



The State Department web site below is a permanent electro information released prior to January 20, 2001. Please see [y](#) material released since President George W. Bush took office. This site is not updated so external links may no longer func [us](#) with any questions about finding information.

NOTE: External links to other Internet sites should not be c endorsement of the views contained therein.



U.S. Department of State

Kazakhstan Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

KAZAKHSTAN

The Constitution of Kazakhstan concentrates power in the presidency. President Nursultan Nazarbayev is the dominant political figure. The Constitution, adopted in 1995 in a referendum marred by irregularities, permits the President to legislate by decree and dominate the legislature and judiciary; it cannot be changed or amended without the President's consent. 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 1995 Constitution, Parliament's powers are more limited than previously. However, members of Parliament have the right to introduce legislation. During the Parliament's first full session, deputies drafted 19 bills for consideration. 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.

In October as part of a larger government reorganization, the law enforcement community was restructured. The Committee for National Security (the KNB, successor to the KGB) is responsible for counterintelligence and law enforcement activities on the national level. A new external intelligence service, Barlau (the Kazakh word for intelligence), was created to supervise overseas operations. Both report directly to the President. The Ministry of Internal affairs supervises the criminal police who are poorly paid and widely believed to be corrupt. The State Committee for Investigations (GSK), a federal investigative and law enforcement agency established in 1995, was dissolved. Its functions were divided between the Interior Ministry and the KNB. The KNB continued efforts to legitimize its role by focusing on activities to combat terrorism and organized crime. Members of the security forces committed human

rights abuses.

Kazakhstan is rich in natural resources, chiefly petroleum and minerals. The Government has made significant progress toward a market-based economy since independence. After a 5-year decline, overall production began to increase in 1996. The Government has been successful in stabilizing the local currency (tenge), slowing inflation, and improving structural reforms. 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-size firms, and is working to privatize large-scale industrial complexes, particularly in the oil and gas sector. However, living standards for many citizens continue to decline. According to several surveys, up to 35 percent of citizens live below the government-defined poverty line of \$50 per month.

The Government generally respected the human rights of its citizens in some areas, but serious problems remain in others. Democratic institutions are weak. The Government infringed on citizens' right to change their government. 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 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' rights to privacy. The Government generally tolerates independent media, although the media practiced self-censorship, and the Government maintained control of most printing presses and facilities. Freedom of assembly was sometimes restricted. Some organizers of unsanctioned demonstrations were arrested and fined or imprisoned. Freedom of association, while generally respected, was sometimes hindered by complicated and controversial registration requirements for organizations and political parties that restrict this right. Domestic violence against women remained a problem. There was discrimination against women, the disabled, and ethnic minorities. The Government discriminated in favor of ethnic Kazakhs. The Government tried to limit the influence of independent trade unions, both directly and through its support for state-sponsored unions, and members of independent trade unions were harassed.

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 I.c.). In January according to the Russian Center (an ethnic Russian political movement), a young man taken into custody for public drunkenness was killed while in detention in Almaty. The Kazakhstan International Bureau on Human Rights (formerly the Kazakhstan-American Bureau on Human Rights) reported that in February a man who was taken into custody for public drunkenness was beaten to death while in custody in Talgar. In July the press reported that the GSK officer responsible was convicted of murder and sentenced to 9 years in prison.

In May a chief of criminal investigations in the State Committee for Investigations in Zhambyl, who was charged with the death of a detainee under his authority in December 1995, was sentenced to 15 years in prison. In September the verdict and sentence were upheld by the Supreme Court.

The Government acknowledged that more than a thousand inmates died due to disease, mainly

tuberculosis, aggravated by harsh prison conditions and inadequate medical treatment (see Section 1.c.). Human rights monitors believe that the total was more than twice this number.

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. In June opposition leader Madel Ismailov alleged that he was deprived of sleep, forced to stand for hours, and housed in substandard, crowded conditions after he was arrested for organizing an unauthorized demonstration against a government decision to approve a hike in electricity rates (see Section 2.b.).

There are credible reports that a few detainees died as a result of mistreatment during police interrogations in January and February (see Section 1.a.).

Petr Svoik, one of the leaders of the political opposition movement Azamat, alleged that government authorities arranged for four unidentified assailants to break into his hotel room in Bishkek, Kyrgyzstan on December 1 and beat him with clubs as a warning to Azamat after he organized an unsanctioned November 30 demonstration. Svoik reportedly suffered minor injuries, none of which required medical attention. Official government comments expressed sympathy for Svoik as a victim of violence and President Nazarbayev asked the Minister of Internal Affairs to work with Kyrgyz authorities to find Svoik's assailants. No arrests have been made in the case (see Section 1.d.).

Army personnel subjected conscripts to brutal hazing, including beatings and verbal abuse. In August the military Prosecutor General estimated that one of every nine crimes in the army was concealed by senior military commanders. He reported that there were 60 cases of death due to mistreatment in the army in 1996; as of April, 20 cases of death due to mistreatment had been reported.

Prison conditions were harsh and continued to deteriorate, due to diminishing resources. In 1996 the Minister of Interior noted that \$64.3 million (4.5 billion tenge) was needed to support the prison population, but only \$37.1 million (1.9 billion tenge) was allocated by the Government. The Kazakhstan International Bureau for Human Rights estimated that the same amount would be needed to support the prison population in 1997, but that again only 45 to 50 percent of that amount would be allocated by the Government--about \$33.3 million (2.5 billion tenge). The Government allocated \$37.7 million (2.6 billion tenge) for prisons in 1997 and \$68 million (5.1 billion tenge) for prisons in 1998. The Government, however, faced a large budget deficit, and it was uncertain whether the prisons would actually receive the money allocated in the budget. In July the Ministry of Interior reported that there were 68,000 persons in prison and another 15,000 in detention in facilities designed to hold 60,000. Local human rights activists agreed with the Government's figures. In October the press reported that 10 prisoners in a maximum security prison in Aktyubinsk cut open their stomachs to protest the prison administration's refusal to abolish separate zones for different categories of prisoners. The prisoners also demanded the dismissal of the prison's administration and improvement of conditions in the prison.

Overcrowding, combined with an inadequate prison diet and a lack of medical supplies and personnel, contributed to tuberculosis, hepatitis, and other diseases. In July the Government reported that more than 20 percent of all inmates suffered from tuberculosis. The International Human Rights Bureau's estimate is slightly higher--at least 30 percent of all inmates suffer from tuberculosis and other major illnesses. The Government also acknowledged that AIDS is becoming a concern. Prison guards, who are poorly paid, steal food and medicines intended for prisoners.

In July the Government reported that 1,122 inmates imprisoned under harsh conditions with inadequate medical treatment had died of disease, 770 of them from tuberculosis. Human rights monitors estimated the number of those who died from disease while imprisoned at more than twice that number.

Violent crime among prisoners is common.

The Government reported that a 1996 amnesty reduced the number of prisoners significantly. Although no official figures are available, the Kazakhstan International Bureau on Human Rights estimates that between 5,500 and 11,000 persons were amnestied.

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

The Government was reluctant to work with local human rights groups to improve prison conditions. However, a representative of the domestic nongovernmental organization (NGO) The International Bureau on Human Rights was permitted to visit prisons for juveniles and women in Almaty. In the past, the Government has permitted international groups to visit prisons, most recently a U.N. study group in December 1996.

d. Arbitrary Arrest, Detention, or Exile

Local human rights organizations alleged that the Government used minor infractions of the law or manufactured charges to arrest and detain government opponents arbitrarily. In February law enforcement authorities charged independent trade union leader Leonid Solomin with violating currency laws and a constitutional provision barring trade unions from receiving financial assistance from a foreign source (see Section 6.a.). In June two leaders of the Worker's Movement (a Communist party fringe group), Madel Ismailov and Yuriy Vinkov, and the leader of the National Pensioner's Movement, Nina Savostina, were arrested and jailed after organizing a peaceful, unsanctioned demonstration in May in front of the Parliament to protest government approval of an electricity rate hike (see Section 2.b.). In December the three cochairmen of the Azamat political opposition movement were questioned by authorities after they organized a peaceful, unsanctioned demonstration in front of the parliament building in Almaty to protest a March 1995 presidential decree requiring demonstrators to obtain permits for public meetings. Petr Svoik, who alleged that he was beaten in Bishkek at the behest of Kazakhstani authorities, received a warning from the Government; Marat Auezov was summoned to the local district court, fined \$33 (2,480 tenge), and released; and Galim Abilseitov was arrested and sentenced to 15 days in prison (Abilseitov served 7 days before he was released) (see Section 2.b.). Petr Svoik, who was arrested and fined for organizing unsanctioned demonstrations in late 1996 in Almaty, was still under investigation for taking a portable computer used during his tenure as the head of the State Antimonopoly Committee.

The law sanctions pretrial detention. According to the Constitution, police may hold a detainee for 72 hours before bringing charges. In May the Aktau city prosecutor's office reported that 2,500 people had

been detained in 1996 on suspicion of being involved in a crime; most were released after a few hours. According to the law, after 72 hours police may continue to hold a detainee for 10 days with the approval of a prosecutor. However, in practice police routinely hold detainees, with the sanction of a prosecutor, for weeks or even months without bringing charges. In August the Deputy Prosecutor General publicly acknowledged that prolonged detentions--especially those intended to force a detainee to confess to a crime--were a serious problem.

In June legislation signed into law by the President formally established a system of bail that permits those charged with a crime and awaiting trial to request the judge to approve bail. During the same month, the leaders of the Azamat political opposition movement posted a \$1,334 (100,000 tenge) bail for detained Worker's Movement leader Madel Ismailov, who was then released.

The law stipulates that the maximum 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 claims that between 70 and 80 percent of those accused of a crime are considered to be eligible for bail; however, the International 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. This right is 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. If the defendant cannot afford an attorney, the Constitution provides that the State must provide one free of charge. Human rights organizations allege that many prisoners are unaware of this provision of the law. Although some lawyers are reluctant to defend clients unpopular with the Government, there were no reports of attorneys being sanctioned by the Government for their decisions to defend particular clients.

The Government does not use forced exile.

e. Denial of Fair Public Trial

Government interference and pressure compromised the court system's independence throughout 1997--a situation codified in the Constitution's establishment of a judiciary fully under the control of the President and the executive branch. The Government continued the process of restructuring the judicial system to bring it conformity 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 Supreme Judicial Council, a body chaired by the President, which includes the chairperson of the Constitutional Council, the chairperson of the Supreme Court, the Prosecutor General, the Minister of Justice, senators, judges and other persons appointed by the President). The President appoints oblast judges (nominated by the 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.

According to legislation passed in December 1996, judges are appointed for life, although in practice this means until mandatory retirement at age 65. The 1995 Constitution abolished the Constitutional

Court and established a Constitutional Council; 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 about the constitutionality of government action; this appeal is now the sole prerogative of the courts. The Constitution states that "if a court finds that a law or other regulatory legal act subject to application undermined the rights and liberties of an individual and a citizen, it shall suspend legal proceedings and address the Constitutional Council with a proposal to declare the law unconstitutional," but does not grant citizens the right to approach the courts on a constitutional issue.

Local courts try less serious crimes, such as petty theft and vandalism. Oblast courts handle more serious 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. Although they do not currently exist, 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 the law establish the necessary procedures for a fair trial. Trials are public, with the exception of instances in which an open hearing could result in state secrets being divulged, or when the private life or personal family concerns of a citizen must be protected.

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

In most cases, these rights are respected. However, in December Azamat political opposition movement cochairman Galim Abilseitov was arrested, taken to district court, and charged with organizing an unsanctioned rally on November 30. Abilseitov stated that he was not permitted to have a public trial. He was not permitted to have a lawyer present; nor was he permitted to offer testimony in his own defense. The judge sentenced Abilseitov to 15 days in prison. Abilseitov was released from prison 7 days later, after the district prosecutor general upheld his complaint that the trial had been illegal. The court did not pursue the case further (see Section 2.b.).

The problem of corruption is evident at every stage and level of the judicial process. Judges are poorly paid; the Government has not made a vigorous effort to root out corruption in the judiciary. According to press reports, judicial positions can be purchased. Anecdotal evidence stemming from individual cases suggests that judges solicit bribes from participants in trials and rule accordingly. In May 1996, Government instituted a new procedure that requires all judges to go through a recertification process. The process was intended to ensure that judges are familiar with current law and was completed in the fall. Judges were required to pass an oral examination. The recertification process resulted in a significant turnover of personnel, particularly at the lower levels. The recertification process addressed a legitimate need to improve judicial competence; however, it was used in some cases by local governments to remove individual judges for political reasons.

The Government is in the process of reforming the legal system. In June the Parliament passed new criminal and civil codes to bring the legal system into accord with the Constitution. However, much of the old Soviet legal structure remained in force while the Government drafted the necessary

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

There were no reports of political prisoners.

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

The Constitution provides that citizens have the right to "confidentiality of personal deposits and savings, correspondence, telephone conversations, postal, telegraph and other messages." Limitation of this right is allowed "only in 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:

a. Freedom of Speech and Press

The Constitution and the 1991 Press Law provide for freedom of the press, and the Government generally tolerates independent media. The Government continued to own and control most printing and distribution facilities and to subsidize periodicals, including many that were supposedly independent. The potential for government control and instances of official pressure resulted in widespread media self-censorship. The key subject considered to be "off limits" by journalists was personal criticism of the President and government officials.

In February the editor and staff of the weekly newspaper *Economika Segodnya* were questioned at length about an article in the newspaper that quoted an opposition leader criticizing the President. The newspaper had previously been cited by the government mass media agency for not including in its masthead all the information required by government regulation. The newspaper was warned that one more citation would result in the suspension of its business license.

There were two cases in northern Kazakhstan in which local administration censorship offices accused independent stations of violating local laws after they had aired programs that were objectionable to the Government. No further action was taken against either station.

Despite such official heavy-handedness, the press was generally permitted to criticize government decisions. Official corruption remained an acceptable topic for critical coverage. Many journalists criticize the Parliament as being without power and subject to the President's control.

In January the press reported that the Government closed the independent daily newspaper, *Karavan Blitz*, which was very critical of the Prime Minister. However, the newspaper's owner announced that he

had ceased publication because the newspaper was not profitable. The owner also publishes the weekly tabloid-style Caravan, the most popular newspaper in the country, which routinely criticizes the Government and offers political views and commentary.

Most political opposition groups freely issued their own publications. There are several independent newspapers that reflect opposition views, particularly Delovaya Nedelya (Business Week) and Twenty-first Century. However, in June the Government closed the Communist Party's national newspaper when it applied for reregistration, alleging that the newspaper had violated the Constitution by calling for the violent overthrow of the social system. It is unclear whether this charge was accurate. The newspaper responded that it had only discussed the reform of the social system and attempted to sue the National Agency on Press and Mass Media for about \$26,667 (2,000,000 tenge). However, the courts refused to hear the case and the newspaper remains closed.

There are 31 independent radio and television stations. Eleven of these are in Almaty. In November 1996, there were 57 independent stations in the country; eight were in Almaty. Of the 26 stations that went out of business in 1997, half closed due to the frequencies auctions. The other 13 went bankrupt before the auctions began or joined forces with other broadcasting companies to compete in the auctions. There are only two government-owned combined radio and television companies. However, they represent five channels and are the only stations that can broadcast nationwide. Regional governments own several frequencies; however, independent broadcasters have arranged with local administrations to use the majority of these. The Government controls nearly all broadcasting transmission facilities. About 40 percent of newspapers are government-owned. All daily newspapers are government-run. There are also a large number of newspapers that are produced by government ministries, for example, Kazakhstan Science, published by the Ministry of Science. However, many newspapers receive a government subsidy. All Kazakh language newspapers receive a government subsidy, although most would call themselves independents. Therefore, including newspapers that receive subsidies, about 80 percent of newspapers are government-run. Each major population center has at least one independent weekly newspaper. There are seven major independent newspapers in Almaty. An Association of Independent Electronic Media of Central Asia (ANESMI) exists, but it is fractured and weak.

An auction of television and radio frequencies convinced many human rights activists and some media outlets that the Government sought to harass and even eliminate independent media. The Government denied any intent to limit free speech and asserted that it was acting in its own fiscal interest. The Government had announced the tender for frequencies in Almaty in December 1996. Prior to the frequencies auction, there was no formal process for obtaining a frequency. Some stations simply assumed ownership at no cost; others obtained frequencies through the good offices of local officials, often accomplished through bribery. The majority of independent media outlets in Almaty participated in the auction. Some joined with other broadcasting companies or commercial backers to raise the necessary capital. Others protested the auction vehemently, but still participated. The results of the Almaty frequencies auction were announced in January. Two television/radio companies and one radio company (which carried the Voice of America) lost the auction and were removed from the airwaves. The two television/radio companies that lost the auction were the most vocal critics of the Government in the media. However, there was no change in the total number of independent Almaty television stations. Two new stations replaced the two losers. In radio there was a net increase of one independent broadcaster. Some of the new stations established as a result of the frequencies auction offer political news and commentary and criticism of the Government; others do not.

The situation was very different in the subsequent frequencies auction for the provinces (oblasts). Few broadcasters could meet the minimum bid required by the Government. In addition the Government announced that no frequencies would be awarded in areas in which there were not at least two bidders. In April the Government awarded three television and five radio frequencies in seven cities. Many of the

losing stations claimed that the winners received frequencies because they promised to be loyal to the Government. At the end of the auction, ANESMI declared that no real independent media existed in Kazakhstan. In fact only a small number of stations lost their frequencies in the auctions, although many were forced to find commercial backers and to relinquish financial control over their stations. Although many of the commercial backers have ties or connections to the Government, there are few reports of broadcasters being pressured by commercial backers in order to please the Government. One station reported that it was pressured by one of its owners not to broadcast information about an unauthorized demonstration in order to ensure that the local administration did not close the station and cut off advertising revenues. Commercial backers are more likely to pressure stations to air more high-profit programs such as westerns, rather than low-profit offerings of news and political commentary. The total number of independent stations operating decreased, however, many stations ceased broadcasting before the auctions began. Others elected not to participate in the auctions and closed voluntarily.

Overall, the tender process was flawed. The rules were complex and sometimes contradictory. Although the tender award committee was eventually expanded to include a mass media representative, the process was not transparent. According to government officials, the minimum bid was based on a cost formulation used for frequencies in Australia. Bids varied based on the power of the station and other technical parameters, but the commonly used figure for Almaty was \$126,000. This approach priced many independents out of the market, especially in the provinces where advertising revenue is low. The Government also did not require its television and radio companies to compete in the auction and reserved the highest quality and the most desirable frequencies for them.

In March ANESMI filed an inquiry with the Prosecutor General regarding the legality of the frequencies auctions. The Prosecutor's Office ruled that the law upon which the auction was based was unconstitutional. The Prosecutor asked the Prime Minister for a response to the ruling, but none was given. The Prosecutor's Office did not directly address the legality of the auctions themselves. There was no further action taken on the ANESMI protest. According to the law, if the Government does not respond to a prosecutor's ruling, the Prosecutor General's office can take the Government to court. In this case, the Prosecutor General's officer took no further action. None of the losing stations went to court to protest the loss of their frequencies. Most believed that it was too expensive and not worthwhile to try. There is no procedure in the law to appeal the loss of a tender.

Some members of the independent media alleged that the January murder of a foreign expert providing technical assistance to the independent media during the debate over the frequencies auctions was part of a political campaign against the independent media. However, the murderers were arrested and convicted in June and evidence presented during the trial confirmed that the motive for the murder was robbery.

The Constitution provides for the protection of the dignity of the President and the law against insulting the President and other officials remained on the books. Although no cases of insulting the President or other officials were reported in the press, the Kazakhstan International Bureau on Human Rights alleged that there were numerous cases of individuals arrested for insulting local officials. The bureau reported that in September, three youths in Uralsk, Ainur Kurmanov, Sergey Kolokolov, and Vasya Nikolayev, were arrested and charged under five separate statutes of the new Criminal Code for writing antipresidential graffiti on the walls of a building in May. Conviction could carry a prison sentence of 3 to 8 years. The youths originally were arrested and charged with the minor offense of hooliganism (a crime that no longer exists under the Criminal Code passed in June), and released. However, in accordance with a June decree reiterating the importance of protecting the honor and dignity of the President, the Government ordered Uralsk authorities to arrest the youths and take them into custody. The case remains open. Two of the youths are in custody; one is not being held because he is a minor. The case was scheduled to go to trial on December 22, however, one of the defendants, Ainur

Kurmanov, who was on a 23-day hunger strike to protest his imprisonment, was too ill to stand trial. The court postponed the trial until January 19, 1998. Prominent opposition leaders, including Yuriy Vinkov of the Labor Movement, a Communist parliamentary deputy from Uralsk, Valeriy Zemliyanov, and the cochairmen of the Azamat political movement, are supporting the youths.

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

The Government respects academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for peaceful assembly; however, the Government and the law impose significant restrictions. According to the law, organizations must apply to the local authorities for a permit to hold a demonstration or public meeting at least 10 days in advance, or the activity is considered illegal. In some cases, local officials routinely issued necessary permits. However, human rights activists complained that complicated procedures and the 10-day notification period made it difficult for all groups to organize public meetings and demonstrations. They argue that local authorities, especially those outside of the capital, turned down the majority of applications submitted or refused to allow rallies to take place in central locations. According to the press, local authorities refused to issue permits for public meetings in Shymkent and Zhambyl because of the "danger of epidemics arising among large groups of people." In September the Kazakhstan International Bureau on Human Rights reported that local authorities in Uralsk refused to issue a permit to a Communist Party parliamentary deputy who wanted to organize a public meeting with his constituents.

In January the President announced a "year of political accord" and asked political and social movements to agree to a 1-year moratorium on political actions. Although many state-supported organizations agreed, most independent organizations refused. In March the Prosecutor General referred to unsanctioned gatherings in which top officials were slandered and defamed--an offense under the law--when he warned that the Government would not tolerate unauthorized public meetings, strikes, or the release of inflammatory public statements. He pledged to take "all necessary actions" to stop illegal activities.

Nevertheless, there were numerous peaceful, unsanctioned demonstrations of workers and pensioners protesting difficult economic conditions and the nonpayment of wages and pensions. For the most part, law enforcement authorities did not interfere in the demonstrations, and no action was taken against the individuals participating. There were peaceful unsanctioned demonstrations in Kentau, Ust-Kamenogorsk, and Almaty in which no arrests were made. In September the Azamat political opposition movement issued a statement that "demonstrative reprisals" (warnings) had been issued by the Government to the organizers of illegal protest actions in Karaganda, Pavlodar, Kokchetau, and Uralsk.

However, there were also cases in which the Government arrested, detained, fined, and sometimes imprisoned the individual organizers of unsanctioned rallies. In March several Communist Party members were arrested and fined for protesting the dissolution of the Soviet Union. Also in March, after an unsanctioned demonstration to protest economic conditions in Almaty, three members of the Alash Party alleged that they were arrested and fined for carrying banners with antigovernment slogans. Madel Ismailov, leader of the Worker's Movement (a Communist Party fringe group), was arrested for

organizing an unsanctioned May 1 demonstration in Almaty. Ismailov obtained a permit from city officials to hold a rally in a park in the city. However, after the rally began, Ismailov led protesters to the office of the head of the local administration. After the demonstration concluded, Ismailov was arrested and sentenced to 15 days in prison.

In June Ismailov and another Worker's Movement member, Yuriy Vinkov, and the leader of the National Pensioner's Movement, Nina Savostina, were arrested after organizing an unsanctioned demonstration on May 30 in front of Parliament to protest government approval of a utility rate hike. Savostina and Vinkov were sentenced to 7-day and 15-day jail terms respectively for organizing the demonstration. Ismailov was charged with "active participation in or organization of public disorder," an offense that carries a possible sentence of 3 years in jail, and detained. He was released from prison on bail in July after his trial began. In September Ismailov was found guilty and sentenced by the district court to 1 year of "corrective labor." In fact, however, this sentence amounted to a fine for Ismailov, an employee of a government seismic control station, as the Government garnished 15 percent of his wages each month. The judge took into account the 30 days Ismailov had spent in detention and ruled that each day spent in custody would be equal to 3 days of "corrective labor." Therefore, Ismailov would be required to serve only 9 months of "corrective labor." Ismailov, who continues to argue his innocence, appealed the conviction and sentence to the oblast-level court (see Section I.d.). The court has not yet acted upon Ismailov's appeal.

Also in June, 400 pensioners in Pavlodar clashed with police during an unsanctioned demonstration to protest economic conditions. The press alleged that tear gas and force were used to disperse the crowd; local officials denied the allegations. The organizer of the rally, the head of the local pensioner's movement, was arrested and sentenced to 15 days in prison. In July two leaders of a miners' union in Karaganda were arrested for organizing an unsanctioned demonstration to protest the nonpayment of wages. The two were sentenced to jail terms, but the ruling was overturned by the district court; they were fined and released.

On November 30, the political opposition groups Azamat and the Worker's Movement held an unauthorized demonstration in front of the parliament building in Almaty to protest a March 1995 presidential decree requiring demonstrators to obtain permits for demonstrations. The opposition groups claim that the decree is unconstitutional, in that it contradicts the August 1995 Constitution, which provides for freedom of assembly and peaceful demonstration. The orderly rally was attended by about 500 persons and lasted approximately 1 hour. The three Azamat cochairmen who organized the rally were arrested by the Government. Petr Svoik, who also alleged that he was beaten on December 1 in Bishkek at the behest of Kazakhstani authorities, received a warning from the Government; Marat Auezov was summoned to the local district court, fined \$33 (2,480 tenge), and released; and Galim Abilseitov was arrested and sentenced to 15 days in prison (Abilseitov served 7 days before he was released) (see Sections I.c., I.d., and I.e.).

The Constitution provides for freedom of association; however, the Government and the law impose significant restrictions. Organizations, movements, and political parties that conduct public activities, that hold public meetings, participate in conferences, or have bank accounts must register with the Government. Registration on the local level requires a minimum of 10 members and on the national level, a minimum of 10 members in at least 7 of the 14 oblasts. In addition a registration fee is required, which many groups consider to be a deterrent to registration.

The Constitution prohibits political parties established on a religious basis. The Government has refused to register ethnic-based political parties on the grounds that their activities could spark ethnic violence. The Constitution bans "public associations"--including political parties--whose "goals or actions are directed at a violent change of the Constitutional system, violation of the integrity of the republic,

undermining of the security of the state (and), fanning of social, racial, national, religious, class and tribal enmity." Unregistered parties and movements, nonetheless, hold meetings and publish newspapers. All of the major religious and ethnic groups have independently functioning cultural centers.

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

There are no statistics available regarding the number of registered political parties (approximately 25 registered nationwide), however, all parties requesting registration have been successful. In general political parties are very weak, and with the exception of the Communist Party and some of the ethnically based political movements, they have very little influence outside the capital with membership estimated at about 100,000. The majority of parliamentary deputies are independents; they are active in Parliament, but most support the President and the Government. Parties represented in the Parliament include several pro-presidential parties, the Communist Party, and the Socialist Party. Most opposition party members decided not to participate in the December 1995 elections and are therefore not represented in the Parliament.

The Constitution prohibits foreign political parties and foreign trade unions from operating. In addition the Constitution prohibits the financing of political parties and trade unions by foreign legal entities and citizens, foreign states, and international organizations. In March independent trade union leader Leonid Solomin was accused of violating the Constitution by accepting financial support from the AFL-CIO's Free Trade Union Institute (see Section 6.a.). Some trade union associations have circumvented this prohibition by registering with the Government as "public organizations," in other words, nongovernmental organizations.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the various denominations worship without government interference. However, the Constitution also requires that the appointment by foreign religious centers of the heads of religious associations must be carried out "in coordination with the Government," as must the activities of foreign religious associations. In practice the Government does not interfere with the appointment of religious leaders or the activities of foreign religious associations. Foreign missionaries, unwelcome to some Orthodox and Muslim citizens, have complained of occasional harassment by low-level government officials. In particular evangelical Protestants working as teachers and medical professionals have alleged government hostility toward their efforts to proselytize. However, no action has been taken against foreign missionaries working in the country.

There were allegations that the political harassment of trade union leader Leonid Solomin (see Section 6.b.) was directly related to his Jewish faith. Union members were reportedly told that they had "sold themselves to the Jew Solomin." However, Solomin said publicly that the harassment was because of his trade union activities, not his religion.

The Islamic mufti and the Russian Orthodox archbishop appeared together publicly to promote religious

and ethnic harmony, usually at the invitation of and with the President.

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

The Constitution provides for the right to emigrate and the right of repatriation; both are respected in practice. Kazakhstanis have the right to change their citizenship, but are not permitted to hold dual citizenship.

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

There were a few reports of government efforts to restrict the movement of foreigners around the country. Internal visas are no longer required for foreigners traveling outside the capital.

An exit visa is required for both citizens and foreigners who wish to travel abroad, although refusals are rare. There have been reports of some officials demanding bribes for exit visas. It is usually necessary to meet a number of bureaucratic requirements before the exit visa is issued. For example close relatives with a claim to support from the applicant must give their concurrence. Intending emigrants must also obtain evidence that they have no outstanding financial obligations.

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

The Government cooperates with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, especially with the resettlement of ethnic Kazakhs from Afghanistan living as refugees in Iran. There were no reports of forced expulsion of refugees; however, in April the Afghan Charge d'Affaires publicly appealed to the Government not to expel Afghan refugees. None were forced to leave. There were complaints that the Government had not yet adopted laws regularizing the status of refugees. According to the law, only ethnic Kazakh repatriates can be considered refugees. Migrants from other Commonwealth of Independent States (CIS) countries are not considered to be refugees as they may travel and settle freely in any CIS country. All non-CIS citizens are considered to be intending immigrants. In practice, however, the Government is tolerant in its treatment of local refugee populations. Political asylum can be granted only by the President. The issue of the provision of first asylum has arisen, but the Government has not passed legislation and implementing procedures in conformity with internationally recognized norms.

In December the Parliament passed a migration law. The UNHCR believes that the law is a positive first step toward establishing procedures for the Government to cope with migration-related problems. The law, based on a draft initiated by a parliamentary deputy, mandated the establishment of a government migration agency to oversee migration-related issues, independent of the Ministry of Labor and Social

Protection, which formerly had responsibility for migration within the government.

At the end of 1994, Kazakhstan and Russia initialed agreements that established broad legal rights for the citizens of one country living on the territory of the other, and provided for expeditious naturalization for citizens of one country who moved to the other. In July the two countries exchanged instruments of ratification to bring these agreements into force.

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

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

A bicameral legislature took office in January 1996. The lower house (the Majilis), consisting of 67 members, was elected directly. The upper house (the Senate), with 42 members, was elected indirectly, by members of oblast and city parliaments, with 7 of its members appointed directly by the President. (The number of Senate seats was reduced after October by-elections from 47 to 42 in accordance with the Government's March decision to reduce the number of oblasts from 19 to 14.) The election law requires candidates for both houses to meet minimum age and education requirements, and to pay a nonrefundable registration fee of 100 times the minimum monthly wage (in a by-election in March, this fee was about \$2,700 (190,000 tenge). The election law does not require Majilis candidates to collect a certain number of signatures in order to be placed on the ballot. Senate candidates, however, are required to obtain signatures from

10 percent of the members of the local assemblies in their oblasts in order to be placed on the ballot. Some consider the election requirements, especially the registration fee, to be a barrier to participation. The Constitution mandates that participation in elections is voluntary. However, experts stated that the law requiring participation of at least 50 percent of the eligible voters to make an election valid puts pressure on polling site workers to garner a sufficient number of votes and has been cited as one of the causes of fraud and vote inflation in past elections.

The legislature cannot initiate changes in the Constitution or exercise oversight over the executive branch. The Parliament has, however, asserted itself with regard to the budget, challenging the figures presented by the Government and adjusting allocations. Should Parliament fail to pass within 30 days an "urgent" bill brought by the President, the President may issue the bill by decree. While the President has broad powers to dissolve Parliament, Parliament can remove the President only for disability or high treason, and only with the consent of the Constitutional Council, which is largely controlled by the President.

Although the President has the right to legislate by decree, he respected the parliamentary procedures laid out in the Constitution. During its first full session from September 1996 to June 1997, the Parliament passed 150 bills to the President for signature. Although the majority of bills was drafted by the executive, the Parliament considered 19 bills that were drafted and introduced by individual deputies. Several of the 19 bills initiated by parliamentary deputies were passed into law, including bills on government support for small business development, the development of nontraditional energy sources, and migration. However, the Parliament fell short in several areas. Parliamentary procedures

were weak and constituent relations were nonexistent. Most parliamentary activities continued to be conducted behind closed doors. Sessions were neither open to the public nor televised.

The Constitution significantly constrains the independence of the judiciary. A Constitutional Council replaced the Constitutional Court in August 1995 when the new Constitution was adopted. Three of its seven members, including its chairman, are directly appointed by the President. A two-thirds majority of the Council is required to overrule a Presidential veto. All judges are appointed directly by the President.

According to the Constitution, the governors of oblasts (the "akims") are selected by the Prime Minister but serve at the discretion of the President, who may also annul their decisions.

The major national political opposition movements both called for the direct election of provincial governors and changes in the Government's economic reform policies. Azamat is a movement of intellectuals dedicated to constructive opposition. Republic is a popular front led by the Kazakhstani Communist Party representing 20 political parties, public associations, and movements. The Government did not interfere with the development of either movement. In March, however, local officials in Almaty barred Azamat members from a meeting hall prior to the opening of a national conference due to "fire code violations." In June a small group of opposition leaders formed an "antitotalitarian league," but the league remains inactive. In November Marat Auevov, one of the cochairs of the Azamat political opposition movement, announced his candidacy for President for the 2000 elections. Also in November, 11 opposition parties, including Azamat, the Communist Party, the ethnic Kazakh movement Azat, the ethnic Russian movement Lad, and the pensioners' movement Pokolenia, established a new People's Front to contest the 1999 and 2000 elections.

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

There are no legal restrictions on the participation of women and minorities in politics, but the persistence of traditional attitudes means that few women hold high office or play active parts in political life. There is one female federal minister, but no female provincial governors (akims). Of 47 Senate members, 5 are women; of 67 Majilis members, 9 are women.

Although minority ethnic groups are represented in the Government, Kazakhs hold the majority of leadership positions. After an October government reorganization, only 3 of 14 government ministries are headed by non-Kazakhs. (In March the Government reduced the number of ministries from 21 to 14.) Non-Kazakhs are well-represented in the Majilis and the Senate.

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

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

The Government permitted international and foreign nongovernmental organizations (NGO's) dealing with human rights issues to visit Kazakhstan and meet with local human rights groups as well as

government officials. The International Labor Organization, the International Federation of Red Cross and Red Crescent Societies, and the UNHCR have permanent offices in the country. The Constitution forbids "the financing of political parties and trade unions by foreign legal entities and citizens, foreign states and international organizations." Independent trade union leader Leonid Solomin was charged with violating this provision after he accepted financial assistance from the AFL-CIO's Free Trade Union Institute (see Section 6.a.).

The Civil Code requires NGO's to register with the Government and most NGO's are registered; however, some continue to operate without legal standing. Although some government officials made an effort to work with domestic and foreign NGO's, others continued to assert that foreign NGO's promote instability. Some NGO's chose not to register because they objected to the requirement of registration in principle or because they do not have the money to pay the registration fee. Others believe that they were not eligible to register because they promoted the interests of one ethnic group or religion and are considered by some to violate the constitutional ban on inciting social, racial, national, religious, class, and tribal enmity. The new Criminal Code passed in July criminalizes the activity of NGO's that are not registered.

A presidential commission on human rights was reorganized in May and is now led by a senator. The commission reached out to independent human rights organizations, but made little progress in establishing itself as an ombudsman. In general the Government tended to deny or ignore charges of specific human rights abuses, although the commission pledged to produce its own human rights report. Prior to the commission's reorganization, its secretary angered local human rights activists by alleging that they had "close ties with certain international human rights organizations of a dubious nature and with certain financial support from foreign countries."

In December the commission, the U.N. office in Almaty, and human rights NGO's, cohosted a human rights round table. While the conference was poorly attended, especially by government officials, the fact of government involvement apparently indicated a nascent awareness of human rights problems by government officials.

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

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

Women

According to human rights groups, there is considerable domestic violence against women. A local NGO, the Feminist League, estimates that hundreds of thousands of women are the victims of spousal abuse. Police are often reluctant to intervene, considering it to be the family's business, unless they believe that the abuse is life threatening. The maximum sentence for wife beating is 3 years, but few such cases are prosecuted. The Government has not specifically addressed the problem. Law enforcement authorities reported 1,905 cases of rape in 1996 and adjusted their 1995 figures to report 1,641 cases. Ministry of Interior officials stated that there were 1,343 reported cases of rape in the first 9 months of 1997. The punishment for rape can range from 4 to 15 years. There is very little coverage of rape in the press, and rapes often go unreported.

There is no legal discrimination against women, but women are severely underrepresented in higher positions in government and state enterprises and overrepresented in low-paying and some menial jobs. Women have unrestricted access to higher education.

Children

The Government is committed in principle to children's rights, but, as in many other areas, budget stringencies and other priorities severely limit its effectiveness in dealing with children's issues. There is no established pattern of governmental or societal abuse against children. Rural children normally work during harvests (see Section 6.d.).

People With Disabilities

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

National/Racial/Ethnic Minorities

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

The Government continued to discriminate in favor of ethnic Kazakhs in government employment, where ethnic Kazakhs predominate, as well as in education, housing, and other areas. However, the Government has continued to back away from its "Kazakhification" campaign of the first year of independence. President Nazarbayev has publicly emphasized that all nationalities are welcome, but many non-Kazakhs are anxious about what they perceive as expanding preferences for ethnic Kazakhs. Many ethnic Kazakhs, however, believe that such affirmative action is needed to reverse 200 years of discrimination.

In December representatives of the Chechen and Ingush communities complained that law enforcement authorities unfairly singled them out as violators of the law. Law enforcement officials denied the allegations, noting that violators of the law are not divided by ethnic group.

Most of the population speaks Russian; only about one-half of ethnic Kazakhs speak Kazakh fluently. According to the Constitution, the Kazakh language is the state language. The Constitution states that the Russian language is officially used on a basis equal with that of the Kazakh language in organizations and bodies of local self-administration. This slight increase in the status of the Russian language (from its previous status as the Republic's "language of interethnic communication") did not satisfy some ethnic Russian Kazakhstanis who had hoped that Russian would be designated as a second state language. The Government is encouraging more education of children in the Kazakh language, but has done little to provide Kazakh-language education for adults.

In June a language law intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages was passed by Parliament and signed into law by the President. Although introduction of the legislation in 1996 created anxiety among many citizens--particularly among ethnic Slavs--the final version of the bill offended few. The bill does not appropriate sufficient funding to make Kazakh language education universal. The Parliament deleted the bill's most controversial provision--the immediate establishment of a list of government positions that must be held by individuals fluent in Kazakh by a specific date. Instead, the Parliament is to compile a list of positions requiring Kazakh language fluency at some time in the future.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the Labor Code provide for basic worker rights, including the right to organize and the right to strike. In December the Government withdrew the latest draft Labor Code from consideration after sharp criticism from parliamentary deputies and returned it to the Ministry of Labor to be redrafted.

Most workers remained members of state-sponsored trade unions established during the Soviet period, when membership was obligatory. At most enterprises, the state-sponsored unions continued to deduct 1 percent of each worker's wage as dues. In addition the Government withholds 30 percent of each worker's wage, 85 percent of which is for the state pension fund, 5 percent for social insurance, and 10 percent for health care. An additional 2 percent of each worker's wage is withheld for the unemployment fund. The state unions under the Communist system were, and for the most part still are, organs of the Government, and work with management to enforce labor discipline and to discourage workers from forming or joining independent unions.

The law gives workers the right to join or form unions of their choosing and to stop the automatic dues deductions for the state unions. However, enterprises often continue to withhold dues for the state-sponsored union in spite of requests from individual workers to stop the deduction. The Independent Trade Union Center of Kazakhstan claims membership of about 500,000 out of a total work force of about 5.6 million; however, the actual number of independent trade union members is estimated to be closer to 70,000. To obtain legal status, an independent union must apply for registration with the local judicial authority at the oblast level and with the Ministry of Justice. Registration is generally lengthy, difficult, and expensive. The decision to register a union appears to be arbitrary, with no published criteria. Although no unions appear to have been denied registration, the independent trade union center had difficulty registering and a labor union in Kapchagai waited 5 months to be registered. The two major independent trade union confederations are registered. Judicial authorities and the Ministry of Justice have the authority to cancel a union's registration; however, there is no evidence that the Ministry of Justice has used this authority.

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

A 1995 tripartite agreement between labor, management, and the Government, designed to help resolve labor issues and disputes, remained moribund. Efforts to revive the agreement were unsuccessful and the tripartite agreement failed.

Unions and individual workers exercised their right to strike in 1997, primarily to protest the nonpayment of wages and in an attempt to recover back wages owed to workers. Nonpayment of wages continued to be the priority issue for workers. Miners' strikes in the coal mining region of Karaganda continued throughout the year. According to the law, workers may exercise the right to strike only if a labor dispute has not been resolved by means of existing conciliation procedures. In addition the law requires that employers be notified that a strike is to occur no less than 15 days before its commencement. There were numerous unsanctioned strikes throughout the country to protest the nonpayment of wages. In February 106 workers at the Karaganda heat and power plant went on strike to protest the nonpayment of wages. In March 1,500 teachers who had not received salaries for several months went on strike in Semipalatinsk. In May the Kapchagai city prosecutor attempted to sue the employees of the power company for organizing an illegal strike to protest the problem of unpaid wages. The Kapchagai city court ruled that the strike was illegal and that the company would not have to pay the workers for the days on which the strike took place. The workers appealed the decision and the provincial court upheld their appeal. The city prosecutor appealed the decision and the case was returned to the Kapchagai city court. No final decision has been made, but none of the workers involved have been fined or dismissed.

On October 1, about 1,000 workers of the Achpolimetal Metallurgical Plant began a 600 mile march from Kentau to Almaty to protest the nonpayment of wages. The plant is being operated by a Swedish company under a management contract. The workers were stopped by police 5 miles from Kentau. They refused to move until 10 months' of back wages, totaling about \$1.6 million (120 million tenge) were paid. On October 31, the Government and Swedish company agreed to pay all wage arrears and the workers returned home. However, on November 15, the Kentau Prosecutor General's office accused five independent trade union leaders of organizing the march without the permission of the authorities. The Kentau city court refused to hear the case. The Prosecutor General's office appealed and the provincial court ruled that the protest march was unsanctioned and illegal. The provincial court's decision was appealed to the Supreme Court and a decision is pending. There have been no arrests made in the case.

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

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

Independent unions complain about a provision in the Constitution that forbids the financing of trade unions by foreign legal entities and citizens, foreign states, and international organizations. Since independence, independent trade unions have received financial assistance from the AFL-CIO's Free Trade Union Institute (FTUI). Most of this assistance ended in 1996 when FTUI funding was reduced. Since then independent trade unions have sought new means of support. Some associations of trade unions were able to receive financing from foreign sources by registering as "public organizations" rather than labor unions.

On January 6, in what was interpreted by human rights activists as a government attempt to suppress the

independent trade union movement, Independent Trade Union Center leader Leonid Solomin was charged with violating currency laws (by paying his workers in dollars) and the constitutional ban on obtaining financial support from foreign sources, in this case, the AFL-CIO's FTUI. Solomin had organized several protest demonstrations in the fall of 1996. The KNB opened an investigation, froze Solomin's trade union and personal bank accounts, and questioned Solomin and his staff over several months about the case. Solomin reported that during the investigation, his home was burglarized and personal records stolen. In September the Government closed the case due to a lack of evidence of wrongdoing and dropped all charges.

b. The Right to Organize and Bargain Collectively

There are significant limits on the right to organize and bargain collectively. Most large scale enterprises have been privatized or rented to foreign companies under management contracts and are no longer entirely dependent on state production orders. Collective bargaining rights are not spelled out in the law, although in some instances unions successfully negotiated agreements with management. If a union's demands are not acceptable to management, it may present those demands to an arbitration commission composed of management, union officials, and independent technical experts. Unions routinely appealed to arbitration commissions. In October workers from Kentau successfully resolved through an arbitration commission their complaints regarding 10 months of unpaid wages. There is no legal protection against antiunion discrimination.

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

c. Prohibition of Forced or Compulsory Labor

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

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

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

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

e. Acceptable Conditions of Work

In 1997 the Government resumed publication of a minimum wage. In May the minimum monthly wage was approximately \$27.46 (2,060 tenge). This was a sizable increase over previous years, but still far from sufficient to provide a decent standard of living for a worker and family.

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

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

[end of document]



[Return](#) to 1997 Human Rights Practices report home page.

[Return](#) to DOSFAN home page.

This is an [official U.S. Government source](#) for information on the WWW. Inclusion of non-U.S. Government links does not imply endorsement of contents.