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## 1999 Country Reports on Human Rights Practices

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### KAZAKHSTAN

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

The Committee for National Security (the KNB, successor to the KGB) is responsible for national security, law enforcement activities on the national level, and counterintelligence. It also oversees the external intelligence service, Barlau. The KNB reports directly to the President. A new organization, the Agency on the Protection of State Secrets was established in May and, while not officially part of the Government, reportedly is directly subordinate to the Prime Minister. The Ministry of Internal Affairs, which is subordinate to the KNB, supervises the criminal police, who are poorly paid and widely believed to be corrupt. Both the KNB and the Interior Ministry Police (MVD) monitored Government opponents, the opposition press, human rights activists, and some nongovernmental organizations (NGO's), who claimed that KNB and MVD officials pressured them to limit activities objectionable to the Government. The KNB continued efforts to improve its public image by focusing on fighting Government corruption, religious extremism, terrorism, and organized crime. Members of the security forces committed human rights

abuses.

Kazakhstan is rich in natural resources, chiefly petroleum and minerals. The Government has made significant progress toward a market-based economy since independence. After 2 consecutive years of economic growth (1.1 percent in 1996 and 1.5 percent in 1997) the economy declined by 2.5 percent in 1998. The Government responded to the effects of the Russian financial crisis by floating the tenge in April, effectively devaluing it 60 percent by October. With the fall of the tenge, inflation reached 12.6 percent for the first 8 months of the year, compared with 1.9 percent for the same period in 1998. The average annual wage was approximately \$1,000 (down from \$1,500 in 1998). The agricultural sector has been slow to privatize. The Government has privatized successfully small- and medium-sized firms and most large-scale industrial complexes. However, living standards for the majority of the population continue to decline. According to several surveys, in 1998 approximately 35 percent of citizens lived below the government-defined poverty line of \$35 per month, up from 33 percent the previous year.

The Government's human rights record was poor, and serious problems remain in several areas. The Government severely limited citizens' right to change their government. The Government barred two opposition politicians from competing in the January presidential elections on administrative grounds and harassed opposition candidates in the fall parliamentary elections. Democratic institutions remain weak. The Organization for Security and Cooperation in Europe (OSCE) declined to send observers for the Presidential elections, citing flawed election preparations. The OSCE sent a full observation mission for the parliamentary elections after the Government made some reforms to its electoral law and regulations, but concluded that the elections fell short of the Government's commitments as an OSCE member. In both elections, the Government used an electoral law provision to prohibit some government opponents from running because they previously had been found guilty of political offenses such as publicly insulting the President and participating in unauthorized public meetings and demonstrations. The Government harassed its opponents and appeared complicit in at least four assaults on perceived opponents during the presidential campaign. There were reports of official bias and harassment, but not of violence, during the parliamentary campaign.

The legal structure, including the Constitution adopted in 1995, does not fully safeguard human rights. Members of the security forces committed a number of extrajudicial killings, and tortured, beat, or otherwise abused detainees. Prison conditions remained harsh. The Government used arbitrary arrest and detention, particularly during the period prior to the January presidential election, and prolonged detention is a problem. The judiciary remains under the control of the President and the executive branch, and corruption is deeply rooted. A political prisoner, Labor Movement leader Madel Ismailov, was released in February after serving 1 year in prison for insulting the President. He attempted to run for Parliament in October but under an April 1998 provision of the election law was disqualified because of his conviction. The Government infringed on citizens' privacy rights.

The Government restricted freedom of speech and of the press. A July press law placed media issues under the direct control of the Minister of Information and Social Accord. The Government harassed much of the opposition media, and government efforts to restrain the independent media continued, as some opposition newspapers and other

media outlets were ordered to close, forced to sell to progovernment interests, or brought under pressure by regulatory authorities. The Government reportedly pressured media not to cover the opposition during the presidential campaign, and, to a lesser extent, during the parliamentary campaign. Vague new state secret and media laws, as well as a similarly vague 1998 national security law, increased pressure on the media to practice self-censorship. The Government continues to own and control printing and distribution facilities and to subsidize publications. Academic freedom is not respected. The Government imposes significant restrictions on freedom of assembly. Some organizers of unsanctioned demonstrations were arrested and fined or imprisoned. The Government imposes significant restrictions on freedom of association, and complicated and controversial registration requirements hindered organizations and political parties. The Government sometimes harasses those it regards as religious extremists. Domestic violence against women remained a problem. There was discrimination against women, the disabled, and ethnic minorities. The Government discriminated in favor of ethnic Kazakhs. The Government limited worker rights; it tried to limit the influence of independent trade unions, both directly and through its support for state-sponsored unions, and members of independent trade unions were harassed. Workers continued to protest chronic nonpayment of wages. Child labor persists in agricultural areas. There was anecdotal evidence of trafficking in women.

## **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.

According to press reports, a criminal case was brought against a police sergeant in Makhtaaralsk (Shymkent oblast) for the beating death of 24-year-old man, Nurzhan Saparov, who was in custody following his arrest for disturbing the peace. At year's end, reportedly four police officers were awaiting trial charged with responsibility for his death.

Reports indicate that deaths caused by military hazing persist, and there is no indication that the numbers of deaths declined during the year. However, there are some reports that military personnel engaging in hazing have been prosecuted.

There has been no government action in the 1998 death by beating of Yalkynzhan Yakupov whose body was found hanging in the Chunja District police station. There have been no arrests or known government investigation in the case of a young man killed while in detention in Almaty in January 1997.

In 1998, 1,290 inmates, more than 1 percent of all prisoners, died from disease, mostly tuberculosis, aggravated by harsh prison conditions and inadequate medical treatment (see Section 1.c.). No figures for deaths in prison were available for 1999.

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution states that "no one must be subject to torture, violence or other treatment and punishment that is cruel or humiliating to human dignity;" however, police tortured, beat, and otherwise abused detainees sometimes in order to obtain confessions, and beat protesters. In May and August, the Government publicly acknowledged and criticized police use of torture. In the first half of the year, prosecutors brought 20 criminal cases against police officers for physically abusing detainees, but human rights observers believe that these cases cover only a small fraction of the incidents of police abuse of detainees. Human rights observers report that detainees sometimes are choked, handcuffed to radiators, or have plastic bags placed over their heads to force them to divulge information. Training standards and pay for police are very low and individual law enforcement officials often are supervised poorly.

Members of an Islamic group from Taraz alleged that the authorities beat 70 group members, including 12 minors, who were detained for participation in a private religious retreat in July. The beatings reportedly left one minor with a broken nose and an adult detainee with broken ribs (see Section 2.c.). In April police in Aralsk reportedly beat a group of female hunger strikers who were blocking a railway line to protest nonpayment for 3 years of family social benefits. Three were hospitalized as a result of the beatings which were reported in the media on April 21-22. On November 28, in Almaty, two unidentified men assaulted opposition activist Andrei Grishin, who published a newspaper article critical of a new museum dedicated to President Nazarbayev shortly before the incident. The attack apparently was politically motivated. Law enforcement authorities and anonymous telephone callers reportedly warned Grishin several times before the assault to stop his political activities. The assailants, who reportedly told Grishin that he deserved the attack, cut off Grishin's hair, doused him with oil paint, and left him unconscious. They did not rob him. No arrests were made in the case by year's end. Opposition activist Aleksei Martinov was detained on suspicion of theft of computer parts and was hospitalized on December 12 after suffering head injuries from a beating he received while in police detention in Almaty. Martinov filed a complaint alleging that the police beat him and was released following his hospitalization.

During the campaign prior to the January 10 presidential election, several perceived government opponents were assaulted. The attacks appeared to be politically motivated and, in at least some cases, sanctioned by the Government (see Section 3). The authorities made no arrests. There were no reports of such attacks prior to the autumn parliamentary elections.

Army personnel subjected conscripts to brutal hazing, including beatings and verbal abuse. The Deputy Chief of the General Staff reported 17 cases of death due to mistreatment as of mid-1998, a 50 percent decline over the same period in 1997. Reportedly the Government has taken action occasionally against officials charged with abuses, levying administrative sanctions such as fines for those found guilty. The Army launched an aggressive campaign to punish violators of a new antihazing policy in 1998, but at year's end anecdotal accounts suggested that hazing had worsened, and there were no official reports on the problem.

There were claims that authorities committed persons to mental institutions for political purposes. In May a professor at the Eurasian University in Astana, Armial Tasybekov,

was committed to a mental hospital for public drunkenness. He claimed that his incarceration was motivated politically because KNB officials interrogated him shortly before his incarceration on the suspicion that he incited his students to criticize the President in leaflets and graffiti. Tasybekov was released later in May and died in August.

Prison conditions remained harsh due to inadequate resources. According to the Interior Ministry during the year there were approximately 85,000 prisoners in facilities designed to hold 60,000. Local human rights observers agreed with these figures. On February 26, prisoners at a prison in Atyrau reportedly protested mistreatment by cutting open their stomachs; however, none died. Press reports in March indicated that five teenagers in a juvenile detention facility in Almaty cut open their veins to draw attention to harsh treatment.

Overcrowding, inadequate prison diet, and a lack of medical supplies and personnel contributed to the spread of tuberculosis and other major diseases. Human rights observers reported that 14,000 prisoners, or about 16 percent of all prisoners, suffered from tuberculosis. These figures do not differ significantly from official figures. In September 1998, the official Russian-language newspaper reported that 12,600 prisoners suffered from tuberculosis. A human rights NGO reported that the total number of tuberculosis cases declined by 30 percent during the year as a consequence of improved treatment, humanitarian aid, and amnesties. In 1997 the Government also acknowledged that AIDS is becoming a concern. Prison guards, who are poorly paid, steal food and medicines intended for prisoners. Violent crime among prisoners is common.

In July the Government passed the first amnesty law since 1996. It applied to nonviolent offenders who committed crimes as juveniles, had certain kinds of veteran's status, were seriously ill, or had specified family responsibilities. According to parliamentary sources, the objective of the law was to release over 21,000 prisoners within 6 months of its passage. However, Interior Ministry sources said that only about 15,000 prisoners actually would receive amnesty. The law also was intended to clear the convictions of approximately 22,000 persons who received suspended sentences and to reduce the sentences of approximately 7,700 inmates. By year's end, the Interior Ministry reported that over 15,000 prisoners were released under the amnesty law, 2,100 of whom suffered from tuberculosis.

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

Human rights monitors wishing to visit prisons must receive authorization from the MVD (Interior Ministry). The Government cooperated with the OSCE in a program to improve prison conditions. Although the Government sometimes created obstacles for those who requested access to prisons, the local NGO International Bureau for Human Rights (IBHR) reported that its representatives regularly received authorization. The IBHR visited men's prisons in addition to women's and juveniles' prisons during the year. Two international NGO's, the Dutch Interchurch Aid and Penal Reform International (PRI), accompanied IBHR on prison visits in Pavlodar during the year. PRI also visited prisons for juveniles and women in Almaty.

#### d. Arbitrary Arrest, Detention, or Exile

The Government used minor infractions of the law, frequently related to unsanctioned assembly, or manufactured charges to arrest and detain government opponents arbitrarily, in particular during the period prior to the presidential election in January. Under the election law, convictions on such charges allowed the Government to exclude government opponents from running for president or other public office (see Section 3). In October 1998, less than a week after the Government called for early presidential elections, an Almaty court summoned five leading government opponents with less than 24-hour notice on charges of participating in a meeting of an unregistered organization called For Fair Elections. All five--Akezhan Kazhegeldin, Dos Kushim, Irina Savostina, Petr Svoik, and Mels Yeleusizov--were convicted. Svoik and Yeleusizov served 3-day jail sentences. The others paid fines. In May a court in Kostenai fined Communist Party and Pokoleniye (Generation) Pensioners Movement activist Vladimir Chernyshev for participating in an unsanctioned rally. He and a group of pensioners had gathered at a monument to Lenin to commemorate Lenin's birthday (see Section 3). In September at the request of the Prosecutor General, authorities in Russia detained Kazhegeldin, the leader of the opposition Republican People's Party (RNP), in connection with a corruption investigation. Following protests from international human rights groups and Kazakhstani opposition figures, the Prosecutor General dropped his extradition request, and the Russian authorities released Kazhegeldin (see Section 3). On December 9, the KNB detained three individuals, RNP members, who worked as bodyguards for Kazhegeldin on charges of possession of illegal weapons and narcotics. At year's end, two of the three, Pyotr Afanassenko and Satzhan Ibrayev, remained in custody but had not been charged. The third bodyguard, Vladimir Ruchkin, was released after 4 days in detention. All three were former KNB employees who had first served as Kazhegeldin's bodyguards when Kazhegeldin was Prime Minister. Human Rights and opposition figures alleged that the detentions were politically motivated. The Government also arbitrarily arrested, detained, fined, and sometimes imprisoned demonstrators (see Section 2.b.).

The law sanctions pretrial detention. According to the Constitution, police may hold a detainee for 72 hours before bringing charges. The Criminal Code allows continued detention for up to 12 months with the approval of the General Prosecutor of the Republic. Lower-ranking prosecutors may approve interim extensions of detention. In practice police routinely hold detainees, with the sanction of a prosecutor, for weeks or even months without bringing charges, and prolonged detention is a serious problem. The General Prosecutor's office acknowledged that law enforcement authorities kept more than 7,000 persons in custody longer than legally allowed in 1998. Additionally, short (3-hour) and long (72-hour) detentions for "suspicion" are used widely.

A bail system exists, but, according to the General Prosecutor's Office, only 28 out of the 26,598 persons detained in the first 8 months of the year were released on bail.

According to the Constitution, every person detained, arrested, or accused of committing a crime has the right to the assistance of a defense lawyer from the moment of detention, arrest, or accusation. This right generally is respected in practice. 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. The Government's reluctance to provide a lawyer is partly attributed to a shortage of funds to pay court-appointed lawyers to which defendants are entitled. Detainees also may

appeal the legality of detention or arrest to the prosecutor before trial, but in practice most persons refrain from making an appeal due to fear that they may be punished for doing so. If the defendant cannot afford an attorney, the Constitution provides that the State must provide one free of charge. Human rights organizations allege that many prisoners are unaware of this provision of the law. Although some lawyers are reluctant to defend clients unpopular with the Government, there were no reports of attorneys being sanctioned by the Government for their decisions to defend particular clients.

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

#### e. Denial of Fair Public Trial

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

There are three levels in the court system: local; oblast (provincial); and the Supreme Court. According to the Constitution, the President proposes to the upper house of Parliament (the Senate) nominees for the Supreme Court. (Nominees are recommended by the Supreme Judicial Council, a body that the President chaired until March. Under constitutional amendments passed in 1998, a presidential appointee replaced the President as chairperson. Commission members also include the chairperson of the Constitutional Council, the chairperson of the Supreme Court, the Prosecutor General, the Minister of Justice, senators, judges, and other persons appointed by the President). The President appoints oblast judges (nominated by the Supreme Judicial Council) and local level judges from a list presented by the Ministry of Justice. The list is based on recommendations from the Qualification Collegium of Justice, an institution made up of deputies from the lower house of Parliament (the Majilis), judges, public prosecutors, and others appointed by the President.

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

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

created--for example, economic, taxation, family, juvenile, and administrative courts--which would have the status of oblast and local courts.

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

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

In most cases, these rights are respected. However, cases involving government opponents frequently are closed. Courthouse guards did not allow the public to observe the 1998 trial of five government opponents on charges of attending a meeting of an unregistered organization (see Section 1.d.). The 1998 trial of Labor Movement leader Madel Ismailov for insulting the honor and dignity of the President was closed to the public and press.

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

In May 1996, the Government instituted a procedure that required recertification of all judges. Completed in 1998, the process was intended to ensure that judges are familiar with current law. The recertification resulted in a significant turnover of personnel, particularly at the lower levels. Although the recertification process addressed a legitimate need to improve judicial competence, it was used in some cases by local governments to remove individual judges for political reasons. In March the rector of the State Judicial University alleged that 40 percent of sitting judges were recertified only because they received copies of the recertification exam prior to taking it. There was no official response to this accusation.

The new Criminal Code took effect in 1998. Although human rights organizations considered the new criminal code a step forward, they raised a number of concerns regarding the code's effect on individual political and civic rights. The new code extends the maximum term of imprisonment from 15 to 30 years and gives judges and law enforcement officials more flexibility in determining appropriate charges. Previously, after a certain number of civil code violations, a defendant automatically would be charged with a criminal offense. The new code also eliminated a number of legal holdovers from the Soviet period, including public condemnation as a punishment, enforcement of restrictive passport regulations, and prosecution for vagrancy or a parasitic way of life.

The Government held one political prisoner who was released in February upon

completion of his 1-year sentence. In 1998 an Almaty district court sentenced Labor Movement leader Madel Ismailov for insulting the honor and dignity of President Nazarbayev, a constitutional offense, during a November 1997 political rally in Almaty. Ismailov reportedly called President Nazarbayev "a scoundrel." Ismailov was convicted of the most serious form of insulting--using the mass media to insult the honor and dignity of the President--because an independent television station had recorded Ismailov's offending remark. Ismailov, a resident of Almaty, served his sentence in a prison in the north Kazakhstan oblast. In an appeal to the General Prosecutor, lawyers for Ismailov contended that his imprisonment in the north Kazakhstan oblast violated the Criminal Executive Code, which stipulates that "Persons sentenced to imprisonment should serve out their terms in prisons located on the territory of the oblast where they lived before their arrest or where they were sentenced." The General Prosecutor took no action on the appeal prior to Ismailov's release. Ismailov attempted to register as a candidate for the October parliamentary elections, but was barred under amendments made to the election decree in April 1998 because of his criminal conviction (see Section 3).

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

Despite constitutional protections, the Government infringed on these rights. The Constitution provides that citizens have the right to "confidentiality of personal deposits and savings, correspondence, telephone conversations, postal, telegraph and other messages." Limitation of this right is allowed "only in cases and according to procedures directly established by law." However, the KNB and Ministry of Internal Affairs, with the concurrence of the General Prosecutor's office, can and do interfere arbitrarily with privacy, family, home, and correspondence. The law requires the police, who remain part of the internal security structure, to obtain a search warrant from a prosecutor before conducting a search, but they sometimes search without a warrant. The KNB has the right to monitor telephone calls and mail, but under the law it must inform the General Prosecutor's office within 24 hours of such activity. Some human rights observers complained that the Government monitored their movements and telephone calls (see Section 4). A foreign NGO working to promote democracy alleged that someone apparently tampered with its e-mail in November. Also in November, opposition figures alleged that the Government temporarily closed off direct access through local Internet service providers to the Eurasia web site, which featured material critical of the Government. However, they provided no evidence. On November 25, the Prime Minister signed an order creating a single, state-run billing center for all telecommunications services. Although the order called for the center to open on January 1, 2000, it did not appear at year's end that the center would be ready before the deadline. The Government presented the creation of the center as an attempt to ensure that all telecommunications traffic was being taxed properly. NGO's, opposition figures, and other private citizens expressed concerns that the Government would use the center to enhance its monitoring of telecommunications traffic and to control the availability of information on the Internet. Government officials denied that this was their intent.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution and the July press and media law provide for freedom of speech and of the press; however, the Government restricted these rights in practice. The new media law

places media issues under the control of the Minister of Information and Social Accord, and the Government closed or otherwise harassed much of the independent media. Many journalists practiced self-censorship. A vaguely written law on national security passed in 1998 gave the Prosecutor General the authority to suspend the activity of news media that undermine national security.

The new media law reaffirms the constitutional provision for free speech and prohibits censorship; however, the law's vague language gives the Government broad discretion to restrict media freedom and thereby promotes media self-censorship. For example the law prohibits the mass media from "undermining state security" or advocating "class, social, race, national, or religious superiority" or "a cult of cruelty and violence." Under the law, owners, editors, distributors, and journalists can be held responsible for violations. The law also requires all media to register with the Government, but it does not set forth an appeals process if registration is denied.

During the January campaign presidential election, many members of the independent media reported government pressure not to cover opposition candidates. Newspapers that tried to cover the opposition had their print runs seized or delayed, or their access to printing houses denied. Most media outlets were allowed to cover the full range of candidates in the October parliamentary elections, but local officials frequently pressured them to limit coverage of the opposition.

The Government continued to own and control most printing and distribution facilities and to subsidize periodicals, including many that supposedly were independent. The potential for government control and the widespread belief that the Government was cracking down on independent media resulted in widespread media self-censorship. The key subject considered "off limits" by journalists was personal criticism of the President and his family. In November after television news programs from Russia began reporting that Swiss authorities froze bank accounts allegedly belonging to the President, the Government blocked retransmission of Russian television stations for several days. However, *The Globe*, a small-circulation Russian-English bilingual newspaper based in Almaty, published a story about the Swiss bank accounts with no apparent repercussions. The press generally was permitted to criticize government decisions, official corruption, and the powerlessness of the Parliament.

The authorities frequently pressured two avowed opposition newspapers, *Twenty-First Century* (*XXI Vek*) and *Soldat* (formerly *Dat*). Issues of these newspapers sometimes were seized from street vendors. Printing houses, sometimes acknowledging government pressure, frequently declined to publish the newspapers. In September, 3 weeks before the parliamentary elections, a local Almaty court froze the bank account of *Twenty-First Century*, leaving it unable to pay its vendors and employees. The court action was based on a lawsuit brought by a company reportedly controlled by a son-in-law of President Nazarbayev. *Twenty-First Century* lost the lawsuit in November, and at year's end had not paid the judgment.

The Government closed *Dat*, then the only Kazakh-language opposition newspaper, in 1998. The newspaper reappeared early in the year in two new versions, one of which, *Soldat*, clearly identified itself as an opposition newspaper. Kazakhstani printing houses, reportedly under pressure from the authorities, refused to publish *Soldat*. In September two issues of *Soldat* published in Russia were seized by the customs police who

reportedly claimed that the newspaper needed to pay additional fees and produce health certificates attesting that the imported newspapers were free of tuberculosis. The authorities ultimately released the newspapers after they were outdated, and Soldat continues to publish.

In Semipalatinsk the tax police harassed the Irtysk newspaper, which regularly included in its own print run an insert from the Fahrenheit 451 opposition newspaper. Fahrenheit 451 was unable to publish on its own because the authorities denied it access to state publishing houses and pressured the few private ones to refuse to do so as well. Fahrenheit 451 stopped appearing 1 month before the October parliamentary election.

The independent newspaper Nachnyem S'ponedelnika, which specializes in investigative stories about government corruption, was on the verge of closure at year's end due to defamation lawsuits and government harassment.

After suffering harassment during 1998, including threats of death and violence directed against staff members, the newspaper Center lost many of its advertisers and ceased publication at the end of 1998. The Government took no apparent action following the assault on Dec 8, 1998 against a visiting German journalist that was regarded as possibly politically motivated. Criminal charges were brought in October 1998 against Petr Svoik for his newspaper article about relations between ethnic Russians and Kazakhs. The case was "suspended indefinitely," but has never been dismissed officially.

The Communist Party's national newspaper, which was closed by the Government in 1997, has not been permitted to resume publication.

About 80 percent of newspapers are subject to direct government control. The Government runs the newspapers that appear most frequently, five times a week. There are also a large number of newspapers that are produced by government ministries, for example, Kazakhstan Science, which is published by the Ministry of Science. Many newspapers receive a government subsidy, including about 90 percent of Kazakh-language newspapers, although most of these would call themselves independents. Therefore, including newspapers that receive subsidies, about 80 percent of newspapers are government-influenced. Each major population center has at least one independent weekly newspaper. There are 11 major independent newspapers in Almaty.

According to credible observers in the independent press and human rights community, the Government and its proxies continued to consolidate media ownership. One of President Nazarbayev's sons-in-law, Rakhat Aliyev, and his associates reportedly gained control of the Karavan media group, which includes the largest nongovernment newspaper in the country, Karavan, as well as KTK television and radio, and the Franklin Press publishing house. Aliyev is the senior KNB official in Almaty oblast. The Karavan group reportedly had changed hands several times since June 1998, when, according to credible media and human rights observers, the tax authorities coerced the owners of the independent Karavan media group into selling the group to business interests closely associated with the President. Aliyev was the head of the tax police at the time. In late August, it was reported that the KTK purchased NTK television and was preparing to reorganize the two into one company. The two stations continued broadcasting separately, but NTK ended its nightly news program in December.

Newspapers largely or entirely stopped attempting to print outside the country during the year. However, opposition newspapers or newspapers that encounter official disapproval as a consequence of specific stories encounter difficulty gaining access to local printing presses.

The Government controls nearly all broadcast transmission facilities. There are 45 independent television and radio stations (17 television stations, 15 radio stations and 13 combined television and radio stations). Eleven of these are in Almaty. There are only two government-owned, combined radio and television companies; however, they represent five channels and are the only stations that can broadcast nationwide. Regional governments own several frequencies; however, independent broadcasters have arranged with local administrations to use the majority of these. An Association of Independent Electronic Media of Central Asia (ANESMI) exists, but it is fractured and weak.

There were no reports, as in the previous year, that the Government threatened not to renew broadcast licenses of out-of-favor independent stations. There were also no frequency auctions; many members of the independent media and human rights activists believed that the Government used the auctions in the past to harass and even eliminate independent media. The Government continued its discussion of a 50 percent Kazakh language content in broadcasting, and threats of selective enforcement of this requirement remain a problem. However, there were no reports during the year of the Government closing stations or failing to renew their licenses if they were not in conformity with the 50 percent rule, despite government threats in 1998 to do so.

There was no further action by the Prosecutor General concerning the legality of the frequencies auction in 1997. Nor was there any response from the Prime Minister to the Prosecutor's request for a ruling on the law guiding the auctions. There was no law passed on the tender procedures during the year.

During the campaign for the January presidential election, many members of the independent media reported government pressure not to cover opposition candidates. Media coverage of the campaign for the October parliamentary elections was extensive and featured all candidates. A nationally televised 2 1/2 hour live debate on Khabar state television featured representatives of the nine registered parties that were participating in the party-list section of the vote. Despite these improvements over the presidential election, independent media around the country reported official pressure to give the majority of their parliamentary election coverage to the pro-presidential Otan party. They also reported that government authorities told them to limit coverage and to focus on negative news about the RNPk and Azamat opposition parties, as well as the Orleu opposition movement. Some television editors claimed that they were told categorically not to cover certain opposition candidates. Azamat claimed that state television and radio denied its candidates the free air time normally available to all candidates. An RNPk candidate, Twenty-First Century newspaper editor Bigeldy Gabdullin, charged correctly that his free broadcast was not shown in his home constituency of Talgar.

The Constitution provides for the protection of the dignity of the President and the law against insulting the President and other officials remained on the books. Labor Movement leader Madel Ismailov served 1 year in prison for violating the law (see Section 1.e.). Several laws control advertising in the mass media. One law restricts alcohol and tobacco advertising on television. The new media law prohibited violence and

all "pornography" from television broadcasts. Another law restricts advertising in each issue of a newspaper to 20 percent of the total material. The Minister of Justice and the Minister of Information have interpreted this law as restricting paid articles, but not commercial advertisements.

A new law on state secrets entered into force in March. It criminalized the unauthorized disclosure of a wide range of information, much of which was vaguely defined and left to the interpretation of government authorities. The list of state secrets enumerated in the law included all information about the health and private life of the President and his family. Also defined as state secrets were basic economic information such as the volumes and scientific characteristics of national mineral reserves and the amount of government debt owed to foreign creditors.

In December the Government announced that beginning in 2000, the Billing and Telecommunications Tariff Center would restrict Internet access to government service providers (see Section 1.f.).

Academic freedom is circumscribed. As is the case for journalists, academics cannot violate certain taboos, such as criticizing the President and his family. There were widespread credible reports that universities and schools coerced faculty, students, and the parents of schoolchildren to sign nominating petitions for the reelection campaign of President Nazarbayev. There were similar widespread reports that educational administrators also coerced faculty into joining the pro-presidential Otan party. During the campaign for the presidential election in January, the Al-Farabi national university in Almaty forced Yelena Nikitenko, an adviser to opposition presidential candidate Akezhan Kazhegeldin, to resign from the faculty because of her outside political activities (see Section 3). In May a professor at the Eurasian University in Astana, Armiyal Tasymbekov, was committed to a mental hospital for public drunkenness. He claimed that his incarceration was motivated politically because KNB officials interrogated him shortly before his incarceration on the suspicion that he incited his students to criticize the President in leaflets and graffiti. Tasymbekov was released later in May and died in August (see Section 1.c.). Course topics and content generally are subject to approval by the university administration.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for peaceful assembly; however, the Government and the law impose significant restrictions. The 1998 law on national security defined as a threat to national security "unsanctioned gatherings, public meetings, marches, demonstrations, illegal picketing, and strikes" that upset social and political stability.

According to the law, organizations must apply to the local authorities for a permit to hold a demonstration or public meeting at least 10 days in advance, or the activity is considered illegal. In some cases, local officials routinely issued necessary permits. However, human rights activists complained that complicated procedures and the 10-day notification period made it difficult for all groups to organize public meetings and demonstrations. They reported that local authorities, especially those outside of the capital, turned down the majority of applications submitted or refused to allow rallies to take place in central locations. An April 1998 amendment to the election decree that bars candidates for public office who have been convicted within the preceding year of administrative offenses was

used against leading government opponents who participated in unsanctioned meetings and demonstrations (see Section 3).

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

There were also cases in which the Government arrested, detained, fined, and sometimes imprisoned the participants and organizers of unsanctioned rallies. In September Almaty police arrested about a dozen persons who gathered in front of the Russian embassy to protest the detention in Moscow of opposition leader Akezhan Kazhegeldin (see Section 3). Two of the protesters were sentenced to 10 and 5 days in jail; the rest were fined or received warnings. In May a court in Kostenai fined Communist Party and Pokoleniye Pensioners Movement activist Vladimir Chernyshev for participating in an unsanctioned rally. Chernyshev gathered with a group of pensioners to lay flowers at a monument to Lenin on Lenin's birthday (see Sections 1.d. and 3). In April police in Aralsk reportedly beat a group of female hunger strikers who were protesting nonpayment for 3 years of family social benefits; the women were blocking a railway line. Three were hospitalized as a result of the beatings.

The authorities regularly blocked access to conference halls rented by opposition political parties, candidates, and related groups. A meeting of political opposition groups was disrupted on October 27 when participants could not gain access to the auditorium that they rented at the Academy of Sciences in Almaty. The activists organized the meeting to protest alleged government manipulation of the October parliamentary elections and to establish a new unified opposition front, the Forum of Democratic Forces. The group succeeded in holding its meeting after moving participants to one of three other locations that it rented secretly in anticipation of blocked access to its announced meeting place. On April 10, the new opposition movement Orleu (Progress) could not gain access to the labor union hall that it rented for its founding congress in Almaty. Firemen sealed the hall a day earlier because of purported building code violations. There were credible allegations that the office of the mayor of Almaty instigated the fire department action for political reasons.

Madel Ismailov, convicted in September 1997 of "active participation in or organization of public disorder" and sentenced to 1 year of "corrective labor," lost both of his appeals against the judgment. However, as he was in prison for a year after a conviction for insulting the President and had no salary during that period, the corrective labor penalty (which means that a portion of salary is garnished) was not imposed.

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

Many groups had difficulties trying to register with local officials. The new association called For Fair Elections was registered on March 1, more than 5 months after filing its registration application. The law requires the Ministry of Justice to act on registration applications within 15 days of filing. Five leading government opponents who participated in the group's October 1998 meeting in Almaty were convicted of participating in a meeting of an unregistered organization (see Section 3). The organization Russian Community (Russkaia Obshchina) demonstrated in August to protest authorities' 2-year denial of national registration, which rendered its members ineligible to serve as observers at polling stations. The Government subsequently registered the organization, permitting it to observe the parliamentary elections.

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

To participate in elections, a political party must register with the Government. The Government registered 10 parties to participate in the parliamentary elections in October, including several associated with government opponents. Under current law, a party must submit a list of at least 3,000 members from a minimum of 7 oblasts and the cities of Almaty and Astana. 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.

In December 1998, leading government opponents headed by former Prime Minister and disqualified presidential candidate Akezhan Kazhegeldin began efforts to form the new Republican People's Party. The group held its first congress in Moscow to avoid government harassment directed at Kazhegeldin and other members of the opposition prior to the January presidential election (see Section 3). According to conference organizers, authorities at the Moscow hotel where the congress was to have been held denied the group access to conference facilities on the eve of the meeting. Organizers said that approximately 10 other Moscow hotels subsequently refused to allow the group to use conference facilities before organizers found a suitable location. Organizers of the congress credibly alleged that Kazakhstani authorities used influence with Russian officials to try to disrupt the congress. The party was registered by the Government prior to the parliamentary elections in October and several of its members became candidates in individual races. The other candidates running against the President in the January presidential election and against government-favored candidates in the October parliamentary elections complained that local officials throughout the country refused to allow them to rent public halls for political meetings.

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.

### c. Freedom of Religion

The Constitution provides for freedom of religion, and the various denominations worship largely without government interference; however, the Government sometimes harasses Islamic and Christian groups whose members it regards as religious extremists. The Constitution defines the country as a "secular" state. It also requires foreign religious associations to carry out their activities, including the appointment of the heads of religious associations, "in coordination with appropriate state institutions." However, in general the Government does not interfere with the appointment of religious leaders or the activities of foreign religious associations.

Religious organizations, including churches, must register with the Ministry of Justice in order to receive legal status. Without registration religious organizations cannot buy or rent real property, hire employees, obtain visas for foreign missionaries, or engage in any other legal transactions. Although religious organizations, unlike other nongovernmental entities, are entitled legally to carry out their work without government registration, in practice many local officials insist that they register. Registration requires an application submitted by at least 10 local citizens and is usually a quick and simple process. Some religious groups out of favor with the Government encounter difficulties registering in certain jurisdictions. These groups include Jehovah's Witnesses and some Korean Protestant groups, as well as Muslim and Russian Orthodox groups independent of the Mufti or Orthodox archbishop (the national leaders of Islam and Russian Orthodoxy). Foreign missionaries require state accreditation. There were no reports that the Government prohibited the activities of any religious group whose registration application it turned down.

Foreign missionary activity is authorized under law, but only when missionaries are accredited by the state. In practice many missionaries operate without accreditation. Although legally entitled to register religious organizations, foreign missionaries generally find that they must list local citizens as founders in order to register their organizations.

Some foreign missionaries, whose presence is not welcomed by some Muslim and Orthodox citizens, have complained of occasional harassment by low-level government officials. In particular evangelical Protestants working in schools, hospitals, and other social service institutions have alleged government hostility toward their efforts to proselytize.

A potential deterioration in the right to religious freedom was averted at least temporarily when the Government withdrew restrictive draft amendments to the national law on religion in March. The draft changes would have imposed burdensome new registration requirements on religious organizations and otherwise tightened government control of religion. One provision would have required religious groups that seek registration to submit certification from locally elected officials that they were already active for 10 years in the jurisdiction in which they sought registration. Other provisions would have

required religious organizations that seek registration to submit information about their creeds and practices, including attitudes toward family and marriage, education, and members' health. Vaguely written provisions would have given local officials broad authority to refuse or cancel the registration of religious organizations deemed a threat to public order or state security. The Government withdrew the draft legislation after minority religious groups, human rights advocates, and foreign observers objected to it.

Government officials frequently expressed concerns about the potential spread of religious extremism. They pointed especially to the risk of political Islam spreading north from Afghanistan, Iran, Pakistan, Tajikistan, Uzbekistan, and other states. In September the National Security Council, which is chaired by the President, created a commission to develop policies to combat religious extremism. In June the chief of the KNB named the fight against religious extremism as a top priority of the internal intelligence service.

On July 14, a group of more than 100 armed special forces and police raided a camp outside Taraz where a Muslim group was holding a private religious study retreat. The authorities detained 70 group members, including, reportedly, a 6-year-old and 11 other minors. Group members alleged that the authorities beat all 70 detainees in jail. One minor reportedly suffered a broken nose; another detainee reportedly suffered broken ribs. Although some government officials publicly alleged that the group was terrorist, not religious, in nature, the authorities uncovered no weapons or politically subversive literature at the camp. All 70 detainees were freed by September. Only one group leader was charged with a crime (promoting the activities of an unregistered organization), but he was released under the August amnesty law (see Section 1.c.).

In September police closed an Islamic school in Karasu village, near Almaty. The authorities alleged that a Pakistani teacher at the school was promoting religious extremism and that students were being kept forcibly at the school. The school was allowed to reopen, but it was closed again in October.

A campaign by the KNB and the national prosecutor's office to identify religious extremists led to the arrest and conviction in May of one alleged Muslim extremist in Atyrau. According to press reports, Askar Sekerbayev received a 6-month suspended sentence and a fine for "founding or participating in the activities of an illegal public organization." Sekerbayev reportedly belonged to the Muslim Zhamagat organization, which, the Government alleged, advocated violence.

In March officials from the national prosecutor's office, in at least one case accompanied by the KNB, raided the offices of six legally registered communities of Jehovah's Witnesses in Almaty and Zhambyl oblasts. In at least one case, the officials reportedly demanded copies of church correspondence, minutes of religious meetings, and other documentation. In all the cases, prosecutors summoned church leaders and required them to provide information about the organization's aims, religious practices, views on medical treatment and military service, and other questions. The Government took no further actions against the organization or its membership after the raids were publicized.

On May 19, the public prosecutor's office in Almalinskiy district of Almaty petitioned a city court to ban the Charismatic Evangelic Church of Christ. The petition was based on the alleged irregularities in the group's registration, its foreign pastor's legal status, and alleged violations of the law on family and marriage by the pastor. The city court

dismissed the case on June 17. The prosecutor's office appealed the decision but lost the appeal.

The Government often invited the national leaders of the two largest religions, Islam and Russian Orthodoxy, to participate jointly in state events. Such appearances by the Islamic Mufti and the Orthodox Archbishop, often in the presence of the President, were intended to promote religious and ethnic harmony. Some members of other faiths, including Muslims and Orthodox Christians not affiliated with the Mufti or Archbishop, criticized the Government's inclusion of the Mufti and Archbishop in state events as official favoritism and a violation of the constitutional separation of church and state.

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

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

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

There were a few reports of government efforts to restrict the movement of foreigners around the country. There were no further reports of foreigners being detained for wandering into not clearly marked restricted areas. Likewise, there were no further reports by foreigners that they were denied access or required to pay exorbitant entry fees to ostensibly free national parks. The authorities refused to approve the assignment of foreign aid workers to towns considered "sensitive." Internal visas are no longer required for foreigners traveling outside Almaty.

An exit visa is required for citizens who wish to travel abroad, although refusals are rare. There have been reports of some officials demanding bribes for exit visas. It is usually necessary to meet a number of bureaucratic requirements before the exit visa is issued. For example close relatives with a claim to support from the applicant must give their concurrence. Intending emigrants also must obtain evidence that they have no outstanding financial obligations. Foreigners must have exit visas, although they receive them routinely as part of their entry visa. Foreigners who overstay their original visa, or who did not receive an exit visa as part of their original visa, must get an exit visa from the immigration authorities before leaving. Foreigners staying at least 3 days in the country, regardless of whether they are staying 3 days in any individual city, must register with the local visa registry office. Many have complained that the process is bureaucratically

cumbersome. Immigration authorities refused to allow foreigners without proof of registration to leave the country.

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

The Government usually cooperates with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. In January the Government ratified the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government did not pass implementing legislation for the Refugee Convention by year's end. In February the Government returned to Chinese authorities three ethnic Uyghurs from China without giving them an opportunity to request asylum, as provided for in the Refugee Convention. The UNHCR, human rights observers, and Uyghur activists believed that the three--Ilyas Zordun, Ali Khudaberdi, and Khamit Maimat--would have requested asylum if given the opportunity. According to Amnesty International, "wanted" posters in China indicated that Maimat was sought for "separatist" activ