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U.S. Department of State

Kazakhstan Country Report on Human Rights Practices for 1996

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KAZAKSTAN

The Constitution of Kazakhstan concentrates power in the Presidency. President Nursultan Nazarbayev is the dominant political figure. The Constitution, adopted in 1995 in a referendum marred by irregularities, permits the President to legislate by decree and dominate the legislature and judiciary; it cannot be changed or amended without the President's consent. Presidential elections originally scheduled for 1996 did not take place, as President Nazarbayev's term in office was extended to 2000 in a separate 1995 referendum, also marred by irregularities. Under the new Constitution, Parliament's powers are more limited than before. However, members of Parliament have the right to introduce legislation and several bills were drafted for submission to the full Parliament. The judiciary remained under the control of the President and the executive branch. The lack of an independent judiciary made it difficult to root out corruption, which was pervasive throughout the Government.

The Ministry of Internal Affairs supervises the criminal police, who are poorly paid and widely believed to be corrupt. A new institution established in October 1995, the State Committee for Investigations (GSK), is a federal investigative and law enforcement agency. The Committee for National Security (KNB, successor to the KGB) continued efforts to legitimize its role by focusing on activities to combat terrorism, organized crime, and official corruption.

Kazakhstan is rich in natural resources, chiefly petroleum and minerals, but its state-dominated economy continued to decline. Although the Government has been successful in stabilizing the local currency (tenge) and slowing inflation, structural reforms continue to lag. The agricultural sector, traditionally accounting for over one-third of national employment and production, has been slow to privatize. The

Government successfully privatized most small- and medium-sized firms, and is working to privatize large-scale industrial complexes, particularly in the oil and gas sector.

The Government generally respected the human rights of its citizens. Citizens enjoy basic rights of freedom of religion, speech, and assembly. Nonetheless, democratic institutions are weak. The Government infringed on citizens' right to change their government. The legal structure, including the Constitution adopted in 1995, does not fully safeguard human rights. Members of the security forces often beat or otherwise abused detainees, and already harsh prison conditions continued to deteriorate. There were allegations of arbitrary arrest, and prolonged detention is a problem. The judiciary remains under the control of the President and the executive branch, and corruption is deeply rooted. The Government infringed on citizens' right to privacy. The Government generally tolerates independent media, although the media practiced self-censorship,

and the Government maintained control of most printing facilities and supplies. Freedom of assembly was sometimes restricted, and freedom of association, while generally respected, was sometimes hindered by complicated registration requirements for organizations and political parties. The Government regulates the activities of foreign religious associations. The Government discriminated in favor of ethnic Kazaks. Domestic violence against women remained a problem. There was discrimination against women, the disabled, and ethnic minorities. The Government tried to limit the influence of independent trade unions, both directly and through its support for state-sponsored unions, and members of independent unions were harassed.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political killings. There were credible reports that a few detainees died due to mistreatment during interrogation by the security forces (see Section 1.c.).

Human rights organizations reported that there were several cases of detainees being killed while in custody during interrogations. In December the Chief of Criminal Investigations in the Moinkum Department of the State Committee for Investigations in Zhambyl was arrested on the charge that a detainee died due to mistreatment during interrogation while under his authority in December 1995. According to the press, the victim's death was due to serious bodily injuries and a lack of oxygen caused by the use of a gas mask to obtain a confession. The Prosecutor General's office confirmed that the investigation is continuing.

The Government reported that as of June, over 500 inmates imprisoned under harsh conditions with inadequate medical treatment had died of disease. Human rights monitors agreed, but estimated that 2500 prisoners had died by year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution states that "no one must be subject to torture, violence or other treatment and

punishment that is cruel or humiliating to human dignity." However, there were credible reports that police beat or treated detainees abusively to obtain confessions. Human rights observers report that detainees are sometimes choked, handcuffed to radiators, or have plastic bags placed over their heads to force them to divulge information. Training standards for police are very low and individual law enforcement officials are often poorly supervised.

There are credible reports that a few detainees died as a result of mistreatment during interrogation. There is evidence that one detainee was killed during interrogation in December 1995 in Zhambyl province (see Section 1.a.).

In August security forces arrested and beat Nina Sidorova, the leader of an ethnic Russian political movement. The Prosecutor General's office admitted that Sidorova had been mistreated and ordered an internal investigation.

Army personnel subjected conscripts to brutal hazing, including beatings and verbal abuse.

Prison conditions were harsh and continued to deteriorate, due to diminishing resources. In June, while testifying before the Senate, the Minister of Interior noted that about \$64.3 million (4.5 billion tenge) was needed to support the prison population, however, the Government allocated only about

\$37.1 million (1.9 billion tenge). In December the Ministry of Interior reported that, as of November 1, there were

72,305 prisoners in facilities designed for 60,000. Local human rights activists allege that there are 97,000 prisoners (including 20,000 in pretrial detention) in these facilities.

Overcrowding, combined with an inadequate prison diet and a lack of medical supplies and personnel, contributed to tuberculosis, hepatitis, and other diseases. In December the Government reported that more than 16,000 inmates suffered from tuberculosis with over 12,000 having the active form of the disease. The Kazakhstan-American Human Rights Bureau estimated that 2,500 inmates had died of tuberculosis and other diseases as of June.

According to the Government, 2,531 inmates died. Tuberculosis was the cause of death in 56.7 percent of all cases; malnutrition accounted for 10.2 percent of deaths. The incidence of malnutrition doubled from 2,000 cases in 1995 to 4,000. According to the Government, budget cuts (penitentiaries received less than 50 percent of requested funds last year) have reduced the quality of food and the stocks of medicine. In virtually all prisons, medications are available for emergency care only; only 1 in 10 tuberculosis patients in prison receives medication.

Prison guards, who are poorly paid, steal food and medicines intended for prisoners. Violent crime among prisoners is routine.

To reduce prison overcrowding, President Nazarbayev announced in July an amnesty for 20,000 prisoners convicted of minor offenses. This number was later changed to 8,500 after concerns were expressed that the amnesty would lead to a resurgence in the crime rate, which had been falling. However, in December the Ministry of Interior noted that more than 10,000 prisoners were able to take advantage of the amnesty offer. The first beneficiaries of the amnesty program were teenage offenders, war veterans, and the widows of war veterans. In August a similar amnesty law for the military came into force stipulating that all deserters who returned voluntarily to their army units before October 15 would not be tried by a military tribunal. Servicemen penalized for other offenses were also eligible for

the amnesty. The press reported that about 3,000 soldiers were affected. No additional information about the amnesty was available from the Government.

Prisoners are allowed only one visit every 6 months, but additional visits may be granted in emergency situations. Juveniles are kept in separate facilities.

The Government worked with local human rights groups to improve prison conditions, but unlike the previous year did not permit monitoring of prison conditions by local media and human rights groups in 1996. However, in December, a visiting United Nations delegation was permitted to visit several penal institutions in Almaty.

d. Arbitrary Arrest, Detention, or Exile

The Government continued the process of reforming the legal system throughout 1996. Much of the old Soviet legal system remained in force while new laws were being prepared to bring the legal system into accord with the Constitution. Local human rights organizations alleged that the Government used minor infractions of the law or manufactured charges to arrest and detain Government opponents arbitrarily, including leaders of ethnic Russian and Cossack organizations like Nina Sidorova, and opposition politicians like the leaders of the Azamat political movement who were arrested and fined for organizing an illegal demonstration in November in Almaty. In addition after a government-sanctioned opposition rally in December called for the resignation of the President and Prime Minister, one of the rally's organizers, Petr Svoik, was summoned by the State Committee for Investigations to discuss possible charges in connection with alleged wrongdoing during his tenure as the head of the State Antimonopoly Committee. In August, according to press reports, the Government responded to allegations that the arrests of two Cossacks in Kokshetau were politically motivated by asserting that the two were involved in a "terrorist plot".

The law sanctions pretrial detention. According to the Constitution, police may hold a detainee for 72 hours before bringing charges. After 72 hours, police may continue to hold the detainee for 10 days with the approval of a prosecutor. In practice, police routinely hold detainees, with the sanction of a prosecutor, for weeks or even months without bringing charges.

Defendants accused of serious crimes remain incarcerated until trial. Those accused of less serious crimes can be eligible for a "podpiska"--a system similar to bail. With the agreement of the Prosecutor General, the accused can be released from jail until trial if two persons make sworn written statements that the accused will not leave the locality. The law stipulates that the length of pretrial detention is 2 months, although the length of pretrial detention can be extended up to 1 year, with the approval of the Prosecutor General. The Prosecutor General stated that between 70 and 80 percent of those accused of a crime are considered to be eligible for bail; however, the Kazakhstan-American Human Rights Bureau believes that the percentage of accused persons who actually obtain bail is small.

According to the Constitution, every person detained, arrested, or accused of committing a crime has the right to the assistance of a defense lawyer from the moment of detention, arrest, or accusation--a right generally respected in practice. However, human rights activists allege that members of the security forces have pressured prisoners to refuse the assistance of an attorney, sometimes resulting in a delay before the accused sees a lawyer. Detainees may also appeal the legality of detention or arrest to the prosecutor before trial; previously, detainees could appeal the legality of detention or arrest to the court. If the defendant cannot afford an attorney, the Constitution provides that the State must provide one free of charge. Human rights organizations allege that many prisoners are unaware of this provision of the law. Although some lawyers are reluctant to defend clients unpopular with the Government, there were

no reports of government reprisals against attorneys. However, there were reports that several lawyers defending opposition figures were attacked and beaten by "unknown assailants."

The Government does not use forced exile.

e. Denial of Fair Public Trial

Government interference and pressure compromised the court system's independence throughout 1996--a situation codified in the Constitution's establishment of a judiciary fully under the control of the President and the executive branch. At year's end, the Government was still in the process of restructuring the judicial system to bring it into line with provisions of the Constitution.

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

Judges are appointed for 10-year terms, although a new draft law on judges will reportedly give the President the power to appoint judges for life. The Constitution abolished the earlier Constitutional Court and established a Constitutional Council--three of its seven members, including the chairman, are directly appointed by the President. The Council rules on election and referendum challenges, interprets the Constitution, and determines the constitutionality of laws adopted by Parliament. Under the Constitution, citizens no longer have the right to appeal directly to a court that a government action is unconstitutional; this action is now the sole prerogative of the courts themselves.

Local courts try less serious crimes, such as petty theft and vandalism. Oblast courts handle more crimes, such as murder, grand theft, and organized criminal activities. The oblast courts may also handle cases in rural areas where no local courts are organized. Judgments of the local courts may be appealed to the oblast-level courts, while those of the oblast courts may be appealed to the Supreme Court. There is also a military court. Specialized and extraordinary courts can also be created--for example, economic, taxation, family, juvenile, and administrative courts--which have the status of oblast and local courts. The Constitution and existing law establish the necessary procedures for a fair trial. Trials are public, with the exception of instances in which an open hearing could result in secrets being divulged, or when the private life or personal family secrets of a citizen have to be protected.

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

The problem of corruption is evident at every stage and level of the judicial process. Judges are poorly paid; the Government has not made a vigorous effort to root out corruption in the judiciary. According to press reports, judicial positions can be purchased: A seat on the bench in a municipal district court,

example, reportedly costs \$6,000. Anecdotal evidence stemming from individual cases suggests that judges solicit bribes from participants in trials and rule accordingly. In June the Chief Justice and another member of the Supreme Court were dismissed for taking bribes.

There were no reports of political prisoners. A few people were tried and convicted of violating laws on conducting rallies or demonstrations, or for slandering officials. None was incarcerated at year's end. According to local human rights monitors, journalist Boris Supryuk, who was tried, sentenced, and imprisoned for "insulting" a public prosecutor in May 1995, was released from prison in the spring. He now lives and works in the Russian Federation.

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

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

Section 2 Respect for Civil Liberties, Including