 8, the DVK successfully registered with the Ministry of Justice as a public association.

DVK held a notable meeting of 900 sympathizers on January 19 and a public rally the following day with close to 2,000 persons in attendance. Both events received extensive coverage from several independent media outlets. DVK leaders advocated more progress toward democracy including direct election of oblast akims, media freedom, and poverty reduction. They also spoke out against past electoral fraud and government corruption.

By April two of DVK's leaders had been arrested and most of the independent media that had given the party favorable coverage had experienced government efforts to silence them (see Sections 1.e. and 2.a.). A political party, Ak Zhol, split off from DVK in March; it was granted temporary registration under the restrictive new Law on Political Parties in December (see Section 2.b.). DVK added under its umbrella a broad collection of traditional opposition parties during the year.

Several expected participants in foreign-sponsored political party training sessions from DVK in June and RNPk in July were prevented from attending. Some had their travel delayed, while others were charged with crimes and forbidden to travel right before the events.

At the end of the year, three women held ministerial portfolios. There were no female oblast akims (governors). Of 39 Senate members, 4 were female; of 77 Mazhilis members, 8 were female. There were no legal restrictions on the participation of women and minorities in politics; however, the persistence of traditional attitudes meant that few women held high office or played active parts in political life.

Although minority ethnic groups were represented in the Government, ethnic Kazakhs held the majority of leadership positions. Nearly half the population were non-Kazakhs according to the national census completed in 1999. Non-Kazakhs held 1 of 4 deputy prime minister positions and headed 2 of 15 government ministries and the national bank. Non-Kazakhs were underrepresented in the Mazhilis and the Senate. In Parliament 8 senators and 19 members of the Mazhilis were non-Kazakhs.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, some human rights observers reported that the Government monitored their movements and telephone calls (see Section 1.f.). In addition, in September at least one NGO participant in a campaign against a draft Law on Youth Policy was told by university authorities to cease the activity (see Section 2.a.).

The Kazakhstan International Bureau for Human Rights and Rule of Law and the Almaty Helsinki Commission were the most active of a small number of local nongovernmental human rights organizations. They cooperated with each other 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 periodically received threatening or harassing telephone calls; however, the source of these calls was unknown.

In general the Government showed greater willingness to focus on abuses highlighted by human rights monitors and individual citizens in the criminal justice system and to investigate allegations of corruption. The Government tended to deny or ignore charges of specific human rights abuses that were levied by both international and domestic human rights monitors and by individual citizens, although it often acknowledged that human rights abuses existed in general.

The Civil Code requires NGOs to register with the Government, and most NGOs were registered (see Section 2.b.); however, some continued to operate without legal standing.

The Government permitted international and foreign NGOs and multilateral institutions dealing with human rights to visit the country and meet with local human rights groups as well as government officials. The International Labor Organization (ILO), the International Federation of Red Cross and Red Crescent Societies (IFRC), the UNHCR, the IOM, and the OSCE, have permanent offices in the country. During the year, the country joined the IOM as a full member; it previously had only observer status.

The Presidential Commission on Human Rights was a consultative and advisory body that prepared annual reports to the President; none has been released to the public since 1998. The Commission provided free legal and consultative assistance to citizens. In addition, the Commission monitored fulfillment of international human rights conventions and proposed legislative improvements. The Commission received complaints from citizens in person, by telephone or in writing. In 2001 the Commission received 629 written complaints; for the first 6 months of the year, it received 318. According to the Commission, the majority of complaints were economic or social in nature, such as nonpayment of benefits or salaries, and housing conditions. The Commission also received complaints relating to conditions of military service, education, abuses by investigative authorities, and nonenactment of court decisions.

The Commission reported that it had received no complaints of abuses of political rights, language or racial discrimination, or violations of freedom of speech during the year, or in any previous year. NGOs believed that the Commission, due to its status as a government body, was influenced by the Government and downplayed cases.

In late September, a series of presidential decrees created the position of Human Rights Ombudsman, appointed the former head of the Presidential Commission on Human Rights to the newly created position, and established the regulations and authority of the position. However, under the decrees, the new Ombudsman was not authorized to investigate any complaint dealing with the President, the Parliament, the Government, the Constitutional Council, the Prosecutor General, the Central Election Commission, or the courts. Police abuse and violations of rights in detention facilities and prisons were under the Ombudsman's purview.

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

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

Women

Violence against women, including domestic violence, was a problem. In June a MVD survey said that 52 percent of women had reported some form of domestic abuse, with the highest incidence in rural areas. The MVD further stated that only 30 percent of domestic violence cases were prosecuted. A September press report indicated that on average 160 women died annually as a result of domestic violence. In February the head of the National Commission on Women reported that 28,000 crimes were committed against women in 2001 and that the majority of victims of violent crime were women. NGO activists and prison officials stated that domestic violence was a significant factor in the majority of cases of women serving sentences for murder.

There was no specific law on domestic violence; however, it could be addressed under assault and battery provisions of the Criminal Code. The maximum sentence for wife beating was 10 years in prison, the same as for any beating. The punishment for rape ranged from 3 to 15 years imprisonment. There was no information on the percentage of crimes against women that were prosecuted successfully. Police often were reluctant to intervene in domestic disputes, considering them to be the family's business, unless they believed that the abuse was life threatening. Under the Criminal Procedure Code, prosecutors could not initiate a rape case, absent aggravating circumstances such as gang rape, unless the victim filed a complaint. There were unconfirmed reports that prosecutors sometimes interpreted this provision to require rape victims to pay for forensic testing, pay the expenses of prosecution, and prosecute rape cases personally. Police also could not detain a suspect legally for more than 72 hours unless the victim provided a written complaint, which women often refused to do.

One Almaty crisis center (there were three, two of which operated shelters) reported that it received 100-150 calls from women per month for domestic violence, and that a very small percentage followed through with charges. Another Almaty crisis center reported 1,800 calls from women in the first 10 months of the year, 9 of which were to report a rape. When victims did decide to press charges for domestic violence or rape, police often tried to persuade them not to pursue it. In one such incident, a police officer was disciplined. There were domestic

violence units within the Almaty and Astana police departments, which cooperated with the crisis centers. When domestic violence cases did come to trial, the charge was most often for light beating, the penalties for which include fines of up to \$535 (82,300 tenge) or 3 months' imprisonment. In approximately 30 cases during the year, the conviction of a husband resulted in a divorce. The National Statistics Agency reported 948 rapes and 138 attempted rapes in 2001. There was very little reporting on rape in the press.

Prostitution is not prohibited by law; however, forced prostitution or prostitution connected to organized crime is illegal. Prostitution was a serious problem.

Trafficking in women was a serious problem (see Section 6.f.).

The Criminal Code and the Labor Code prohibit only some forms of sexual harassment, and legal and gender-issue experts regarded the legislation as inadequate to address the problem. There were reports of such harassment, but none of those reports constituted situations where victims were protected under the law. Prosecutors, law enforcement agencies, and victims were generally not aware of the problem, and there were no reports of any cases being prosecuted.

There was no legal discrimination against women, but traditional cultural practices limited their role in society and in owning and managing businesses or property. The President and other members of the Government spoke in favor of women's rights, and the official state policy held that constitutional prohibitions on sex discrimination must be supported by effective government measures; however, women were underrepresented severely in senior positions in state enterprises and overrepresented in low-paying and some menial jobs. The head of the National Commission on Women noted that women's salaries were, on average, 62 percent that of men's. Women had unrestricted access to higher education.

There were approximately 150 women's rights organizations registered in the country, 15 of which were active in Almaty. These included the Feminist League, Women of the East, the Almaty Women's Information Center, and the Businesswomen's Association.

Children

The Government was committed to children's rights and a new Children's Rights Law was enacted in August; however, budget limitations and other priorities severely limited the Government's effectiveness in dealing with children's issues. The new law codified many rights already contained in the Constitution and provided little in the way of funding or specific programs. Education was mandatory through age 16, although students could begin technical training after the 9th grade. Primary and secondary education was both free and universal. The law provided for equal access to education by both boys and girls.

There was no societal pattern of abuse against children. Rural children normally worked during harvests (see Section 6.d.).

Trafficking in girls was a problem (see Section 6.f.).

There was one local NGO that worked with juveniles released from prisons.

Persons with Disabilities

Citizens with disabilities were entitled by law to government assistance, and there was no legal discrimination against persons with disabilities; however, in practice employers did not give them equal consideration. Assisting persons with disabilities was a low priority for the Government. Laws mandate the provision of accessibility to public buildings and commercial establishments for persons with disabilities; however, the Government did not enforce them. There have been some improvements to facilitate access in Almaty and Astana, such as wheelchair ramps.

Mentally ill and mentally retarded citizens could be committed to state-run institutions, which were poorly managed and inadequately funded. The NGO Kazakhstan International Bureau for Human Rights observed that the Government provided almost no care for the mentally ill and mentally retarded due to a lack of funds.

National/Racial/Ethnic Minorities

According to the Government, the population consisted of approximately 53 percent Kazakhs and 30 percent ethnic Slavs (Russians, Ukrainians, Belarusians, and others), with many other ethnic groups, including Uzbeks and Germans represented. The Government continued to discriminate in favor of ethnic Kazakhs in senior government employment, where ethnic Kazakhs predominated. President Nazarbayev has emphasized publicly that all nationalities were welcome to participate; nonetheless, many non-Kazakhs remained concerned about what they perceived as expanding preferences for ethnic Kazakhs (see Section 3).

Most of the population spoke Russian and approximately half of all ethnic Kazakhs spoke Kazakh fluently. According to the Constitution, the Kazakh language is the official state language. The Constitution states that Russian may be used officially on an equal basis with Kazakh in organizations and bodies of local self-administration. The Government continued to move toward using Kazakh for official business. Two oblasts adopted Kazakh as the official working language during the year. Kazakh became or was the lingua franca in local law enforcement offices in Kyzyl Orda, Southern Kazakhstan, Zhambyl, Atyrau, and Aktobe Oblasts. The MVD said that more than 20,000 of its employees were being trained in Kazakh during the year. Some ethnic Russians believed that Russian should be designated as a second state language. The Government encouraged more education of children in the Kazakh language but did little to provide Kazakh-language education for adults. The Language Law was intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages; however, it has not been funded sufficiently to make Kazakh-language education universal.

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; however, the Government at times infringed on these rights. The largest trade union association, the Federation of Trade Unions, contained the vestiges of formerly state-sponsored trade unions established during the Soviet period. It claimed a membership of 2.3 million workers. The Confederation of Free Trade Unions (CFTUK), formerly the Independent Trade Union center of Kazakhstan, claimed a membership of approximately 320,000 persons. Observers estimated the actual number of members in both associations to be lower and agreed that the Government exercised considerable influence over both.

To obtain legal status, a trade union had to apply for registration with the judicial authority at the oblast level and with the Ministry of Justice. The registration procedure followed largely that of other membership organizations (see Section 2.b.); branches of unions were each required to register. During the year, 20 new trade unions were registered, including the Trade Unions of Aviation Employees, the Trade Unions of Central Kazakhstani Small Businesses, and the Trade Unions of Astana. The two major trade union associations, the Federation of Trade Unions and the Confederation of Free Trade Unions, were registered. During the year, seven unions split from the Federation and established the Kazakhstani Trade Union Center. The Ministry of Justice did not deny registration to any union during the year. Courts could cancel a union's registration; however, there were no such cases during the year.

The Constitution prohibits the operation of foreign trade unions and prohibits the financing of trade unions by foreign legal entities and citizens, foreign states, and international organizations. The CFTUK received financing from foreign sources because it was registered as a public association and not a labor union. The law did not forbid other nonmonetary types of assistance such as training; participation in training programs increased in recent years.

Under the Constitution, workers are protected against antiunion discrimination. The Law on Trade Unions reiterates this right and makes no distinction between different kinds of labor unions. However, in practice there were violations of this right. Members of some trade unions have been dismissed, transferred to lower paying or lower status jobs, threatened, and intimidated. The two major trade union associations were competitive with one another and sometimes alleged that members of the other association were given precedence for layoffs.

By law unions freely may join federations or confederations and affiliate with international bodies. The CFTUK joined the Worldwide Labor Union Organization during the year. Unions belonging to the CFTUK were not members of international federations but were able to maintain contacts with foreign trade union federations.

On April 16, the Federation of Trade Unions filed a complaint against the Government with the ILO Committee on Free Association alleging various violations involving freedom of association in connection with efforts to organize workers at the Tengizchevroil company. In November the Committee requested that the Government take actions that would allow workers at the company to organize in accordance with international rules.

b. The Right to Organize and Bargain Collectively

The law permits collective bargaining and collective agreements; however, collective bargaining was not widely understood and only occasionally practiced during the year. Unions may have a minimum of 10 members; however, registration requirements created obstacles to organization. If a union's demands were not acceptable to management, it could present those demands to a tripartite commission, composed of the Government, employer associations, and labor union representatives. The tripartite commission was instituted under the Law on Social Partnerships of 2000 and was to develop and sign a general agreement each year governing approximately 80 aspects of labor relations. The Labor Law provides for an individual contract between employers and each employee. Collective bargaining agreements were allowed as long as they did not reduce protections afforded to workers in individual contracts or under law; previously the terms of contracts were set only by law and collective bargaining agreements.

The Law on Collective Bargaining and Strikes gives workers the right to join or form unions of their choosing. It also establishes that workers may request in writing to have their union dues paid by direct payroll deductions of 1 percent. Amendments to the Labor Law that went into force in 2000 stipulate that the consent of an employee's union was no longer required to fire a worker (the old Law on Trade Unions had required a union's consent to fire a worker). Employers increasingly used the new Labor Law to fire workers without a union's consent; however, the general agreement contained a provision limiting the proportion of a company's workforce that could be dismissed at once to 9 percent. The Labor Law requires advance notice of dismissal. An employee still could choose to be represented by a union in a labor dispute; however, the employee had the option of choosing other representation as well.

The Constitution provides for the right to strike; however, there was a list of enterprises where strikes were not permitted. Unions and individual workers exercised the right during the year, primarily to protest the nonpayment of wages and unsafe working conditions and to recover back wages. According to the law, workers may exercise the right to strike only if a labor dispute has not been resolved through existing compulsory arbitration procedures. In addition, the law requires that employers be notified that a strike is to occur no less than 15 days before it commences. According to the Ministry of Labor, the incidence of labor disputes declined significantly in recent years.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor

The Constitution and law prohibit forced and bonded labor, except at the sentence of the court or in the conditions of a state of emergency or martial law, but there were reports that such practices occurred (see Section 6.f.).

The Constitution prohibits forced or bonded labor by children; however, child labor was routinely used in agricultural areas (see Section 6.d.).

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

The minimum age for employment was 14 years, but only for part-time work (5 hours a day) that was not physically onerous. Children from the ages of 16 to 18 could work full-time provided that they were not required to do any heavy work. The Government has acknowledged that children in this age group worked in construction and other heavy industries but reported that duties for children were limited to washing windows, general cleaning, laying tile, and similar nonstrenuous activities.

A child between the ages of 14 and 16 could work only with the permission of his or her parents. The law stipulates harsh punishment for employers who exploit children under the age of 16. The Ministry of Labor was responsible for enforcement of child labor laws and for administrative offenses punishable by fines; the MVD was responsible for criminal offenses. Child labor was used routinely in agricultural areas, especially during harvest season; but abuse of child labor generally was not a problem.

On December 13, the Parliament ratified ILO Convention 182 on the Elimination of the Worst Forms of Child Labor.

e. Acceptable Conditions of Work

The Government has set the monthly minimum wage at \$27 (4,181 tenge), an increase from the approximately \$24

(3,484 tenge) minimum wage of 2001. The minimum monthly pension rose to approximately \$28 (4,336 tenge) a month during the year, although the average pension was almost \$10 a month higher (5,780 tenge). The minimum wage did not provide a decent standard of living for a worker and family. The minimum wage also was below the minimum subsistence amount \$30 (4,663 tenge) a month for one person as reported for September by the National Statistics Agency. However, the average monthly wage was \$131 (20,112 tenge) compared with an average monthly wage in 2001 of \$117 (17,288 tenge). Monthly average wages grew 9 to 10 percent annually since 1999.

The Labor Law stipulates that the workweek should not normally exceed 40 hours, but specifies no maximum for other than normal circumstances. The Law limits heavy manual labor or hazardous work to no more than 36 hours a week. The Labor Law requires overtime to be paid at a rate of not less than one-and-a-half times normal wages for hours worked in excess of the normal 40-hour week. The Labor Law requires that overtime not exceed 2 hours in a calendar day or 1 hour a day for heavy manual labor. Overtime is prohibited for work in hazardous conditions. The Constitution provides that labor agreements may stipulate the length of working time, vacation days, holidays, and paid annual leave for each worker.

Minimum wages, work hour restrictions, and limits on overtime established under the Labor Law were enforced by the Ministry of Labor. Ministry labor inspectors conducted random inspections of employers to enforce all laws and regulations under their purview.

The Constitution provides for the right to "safe and hygienic working conditions;" however, working and safety conditions in the industrial sector were often substandard. Safety consciousness in both employees and employers was low. Workers in factories usually did not wear protective clothing, such as goggles and hard hats, and worked in conditions of poor visibility and ventilation.

Management largely ignored regulations concerning occupational health and safety, which were not well enforced by the Ministry of Labor. Since the Ministry of Labor took over responsibility for labor inspectors in 2001, there was an increase in the number and frequency of labor inspector visits. During the year, the Ministry reported a staff of 360 inspectors. Although the frequency of inspections remained insufficient to provide fully for occupational health and safety, the number of fines, penalties, and warnings to employers increased. According to the Ministry, 147 workers were injured due to unsafe working conditions during the first 9 months of the year. Under the Labor Law, employers were obligated to suspend work where its continuation could endanger the life or health of workers and to warn workers about any harmful and dangerous work conditions and about the possibility of any occupational disease.

There were no reports of workers suffering physical or sexual abuse, although it is probable that limited employment opportunities contributed to the underreporting of abuses. There are no laws protecting workers who file complaints about work conditions.

Foreign workers (those legally present with labor permits) were provided the same minimum wages and labor standards as local workers under the law. Legal foreign labor was limited by a yearly quota of workers, which generally was filled by Turkish, Western European, and American workers in the oil industry. These highly skilled workers earned more on average than local workers and enjoyed work and living standards above local standards. Several foreign corporations reported difficulty in obtaining work permits for their expatriate workers, saying the Government favored local workers for the positions.

Labor laws do not cover illegal workers, who did not receive the same legal protections as those with permits. Illegal workers were generally unskilled migrant laborers from Uzbekistan, Kyrgyz Republic, and Tajikistan, who crossed into southern Kazakhstan seeking agricultural jobs. They frequently were paid considerably less than local workers and worked in substandard conditions. Law enforcement agencies periodically conducted campaigns to deport illegal workers; employers were often fined as well during such campaigns. Between May 23 and June 5, 306 persons were deported from Mangystau Oblast and 61 of the oblast's employers fined.

f. Trafficking in Persons

The law prohibits trafficking in persons; however, trafficking in persons remained a problem during the year. There was no evidence of a pattern of official complicity in trafficking, although corruption of law enforcement officials was widespread.

There are several articles of the Criminal Code that cover most forms of human trafficking. Article 128, passed in 1997, criminalizes the recruitment of any person for sexual or other exploitation. It is punishable by a maximum 2-

year prison term. If a minor is involved, the maximum penalty is 5 years in prison. If the exploited person is transferred abroad, the maximum penalty is 8 years in prison. Article 330 was added to the Code in February to strengthen existing law. Article 330 prohibits the organization of illicit migration by providing transportation or fraudulent documents, or residence or other services for the illicit entry, exit, or movement on the territory of the country. It also covers the operation of a tourist or excursion agency for the purpose of illicit migration. The Criminal Code (Article 133) also prohibits the sale of children.

Prosecutions under these articles of the Criminal Code were rare. However, prosecutors used other articles of the Criminal Code to charge traffickers including the illegal involvement in prostitution (Article 270), which provides punishment of up to 3 years in prison; and prostitution connected with organized crime (Article 271), punishable by up to 5 years in prison. Official statistics differed on the number of investigations during the year under Article 271, the article the Government stated was most commonly used in antitrafficking efforts. It was difficult to estimate what percentage of investigations under Article 271 involved trafficking, since the Government did not maintain statistics specifically on trafficking. Prostitution was not explicitly prohibited under the law, nor was it legally regulated. Under Article 125 of the Code, kidnaping is punishable by a term of up to 7 years. In a case that was ongoing at year's end, several victims of trafficking filed suit in civil court against a travel agency for breach of contract.

In 2001 the Government formed a working group in which NGOs participated to draft comprehensive trafficking legislation. The Government did not submit draft legislation produced by the group to Parliament before the end of the year. The goals of the working group were to develop a comprehensive definition of all forms of trafficking and to provide new protections for trafficking victims.

Within the Government, the National Commission for Women's and Family Issues, law enforcement agencies, the KNB, and the Prosecutor General were most involved in combating trafficking. Prosecutors had the authority to direct law enforcement to begin investigations and during the year initiated investigations specifically related to trafficking, including many reports of trafficking that had appeared in the media.

The Government maintained that it seeks cooperation from authorities in destination countries for its citizens who have been trafficked and in the source countries of trafficking victims brought into the country. There were no cases where the Government has been asked to extradite a person charged with trafficking in another country.

The country was a source, transit, and destination country for victims of trafficking. Internal trafficking was also a problem. No reliable statistics were available on the number of victims each year, but many experts maintain that it was less than 5,000. Individuals were trafficked to the United Arab Emirates, South Korea, Turkey, Greece, Cyprus, France, Italy, Portugal, Switzerland, Belgium, Israel, and Albania. They were trafficked from the Kyrgyz Republic, Uzbekistan, and Tajikistan.

Traffickers mainly targeted young women in their teens and 20s. According to the Kazakhstan Crisis Center for Women and Children, most women were recruited with promises of good jobs or marriage abroad. Travel, employment, and marriage agencies often recruited victims through advertisements promising lucrative jobs in other countries. Offers to participate in international beauty contests also were used. Formerly trafficked women reportedly have recruited new victims personally. There was also evidence that young and middle-aged men have been trafficked from the country, either for sexual exploitation or for labor. Many trafficking victims appeared to be aware or at least to suspect that they were going to work as prostitutes, but not that they would be working under slavery-like conditions. Most trafficked persons traveled to their destinations on passports obtained abroad, most often from Russia or the Kyrgyz Republic.

There was no evidence of a pattern of official complicity with trafficking, although corruption of law enforcement officials was widespread. In 2000 a customs official was charged with accepting bribes for facilitating passage of trafficking victims, relieved of his duties, and imprisoned.

The Government did not assist trafficked women who returned to the country; however, NGOs ran crisis support centers that provided assistance.

In 2001 the IOM, in conjunction with 19 NGOs across the country, began an information campaign on the dangers of trafficking and set up hot lines for its victims. By the end of July, the hot line identified 35 cases of trafficking from among the almost 10,000 calls it received. The IOM also held press conferences to announce the names of travel agencies engaged in trafficking and planned to publish a report detailing trafficking networks in the country.

The Government, in conjunction with NGOs, supported training programs for judges, prosecutors, and law

enforcement employees at the local level on how to deal with trafficking cases.

In 2001 the Government reinstated mandatory licensing for tourist agencies in an effort to uncover agencies involved in trafficking. The Prosecutor General's office conducted several inspections late that year and found that many tourist agencies failed to provide for the return of their clients to the country. The Prosecutor General reported that most of these tourist agencies closed voluntarily after the inspections.

The Government did not provide any trafficking prevention programs; however, nongovernmental efforts to combat trafficking in persons continued and the Government cooperated with these groups.