



## U.S. DEPARTMENT of STATE

### Kazakhstan

#### Country Reports on Human Rights Practices - [2007](#)

Released by the Bureau of Democracy, Human Rights, and Labor  
March 11, 2008

The Republic of Kazakhstan, with a population of approximately 15.3 million, has a parliamentary system dominated by President Nazarbayev's Nur Otan Party. According to official results, Nur Otan received 88 percent of the vote in the August 18 national elections for the lower house of parliament, winning every seat in the chamber. Local and international observers noted some improvements in the electoral process over past national elections but criticized the elections as falling short of a number of international standards, particularly with respect to the legislative framework and the integrity of the vote counting and tabulation process. The constitution concentrates power in the presidency, permitting the president to control regional and local governments and to exercise significant influence over the legislature and judiciary. Changes or amendments to the constitution require presidential consent. The civilian authorities generally maintained effective control of the security forces.

There were the following human rights problems: severe limits on citizens' rights to change their government; military hazing that led to deaths; detainee and prisoner abuse; unhealthy prison conditions; arbitrary arrest and detention; lack of an independent judiciary; restrictions on freedom of speech, the press, assembly, and association; pervasive corruption, especially in law enforcement and the judicial system; prohibitive political party registration requirements; restrictions on the activities of nongovernmental organizations (NGOs); discrimination and violence against women; trafficking in persons; and societal discrimination.

#### RESPECT FOR HUMAN RIGHTS

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

###### a. Arbitrary or Unlawful Deprivation of Life

In contrast with the previous year, there were no reports that the government or its agents committed arbitrary or unlawful killings.

On June 12, a review panel of the Supreme Court rejected an initiative by the victim's families to reopen the investigation into the February 2006 death of opposition leader Altynbek Sarsenbaiuly and two of his associates. Following an investigation and trial in 2006, the government convicted 10 suspects of the kidnappings and deaths, including five officers of an elite squad of the Committee for National Security (KNB). The Supreme Court upheld the convictions and prison sentences in December 2006. Opposition leaders charged that the killing was politically motivated and sharply criticized the conduct of the investigation and the legal proceedings. The evidence strongly indicated the involvement of all those charged, but the court failed to investigate thoroughly signs that other parties and high-level government officials may have been involved in instigating or ordering the killings.

Military hazing was a problem that led to deaths, suicides and serious injuries. The government reported 11 suicides within the military in the first 11 months of the year.

On January 19, two soldiers from an artillery unit in the Gvardeisky settlement in the Zhambyl region beat several younger conscripts. Authorities hospitalized seven conscripts with serious injuries, and conscript Dostan Baisildayev died from his injuries. A court sentenced the attackers to prison for seven years.

On September 17, Pavlodar-based 19-year-old military conscript Bek Bashirov died after being hospitalized with severe head injuries and brain damage. Upon investigation, authorities charged an older soldier with beating Bashirov; the trial had not begun at year's end.

On August 27, a court convicted four border guards from the Darkhan border guard detachment and sentenced them to terms ranging from 18 months to eight years as a result of the November 2006 beating of 18 newly arrived conscripts and

the death of one in the Saryagash district of South Kazakhstan.

#### b. Disappearance

On September 10, the Ministry of Internal Affairs (MIA) concluded after an investigation into the March 30 disappearance of journalist Oralgaisha Zhabaktai-kyzy that it was unrelated to her professional activities. Earlier, media watchdog groups had asserted that her disappearance was connected to her professional activities, specifically her ongoing reporting for the *Zakon e Pravosudiye* newspaper regarding official corruption, sensitive inter-ethnic clashes, and criminal activity in the Almaty region. There were no other developments in her case at year's end.

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

##### Treatment or Punishment

The constitution and law prohibit such practices, but police and prison officials at times beat and abused detainees, often to obtain confessions. The procurator general's office (PGO) and the human rights ombudsman acknowledged that torture and other illegal methods of investigation were still used by some law enforcement officers. Human rights and international legal observers noted investigative and prosecutorial practices that overemphasized a defendant's confession of guilt over collecting other types of evidence in building a criminal case against a defendant. Courts generally ignored allegations by defendants that their confessions were obtained by torture or duress.

The ombudsman's office reported 1,684 citizen complaints during the first 11 months of the year, approximately 300 of which were allegations of abuse or misconduct by law enforcement.

In March Kostanay police detained Alexandr Gerasimov and two of his sons for questioning in connection with the killing of their elderly neighbor, according to press reports. The police held Gerasimov overnight, severely beat him, and later hospitalized him for two weeks with serious head injuries. On June 21, the head of the regional police released a statement admitting that police officers beat Gerasimov, but later the same official denied that there was sufficient evidence to prove the allegations. The financial police launched an investigation, which remained pending at year's end. On December 5, local human rights activists held a press conference and criticized delays in the investigation.

The MIA reported 105 crimes related to military hazing and abuse of power during the year, compared to 156 in 2006.

A few army personnel continued to subject conscripts to physical and verbal abuse. The government investigated allegations of conscript hazing and prosecuted soldiers who engaged in this abuse, convicting 18 soldiers during the year. The Ministry of Defense continued ad hoc inspections and required systematic reports from senior officers concerning the hazing situation in their units.

##### Prison and Detention Center Conditions

NGOs and international observers reported that prison and detention center conditions declined during the year. Observers cited worsening treatment of inmates and detainees, lack of professional training for administrators, and legislative changes on April 26 that criminalized prisoner protests and self-mutilation. The legislative changes also transferred operation of the parole system from penitentiary officials to the MIA and implemented forced tuberculosis treatment.

Prison conditions remained harsh and facilities did not meet international health standards, although the government began renovating three prisons and two detention facilities during the year as part of a penitentiary development program. Mistreatment occurred in police cells, pretrial detention facilities, and prisons. The government took steps to address systemic patterns that encouraged prisoner abuse, including continued operation of and increased access for regional penitentiary oversight commissions, training of prison officials, and seminars for MIA police. Authorities did not prosecute any prison officials for abuses during the year, although they opened 21 investigations for corruption, resulting in eight convictions by year's end.

During the first ten months of the year, 32 detainee deaths, including six suicides, were reported at pretrial detention facilities. The government reported 40 suicides in prisons during the first 11 months of the year.

Incidents of self-mutilation by inmates to protest prison conditions continued. On April 14, inmates in the Zarechniy prison near Almaty protested prison conditions by cutting their abdomens. The incident was followed by a similar protest on April 17 in the Arkalyk prison in Kostanay. In both cases, authorities hospitalized several prisoners; none of the injuries were life-threatening. Prison officials blamed the disturbances on a struggle for control between prison officials and prison gangs and brought criminal charges against several inmates under new legislation designed to penalize prison protests and self-mutilation.

On May 8, the PGO publicly criticized penitentiary committee officials over the incidents and stated that the protests were caused by the torture and abuse of inmates. The PGO stated there were numerous indications that torture and other prohibited methods were being used in prisons, and that prison officials had covered up additional incidents of self-mutilation in other prisons. Authorities initiated an investigation of prison officials from both prisons, but no prison officials were charged or punished as a result of the incidents.

The Council for Public Oversight conducted internal investigations of abuse allegations and reported directly to the minister of justice. NGOs reported that the regional penitentiary oversight commissions established by law in 2005 actively monitored human rights conditions in prisons. The commissions, which include government, NGO, and academic experts, are generally granted access to the prison system, as is the International Committee for the Red Cross. However, police cells operated by the MIA remained closed to outside observers. During the year the MIA established national and regional oversight councils to monitor some MIA activities, including the operation of police cells, but many observers criticized the councils for lacking independence or any clearly defined authority or power. The human rights ombudsman visited several prisons and pretrial detention centers during the year to monitor conditions, and in some cases issued recommendations to prevent human rights violations in the facilities.

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, but they remained problems.

#### Role of the Police and Security Apparatus

The MIA supervises the national police force, which has primary responsibility for internal security, including the investigation and prevention of crimes and administrative offenses and the maintenance of public order and security. The Agency for Combating Economic and Corruption Crimes (financial police) has administrative and criminal investigative powers. The KNB plays a law enforcement role in border security, internal security, antiterrorism efforts, and the investigation and prevention of illegal or unregistered groups such as extremist groups, military groups, political parties, religious groups, and trade unions. The KNB also oversees the external intelligence service, Barlau. The financial police and the KNB report directly to the president.

According to corruption surveys, public perception of police effectiveness was low, and corruption among law enforcement officers was believed to be high. Authorities fired 46 officers for corruption during the first 10 months of the year.

During the year the government maintained MIA hot lines to receive complaints about police corruption and abuse; there were no available statistics on the number of investigations.

A council for coordination of law enforcement operations is chaired by the procurator general and staffed by heads of other law enforcement agencies. Among many things, it reviews complaints against law enforcement.

The MIA cooperated with NGOs to provide human rights training seminars for police at the local level. The government cooperated with international organizations to provide limited law enforcement training aimed at decreasing abuse by emphasizing investigative skill development.

#### Arrest and Detention

The law provides that courts or procurators must sanction arrests and detentions. On May 21, the government adopted a constitutional amendment removing the power to sanction arrest from procurators and investing it solely with the judiciary. Legislation to implement this change was pending at year's end. Warrants are required for arrest. Procurators continued to have the power to authorize investigative actions such as searches and seizures. The law allows police to hold a detainee for 72 hours before bringing charges. Human rights observers criticized this time period as too lengthy and said that authorities often used this detention to exert pressure and extract confessions. A bail system exists but was not widely used, and many individuals remained in pretrial detention until their trial.

Persons detained, arrested, or accused of committing a crime have the right to the assistance of a defense lawyer from the moment of detention, arrest, or accusation; however, police were not required under the law or in practice to inform detainees that they had the right to an attorney. Human rights observers alleged that law enforcement officials dissuaded detainees from seeing an attorney, gathered evidence through preliminary questioning before the person's attorney arrived, and in some cases used corrupt defense attorneys to gather evidence. The law states that the government must provide an attorney for an indigent suspect or defendant when the suspect is a minor, has physical or mental disabilities, or is facing serious criminal charges. In practice, public defenders were often poorly equipped to assist defendants.

The most recent Baseline Report on Human Rights in Kazakhstan issued by the Presidential Human Rights Commission indicated continuing problems with arbitrary arrest and detention of citizens, prompt access to attorneys for detainees, and the competence of public defenders.

The government occasionally arrested and detained government opponents and critics, sometimes for minor infractions such as unsanctioned assembly. However, there were no allegations of prolonged detention for political offenses.

#### e. Denial of Fair Public Trial

The law does not provide adequately for an independent judiciary. The executive branch limited judicial independence. Procurators enjoyed a quasi-judicial role and were permitted to suspend court decisions.

Corruption was evident at every stage of the judicial process. Although judges were among the most highly paid government employees, lawyers and human rights monitors alleged that judges, procurators, and other officials solicited bribes in exchange for favorable rulings in the majority of criminal cases.

There are three levels in the court system: district, oblast (regional), and the Supreme Court. District courts are the court of first instance in nearly all criminal cases. Regional courts hear cases involving more serious crimes, and may handle cases in rural areas with no local courts. District court decisions may be appealed to the regional courts, and regional court decisions may be appealed to the Supreme Court. There are also military courts. Military courts have jurisdiction over civilian criminal defendants who were alleged to be connected to military personnel undergoing a criminal trial. Military courts use the same criminal code as civilian courts.

The constitutional council rules on election and referendum challenges, interprets the constitution, and determines the constitutionality of laws adopted by parliament. Citizens have no right of direct appeal to the constitutional council.

The presidentially appointed High Judicial Council recommends nominees for the Supreme Court to the president, who in turn recommends them to the senate for approval. The council makes recommendations to the president for all lower-level judges, but these appointments are made directly by the president. Judges are appointed for life. The parliament may remove Supreme Court judges upon recommendation by the president, and the president may remove lower court judges.

#### Trial Procedures

Courts began conducting jury trials for aggravated murder cases during the year, pursuant to legislation enacted in 2006. Observers welcomed the introduction of jury trials but noted that the juror selection process was inconsistent, that trial participants lacked knowledge of the new system, and that judges, who deliberate with the jurors, tended to dominate the process. In this initial year, courts conducted 25 jury trials involving 44 defendants; jurors convicted 40 defendants and acquitted four.

Trials were public, except in instances that could compromise state secrets, or to protect the private life or personal family concerns of a citizen. However, there were several reports of journalists and observers being denied access to open court hearings. Defendants in criminal cases have the right to counsel and to a government-provided attorney if they cannot afford one. Under the criminal procedure code, defendants must be represented by an attorney when the defendant is a minor, has mental or physical disabilities, does not speak the language of the court, or faces 10 or more years of imprisonment. In practice defense attorneys reportedly participated in only half of all criminal cases, in part because the government did not have sufficient funds to pay them. The law also provides defendants the right to be present at their trials, to be heard in court, and to 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. An Organization for Security and Cooperation in Europe (OSCE) trial monitoring report released on February 23 positively evaluated the legal framework for trials but noted several problems in practice, including free access to court proceedings, frequent procedural violations, lack of a presumption of innocence, poor explanation of rights to defendants, and the failure of judges to investigate allegations that confessions were extracted through torture or duress. Lack of due process was a problem, particularly in politically motivated trials and in cases where improper political or financial influence was alleged.

#### Political Prisoners and Detainees

There were no reports of political prisoners. In contrast to previous years, there were no reports of individuals imprisoned following politically motivated criminal prosecutions based on nonpolitical offenses.

#### Civil Judicial Procedures and Remedies

Civil cases are handled by economic and administrative court judges under a court structure that largely mirrors the criminal court structure. The law and constitution provide for the resolution of civil disputes in court. In practice, observers viewed civil courts as corrupt and unreliable. Observers noted that litigants experienced great difficulty in enforcing judgments, particularly if they did not agree to pay a percentage to the court administrator.

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

The constitution and law prohibit such actions; however, the government at times infringed on these rights.

The law provides procurators with extensive authority to limit citizens' constitutional rights. The KNB, MIA, financial police, and other agencies, with the concurrence of the PGO, may infringe on the secrecy of private communications and financial records, as well as on the inviolability of the home. Courts may hear an appeal on procurators' decisions but cannot issue an immediate injunction to cease the infringement. The criminal procedure code allows wiretapping and recording of communications, including e-mail and electronic communications, without a warrant only in urgent cases.

Government opponents and their family members continued to report that the government monitored occasionally their movements and telephone calls.

Although the constitution provides that housing shall be inviolable and that the government may not deprive citizens of their housing without a court order, media and human rights activists continued to report cases of citizens being pressured or forced to leave their homes without due process, often in connection with planned new developments. On October 5, the Almaty city court convicted 25 residents of the Shanyrak district for their participation in a violent July 2006 conflict with police over the planned demolition of homes that authorities considered illegal. Four leaders of the uprising received prison sentences of 14 to 18 years, one defendant was acquitted, and the remaining defendants received one to three year suspended sentences. The defendants' appeal to the Supreme Court was pending at year's end. In August 2006 the procurator general issued an order suspending demolition of housing in Shanyrak and authorities agreed to allow residents time to appeal for legalization of their property. However, the order suspending demolitions expired during the year, and all attempts by residents to legalize their property were unsuccessful. Despite their uncertain legal status, residents continued to live in their houses through the end of the year.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The constitution and the law provide for freedom of speech and of the press; however, the government used a variety of means, including laws, harassment, licensing regulations, Internet restrictions, and criminal and administrative charges to control the media and limit freedom of expression. Judicial actions against journalists and media outlets, including civil and criminal libel suits filed by government officials, contributed to suspension of media outlets and self-censorship.

The government limited individuals' ability to criticize the country's leadership, and regional leaders attempted to limit local media outlets' criticism of them. The law prohibits insulting the president and other senior officials. The government continued to characterize the distribution of pamphlets by Hizb ut-Tahrir (HT), a banned extremist political organization, as incitement for political and terrorist purposes and beyond the bounds of constitutionally protected free speech.

According to government statistics, approximately 20 percent of the 2,544 media outlets were government-owned. The overwhelming majority of broadcast media not owned by the government, including the larger outlets, were nonetheless owned by holding companies believed to be controlled by members of the president's family or loyal associates. Many privately owned newspapers and television stations received government subsidies. The government controlled nearly all broadcast transmission facilities. Media observers believed that most of the seven nationwide television broadcasters were wholly or partly owned by the government. Regional governments owned several frequencies; independent broadcasters arranged to use the majority of these.

All media were required to register with the Ministry of Culture and Information, although Web sites were exempt from this requirement.

The licensing system is not transparent. The government conducted a tender for new licenses on January 15, but media watchdogs charged that the government determined in advance that the results of the tender and awarded all new television frequencies to companies favored by the government.

The law limits the rebroadcast of foreign-produced programming to 20 percent of a station's total airtime. This provision burdened smaller, less-developed regional television stations that lacked resources to develop their own programs, although the government did not sanction any media outlet under this provision.

Harassment of and violence against journalists remained problems. Press advocacy NGO Adil Soz reported 144 incidents of harassment and violence against journalists during the first 11 months of the year, compared to 122 such incidents during the first 11 months of the previous year. Journalists covering organized crime and corruption reported harassment and intimidation by government officials and private actors.

On January 11, the economic court in Uralsk ruled that the *Ural'skaya Nedelya* newspaper must pay \$2,350 (300,000 tenge) in moral damages to a local company for alleging that the company used government funds for an unauthorized project. In addition, a succession of local printing companies canceled printing contracts or refused to print the paper, citing

pressure from local government officials. The newspaper's editor and national and international media watchdog groups alleged that local authorities waged a campaign of intimidation and harassment against the newspaper in response to its reporting on local corruption. The government pressure forced the newspaper to use a printer in Atyrau, 500 kilometers distant. In June media watchdog groups reported that authorities pressured local businesses to cancel their advertising contracts with the newspaper, which still published at year's end.

On February 26, an appeals court rejected the appeal of opposition journalist Kazis Toguzbayev. After the Almaty KNB filed two lawsuits against Toguzbayev in June and August 2006, the Bostandyk district court in Almaty convicted Toguzbayev of insulting the president's dignity and honor and gave him a two-year suspended sentence with a two-year probation period.

On April 5, the PGO publicly warned media outlets not to characterize a recent violent clash outside of Almaty as an ethnic dispute, although the fight, which resulted in five deaths, was between ethnic Kazakhs and Chechens. Authorities insisted that the fight was a simple criminal matter not motivated by ethnic animosity; the PGO stated that reporting to the contrary violated prohibitions against provoking ethnic hatred and discord and could be criminally prosecuted.

On May 24, the government suspended the national KTK television channel and *Karavan* newspaper for various alleged violations of the law. Rakhat Aliyev, a powerful political figure and then son-in-law of President Nazarbayev, controlled these outlets; just prior to the suspension, the government announced a criminal investigation of Aliyev and began seeking his extradition from Austria. The government allowed the media outlets to resume broadcasting and publishing after agreeing not to cover the Aliyev investigation. During the investigation the government relieved Aliyev of his ownership of the media outlets.

On July 7, the Saryarka district court in Astana rejected a libel case by *Vremya* newspaper against Minister of Culture and Information Yermukhamet Yertysbayev, who had called *Vremya* journalists "scoundrels, crooks and swindlers" in a March 9 interview. On the same day, the district court partially satisfied the minister's counter libel claim against the newspaper, which was based on a June 28 article urging the minister to recall that "he is in charge of not only the information, but the culture as well." The court ordered *Vremya* to pay \$41 in damages (5,000 tenge). On September 15, the Astana city court upheld the lower court decision, explaining that Yertysbayev's statements were "his personal critical opinion of a speculative nature" and "were not directed toward specific people."

In July the national Khabar television station refused to air a series of hard-hitting campaign commercials produced by the opposition National Social Democratic Party (NSDP), citing the party's failure to obtain written consent from all of the individuals appearing in the ads. On July 21, the NSDP accused the government of unlawfully blocking the commercials and lodged a formal complaint with the Central Electoral Commission (CEC). The CEC media complaints body and an expert group from the Ministry of Justice (MOJ) concluded that the ads were unlawful because they could incite social tension. The NSDP advertisements were never shown, although the party was able to air different campaign commercials.

In contrast to previous election years, the government made no attempt to seize or block opposition newspapers during the campaign, and newspapers were permitted to cover freely the parliamentary election campaign, including opposition parties.

On October 30, law enforcement officials began tax and regulatory investigations against four opposition newspapers (*Svoboda Slova*, *Respublika*, *Tas Zhargan*, and *Vzglyad*), and printing companies for several of the newspapers refused to continue printing the newspapers. Newspaper representatives accused the government of harassing them in connection with their reporting on the scandal surrounding former presidential son-in-law Rakhat Aliyev and their publication of transcripts of telephone conversations between high-level government officials, which some observers speculated came from Aliyev. Minister of Culture and Information Yertysbayev met with several opposition media representatives on November 1 and, according to press reports, demanded that they cease publication of all materials from Aliyev if they wished to continue publishing. Shortly thereafter, the government ended its investigation of the newspapers, and they resumed publication.

There were no reports of forced outlet closures under the restrictive media law enacted in July 2006. Included in the amendment to the media law were tightened government control, requiring media owners to re-register upon any change in editor, address, or frequency of publishing; a ban on those convicted of libel from holding a managing editor position at another media outlet; prohibition on registering an outlet under a name similar to one that was shut down by court action; and imposition of fines against broadcasters for failing to offer the required 50-50 mix of Kazakh and Russian language programming time.

There were no developments in the April 2006 beating of *Aina Plyus* journalist Kenzhegali Aitbakiyev, an attack allegedly connected to the paper's reporting on Kazakhgate, an old bribery scandal involving possible illicit payments from foreign companies to senior government officials, including President Nazarbayev.

There were no developments in the 2005 vandalization of the *Region Plus* newspaper office in Kapchagay. The paper's staff believed the attack to be a response to its reporting.

The law enables the government to restrict media content under amendments that prohibit undermining state security or advocating class, social, race, national, or religious superiority, or cruelty and violence. Owners, editors, distributors, and journalists may be held civilly and criminally responsible for content, regardless of the source of information, unless it came from an official source. The government used this provision to limit freedom of the press. The law prohibits publication of any statement that promotes or glorifies "extremism," a term that international legal experts considered vague and necessary for the government to define.

The government subjected media outlets willing to criticize the president directly to intimidation such as law enforcement actions or civil suits. While these events continued to cast a chilling effect on all media outlets, criticism of government policies continued.

The law on state secrets makes it a criminal offense to release information about the health, finances, or private life of the president, as well as economic information such as mineral reserves and government debt owed to foreign creditors. To avoid possible legal problems media outlets often practiced self-censorship regarding information on the president or his family.

Criminal libel suits could be initiated by private parties on behalf of the government, and an individual filing such a suit would be able to file a civil suit as well, based upon the same allegations. Officials used the law's restrictive libel and defamation provisions to constrain media outlets from publishing unflattering information. Both the criminal and civil codes contain articles establishing broad libel liability. The fact that owners, editors, distributors, publishing houses, and journalists were held responsible for proving the veracity of published information regardless of its source, promoted self-censorship at each level. At times fines for libel were exorbitant.

#### Internet Freedom

There were no formal government restrictions on access to the Internet, but observers reported that the government monitored e-mail and Internet activity, blocked or slowed access to opposition Web sites, and planted progovernment propaganda in Internet chat rooms. The country's only Internet service providers, state-owned Kaztelecom and privately owned Nursat, were regulated by the state. Nevertheless, Web sites expressed a wide variety of views, including viewpoints critical of the government. According to government statistics, there are 600,000 regular Internet users in the country (4 percent of the population). Internet users were primarily urban-based. In February Kaztelecom cut some Internet tariffs in a move the government claimed was an effort to increase Internet access.

The Agency for Information and Communication (AIC) controlled the registration of .kz domains. The AIC may suspend or revoke registration for failure to locate servers in the country. Observers criticized the registration process as unduly restrictive and vulnerable to abuse.

In June the NGO Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR) reported that servers based in Russia, the Kyrgyz Republic, and Kazakhstan attacked its Web site in coordinated fashion. The attack shut down the NGO's Web site for several months and occurred shortly after President Nazarbayev announced new parliamentary elections. The Web site remained disrupted during the August Parliamentary elections. Bureau leaders believed the attack was the government's effort to silence potential criticism prior to the election and prevent viewers from researching the country's human rights situation.

On August 16, KNB agents arrested and charged self-described writer and political analyst Nurlan Alimbekov with inciting religious and ethnic hatred and insulting the president, basing their charges on e-mails sent by Alimbekov. A KNB spokesman said the government did not violate privacy laws in obtaining the e-mails because Alimbekov sent them to multiple parties, including foreign diplomatic representatives, and they were eventually forwarded to the government. Alimbekov awaited trial at year's end.

On October 24, media watchdog group Adil Soz and two independent Web publishers alleged that the government blocked four opposition-oriented Web sites in connection with their publication of audio recordings and transcripts of telephone conversations between high-level government officials. The Web sites became inaccessible in mid-October, although three of the four sites remained accessible through servers based outside of the country. Minister of Culture and Information Yertysbayev denied any government involvement in the case, and the government invited representatives from some of the Web sites to a November 1 meeting with Yertysbayev. All sites but one became fully accessible shortly after the meeting.

#### Academic Freedom and Cultural Events

The government generally did not restrict academic freedom, although academics, like all citizens, were prohibited from infringing on the dignity and honor of the president.

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

### Freedom of Assembly

The law provides for limited freedom of assembly; however, there were significant restrictions on this right in practice, and police used force to disrupt peaceful demonstrations. The law defines unsanctioned gatherings, public meetings, marches, demonstrations, illegal picketing, and strikes that upset social and political stability as national security threats.

Under the laws governing public assembly, 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. Opposition and human rights monitors complained that complicated and vague procedures and the 10-day notification period made it difficult for groups to organize public meetings and demonstrations and reported that local authorities turned down most applications for demonstrations. The most recent Baseline Report on Human Rights in Kazakhstan acknowledged that the laws governing public assembly were vague and open to subjective application and agreed that they fell short of international standards. Authorities often detained briefly and fined organizers of unsanctioned gatherings, including political party gatherings.

Authorities dispersed several gatherings organized in protest of the new constitutional amendments. On May 24, approximately 30 citizens held an unsanctioned rally in Almaty's central square, and authorities arrested and fined opposition journalist Sergei Duvanov; on May 29, authorities detained briefly journalist Yekaterina Belyayeva for holding a sign with the words "The Constitutional Amendments--the Road to Totalitarianism;" on June 8, authorities arrested several members of the Socialist Resistance youth movement for holding an unsanctioned gathering mocking the government, the Nur Otan party, and the new constitutional amendments.

### Freedom of Association

The law provides for limited freedom of association; however, there were significant restrictions on this right in practice. Any public organization set up by citizens, including religious groups, must be registered with the MOJ, as well as with MOJ branches in every region in which the organization conducts activities. The law requires public or religious associations to specifically define their activities, and associations that act outside the scope of their charter may be warned, fined, suspended, or ultimately banned. Participation in unregistered public organizations may result in administrative or criminal liability, such as fines, dissolution, probation, or imprisonment.

The prohibition on unregistered organizations often provided a pretext for authorities to interfere with the activities of organizations. Membership organizations, including religious groups, must have 10 members to register at the local level and must have branches in over half of the regions for national registration. Political parties and labor unions were considered membership organizations but had additional specific registration requirements. The law requires political parties to have 50,000 signatures, including 700 in each region, and prohibits parties established on an ethnic, gender or religious basis. The law prohibits members of the armed forces, employees of national security and law enforcement organizations and judges from participating in trade unions or political parties.

NGOs reported that the registration process was fairly regularized, although corruption in the registration process was common. NGOs involved in human rights advocacy and political activities faced greater administrative delays and obstacles, although there were no reports that the government denied registration or shut down organizations.

The February 2005 extremism law criminalizes membership in certain prohibited organizations. HT was the only one banned under this law. Although it maintained that it was committed to nonviolence, HT promoted hate and praised acts of terrorism. The party's virulently anti-Semitic and anti-Western literature called for the overthrow of secular governments, including those in Central Asia, to be replaced with a worldwide Islamic government.

### c. Freedom of Religion

The constitution and law provide for freedom of religion, and the various religious groups worshiped largely without government interference; however, local and regional officials attempted on occasion to limit or control the practice of religion by several groups, especially religious communities defined as "nontraditional" by the government. The constitution defines the country as a secular state and provides the right to decline religious affiliation. The government continued to express publicly its support for religious tolerance and diversity.

The generally amicable relationship among religions in society contributed to religious freedom. The country is multiethnic, with a long tradition of tolerance and secularism. In particular, Muslim, Russian Orthodox, Roman Catholic, and Jewish leaders reported high levels of acceptance in society. The population, particularly in rural areas, is sometimes wary of religions deemed to be "nontraditional" by the government. The number of registered religious groups and places of worship increased during the year for virtually all religious groups, including for minority and nontraditional groups.

The religion laws narrow the legal protections for religious freedom found in the constitution. Under the law, religious groups must register both with the government and in the individual regions in which they have congregations.

Missionaries must register annually and be sponsored by a registered religious organization. All supporting materials must be provided with the registration applications; use of materials not vetted during the registration process is illegal. Only registered organizations may act as a legal entity to buy or rent real property, hire employees, or engage in other legal transactions.

In practice most religious communities chose to register with the government and were ultimately successful in obtaining registration. Nontraditional religious groups sometimes reported long delays in the process. Unregistered religious groups reported an increase in court actions against them and an increase in the level of fines imposed for nonregistration. Some religious groups also criticized the intrusive nature of the registration process, which required them to provide information about ethnicity, family status, religious education, employment, and political affiliation.

The Baptist Council of Churches has a policy of not seeking or accepting registration in former Soviet countries. During the reporting period the Council of Churches noted several court cases against churchgoers for participating in the activities of an unregistered group. Council of Churches members usually refused to pay fines levied by courts for nonregistration. Church members reported that, unlike previous years, courts began enforcing payment of fines in a few cases, including by seizing property and garnishing wages. In one case authorities imposed a three-day jail sentence against a pastor in the city of Shymkent.

In February Northern Kazakhstan Oblast (region) authorities conducted a preventative sweep entitled "Operation Religious Extremism" that resulted in the arrest of eight pastors and church leaders for violating religious registration laws. The authorities claimed the operation was part of a larger Commonwealth of Independent States (CIS)-wide program to combat terrorism and violent extremism. In most of the cases, the government fined the largely Baptist and evangelical Christian church leaders.

The national Jehovah's Witnesses Religious Center reported that it had generally positive relations with the national government and the freedom to conduct their activities. However, the group attempted unsuccessfully, as it had since 2001, to register in Atyrau Oblast. The Atyrau regional procurator's office maintained that the group had failed to comply with registration laws, and the government did not allow the group to register. On May 6, Atyrau police and procurators disrupted a gathering of Jehovah's Witnesses, videotaping participants and seizing worship materials. The Atyrau group remained unregistered at the end of the year.

During the year Jehovah's Witness centers continued to report government interference in their gatherings, such as on April 2 when landlords withdrew permission for religious ceremonies in several cities; however, the Jehovah's Witnesses were able to hold their ceremonies in other locations.

The Karasai government near Almaty continued a campaign to seize title to land used by the Hare Krishna movement. On June 15, Karasai officials destroyed 12 homes at the Hare Krishna compound, damaging many possessions and leaving the residents homeless. The government-organized demolitions occurred despite promises by officials to resolve the situation through dialogue, including a possible agreement to provide the Hare Krishnas with an alternate property. At year's end the Hare Krishnas continued to allege unresponsiveness on the part of the government, although the government characterized the issue as a property dispute.

Observers believed that security officials informally monitored some religious activity, particularly Muslim imams' sermons; however, there were no reports that any monitoring manifested itself in interference or harassment.

#### Societal Abuses and Discrimination

During the reporting period, the MOJ distributed a brochure designed to help citizens "avoid the influence" of religious sects. The Kazakh language portion of the text specifically warned against Jehovah's Witnesses, Baptists, Ahmadis, and HT. The Jehovah's Witnesses objected to the brochure after learning that public school teachers in the Pavlodar region distributed it to their students in October 2006. The Religious Issues Committee (RIC) in the MOJ reported that the brochure was produced by another section of the MOJ without the RIC's authorization and was no longer in production.

There were no reports of anti-Semitic acts apart from the distribution of anti-Semitic literature by HT. Leaders of the Jewish community reported no cases of anti-Semitism either by the government or in society.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for these rights, but there were some regulatory restrictions. The government required citizens and foreigners in the country for more than five days to register with the migration police. Foreigners entering the country may register at certain border posts. Registration in most of the country generally was routine; nonetheless, some foreign citizens reported that local authorities regularly requested bribes before completing registration. During the year the MIA

deported over 15,000 foreigners for gross violations of the rules of stay; all but 1,000 of the foreigners were citizens of the CIS.

The government required persons who were suspects in criminal investigations to sign statements that they would not leave their place of residence, and detained individuals routinely for identity checks without suspicion of a criminal offense.

Although the government did not require exit visas for temporary travel of citizens, there were certain instances in which exit from the country could be denied, including for travelers subject to pending criminal or civil legal proceedings, unserved prison sentences, or compulsory military duty. Travelers who presented false documentation during the exit process could be denied exit, and authorities controlled travel by active-duty military. The law on national security requires that persons who had access to state secrets obtain permission from their employing government agency for temporary exit from the country.

The law prohibits forced exile and the government did not employ it.

The law provides for the right to emigrate and the right to repatriate, and the government generally respected these rights in practice. An exception is the law on national security, which prohibits persons who had access to state secrets from taking up permanent residence abroad for five years after leaving government service. The government required a permanent exit visa for emigration; obtaining this visa required criminal checks, credit checks, and letters from parents and any dependents expressing no objection to exit visa issuance.

The authorities required foreigners to obtain prior permission to travel to certain border areas with China and cities in close proximity to military installations. The government continued to declare particular areas closed to foreigners due to their proximity to military bases and the space launch center at Baikonur. In practice foreigners could visit these areas with prior permission from the MIA.

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. The absence of legislation to implement fully the convention allowed for the selective treatment of refugees, and left many aspects of refugee status unclear, such as whether refugees have a right to work. In practice the government usually provided some protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. As in 2006, the government did not forcibly return any refugees to Uzbekistan during the year.

The government generally registered asylum seekers and determined their status, in consultation with the United Nations High Commissioner for Refugees (UNHCR) with the exceptions of citizens from the CIS countries or China. Only the president can grant political asylum, and he did not do so during the year. In some cases, the government allowed asylum seekers and refugees to stay in the country while the UNHCR found third countries that would accept them. Although the government did register refugees already present in the country, it did not accept any refugees for resettlement. The government also provided temporary protection to individuals, including some Afghan refugees who may not qualify as refugees under the 1951 convention and the 1967 protocol.

In practice the government does not grant refugee or asylum status to citizens of CIS countries or China. The government maintains that citizens of CIS countries cannot by definition need refugee status because of the freedom of movement provided by the visa-free regime in the CIS. CIS citizens are processed under migration laws that give them some renewable temporary status, although not the full protection of refugee status. Citizens from China are not granted any legal status, but they are tolerated informally. Activists reported that, in practice, many refugees from CIS countries and China did not seek formal status. Those who sought protection from UNHCR generally had access to such processes, and the government generally respected UNHCR refugee certificates.

During the year the UNHCR reported generally good cooperation from the government in assisting refugees and asylum seekers. The government usually allowed the UNHCR access to detained foreigners to determine if they qualified for refugee status. The government was generally tolerant in its treatment of local refugee populations, except for a few citizens from former Soviet republics. The government often did not allow refugees without passports or those who had entered the country illegally to register, although the UNHCR intervened on behalf of UNHCR mandate asylum seekers.

The Committee on Migration in the Ministry of Labor continued to work with the UNHCR and a local NGO, Kazakhstan Refugee Legal Support, in reviewing refugee claims. Consistent with the Minsk Convention on Migration within the CIS, the government did not recognize Chechens as refugees. Chechens are eligible for temporary legal resident status up to 180 days, like any other CIS citizen. This temporary registration is renewable, but local migration officials have discretion over the renewal process. In some cases, they solicited bribes, exploiting the vulnerability of Chechens arising from their inability to return safely to Chechnya. The government had an agreement with China not to tolerate the presence of ethnic separatists from one country on the territory of the other. Human rights monitors remained concerned with the impact of this agreement on Uighers from China living in the country, and there were reports of the government forcibly returning

Uighers to China during the year.

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

The constitution and law provide for a democratic government with universal suffrage for those over 18 years of age; in practice the government severely limited the right of citizens to change their government.

Although the May 21 constitutional amendments increased legislative authority in some spheres, the constitution continues to concentrate power in the presidency, granting the president considerable control over the legislature, judiciary, and local government. The president appoints and dismisses most high-level government officials, including the prime minister, the cabinet, the procurator general, the KNB chief, Supreme Court and lower-level judges, regional governors, and the chairman and two members of the CEC, who oversee presidential and parliamentary elections. The lower house of parliament must confirm the president's choice of prime minister, and the senate must confirm the president's choice of procurator general, chairperson of the KNB, Supreme Court judges, and chairperson of the national bank. The parliament has never failed to confirm a presidential nomination. Modifying or amending the constitution effectively requires the president's consent. The May 21 constitutional amendments exempted President Nazarbayev from the two-term limit on presidential terms.

#### Elections and Political Participation

On June 20, President Nazarbayev dissolved the lower house of parliament and called new elections. The elections were intended to implement fully the recent constitutional changes to the political system, including the expansion of the parliament.

The election for a new parliament occurred on August 18. President Nazarbayev's Nur Otan party received 88 percent of the vote according to official results, winning every seat in the chamber. No other party received the necessary 7 percent of the vote to obtain parliamentary seats.

The OSCE assessment noted several areas of improvement over the conduct of previous national elections, including that multiple parties were allowed to participate in the election, the CEC acted with increased transparency and corrected voting-process deficiencies noted in prior elections, parties enjoyed greater freedom to campaign and better access to the media, and the voting process ran smoothly on election day. The CEC cooperated with the OSCE and other observer missions and accredited a large number of foreign observers.

However, the assessment criticized a number of legal provisions related to the election, including excessive requirements for registration of political parties, limitations on the right to seek public office such as 10-year residency and a party membership requirements, and a provision allowing the Assembly of People of Kazakhstan--an unelected body whose membership is appointed by President Nazarbayev--to choose nine of the 107 members of the lower chamber. In addition, the assessment noted that local authorities and the state media treated the Nur Otan party favorably and that there were few opposition representatives on election commissions. Finally, the assessment concluded that the vote counting process was not transparent, and observers noted a wide range of irregularities. Opposition leaders said that the campaign environment was better than in previous years, although they reported government interference with their campaigns, including insufficient access to advertising space and unequal access to media and public meeting venues.

The OSCE noted that in general previous OSCE recommendations regarding the legislative framework were not addressed by the new constitutional and legislative amendments. The government maintained that OSCE recommendations were still under legislative consideration, but the process was interrupted by the early elections. In December 2006 the government rescinded the ban on public meetings between the end of the campaign period and the publication of final results, pursuant to an OSCE recommendation.

Compared to prior elections, political parties filed relatively few complaints of electoral violations during the pre-election campaign. Following the election, opposition leaders filed approximately 400 court cases related to alleged violations on election day, petitions to invalidate election results, or complaints about the activity of election commissions. The courts dismissed or denied all of the lawsuits, with the exception of a few cases in which they partially upheld the complaints.

President Nazarbayev's Nur Otan Party dominated political life. There was only one opposition member in parliament prior to its dissolution in June; after the August 18 elections, there were none. Pursuant to the May 21 constitutional amendments, the government conducted parliamentary elections solely on a proportional representation/party list system, with voters choosing a party rather than an individual candidate. All registered parties that sought to compete in the August 18 elections were permitted to do so. The new system makes no provision for independent candidates. Political parties must register members' personal information, including date and place of birth, address, and place of employment. This requirement discouraged many citizens from joining political parties. There were credible allegations that persons entering government service were pressured to join the Nur Otan party.

At year's end there were eight registered political parties, including opposition parties Ak Zhol, True Ak Zhol, the National Social Democratic Party, and the Communist Party of Kazakhstan.

In order to register, a political party must hold a founding congress with minimum attendance of 1,000 delegates from two thirds of the oblasts and the cities of Astana and Almaty. Additionally, parties must obtain 50,000 verified signatures with at least 700 from each oblast and the cities of Astana and Almaty; registration from the CEC; and registration from each oblast-level election commission. The MOJ maintained that even if the number of signatures exceeded the required 50,000, a single error would be grounds for rejecting an application. At year's end registrations were pending for the opposition Alga and Atameken parties, although both parties submitted their applications in 2006. In response to criticism about the non-registration of Alga and Atameken, the government maintained that it was investigating numerous complaints from citizens about being added to the party lists without their consent.

The law prohibits parties established on an ethnic, gender, or religious basis.

True Ak Zhol co-chairman Bulat Abilov remained ineligible to register as an electoral candidate as the result of his July 2006 conviction by the Temirtau City Court for attacking a police lieutenant and insulting a government official during the 2005 presidential election. Abilov and his supporters claimed the charges were politically motivated. In a separate case, authorities charged him with fraud and tax evasion in connection with earlier business activities. He was not permitted to leave the country during the investigations. The trial began in December 2006 and was delayed and adjourned multiple times until August 27, when the court returned the case to procurators for additional investigation. Abilov's lawyers stated that the court failed to find evidence of any crime. The trial had not resumed at year's end.

There were two women in the 47-seat senate and 17 women in the 107-member lower house of parliament. There was one woman in the cabinet. Traditional attitudes sometimes hindered women from holding high office or playing active roles in political life, although there were no legal restrictions on the participation of women and minorities in politics. There were 10 non-Kazakhs in the senate, and 24 in the lower house of parliament. There was one non-Kazakh cabinet member. Under the May 21 constitutional amendments, the Assembly of People of Kazakhstan, the presidentially selected advisory body designed to represent the interests of national minorities, was empowered to choose nine members of the lower house of parliament. In addition, the president gained the ability to appoint 15 members of the senate, with the requirement that the appointments help facilitate representation of different ethnic and cultural groups.

#### Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Corruption was widespread, including in the executive branch, various law enforcement agencies, local government administrations, the education system, and the judiciary. The MIA, financial police, KNB, and Disciplinary State Service Commission are responsible for combating corruption. Opposition leaders and human rights NGOs accused the government of rampant corruption. According to the World Bank's Worldwide Governance Indicators, corruption in the country was a severe problem.

The government took some measures to address corruption and increased its attention to the problem through educational and public awareness efforts. President Nazarbayev publicly deplored corruption and encouraged the media to report it. The financial police and KNB conduct most corruption investigations under the supervision of the PGO.

Lower and middle-ranking officials and minor political figures were penalized on corruption charges. The National Security Committee disclosed 657 corruption-related crimes during the year, and reported that over 460 government officials were convicted of corruption crimes. On November 1, President Nazarbayev dismissed the minister of emergency situations and several lower-ranked government officials for their alleged involvement in the illegal sale of land plots in environmentally protected areas in Almaty.

The law mandates the government, public associations, officials, and media outlets provide citizens with information that affects their rights and interests; in practice, citizens' requests for information were not fulfilled in a timely manner.

Although parliament published several draft laws, some parliamentary debates, and occasionally its voting record, many parliamentary activities remained outside public view. Accredited journalists and representatives of public associations may observe some parliamentary sessions via video link from a separate room. Transcripts of parliamentary sessions are not available to the public. Parliament closed to the public and the media its discussion of controversial legislation during the year.

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

A number of domestic and international human rights groups generally operated effectively, with relative freedom to investigate and publish their findings on human rights cases; however, the government restricted certain activities of most

domestic and international human rights NGOs. International human rights groups reported that the government continued to monitor the work of NGOs that worked on sensitive issues and noted harassment, including police visits and surveillance of NGO offices and personnel.

KIBHR, the Almaty Helsinki Commission, the Republican Network of Independent Monitors, the Charter for Human Rights, Penal Reform International, and Adil Soz were among the most active local human rights NGOs and occasionally faced difficulties in registration and acquiring office space and technical facilities, confronted audits, and bore various legal constraints. The government subjected employees of local human rights NGOs to harassment and intimidation. Nonetheless, the government worked cooperatively with human rights NGOs on some problems and on occasion invited the NGOs to participate in government commissions and projects.

In general the government did not prevent international NGOs and multilateral institutions dealing with human rights from visiting the country and meeting with local human rights groups and government officials. The government cooperated with the OSCE and its field mission. The United Nations, International Organization for Migration, and International Red Crescent Society also operated freely in the country.

On August 17, the MOJ authorized the resumption of nonpartisan political party training activities conducted by certain specified NGOs, although by year's end activities had not yet resumed. In 2006 the PGO suspended NGO political party building activities on the basis that they were not in accord with Kazakhstan's constitution.

National security laws prohibit foreigners, international organizations, NGOs, and other nonprofit organizations from engaging in political activities. The law stipulates that a noncommercial organization must provide information to the tax authorities on its founders, activities, and foreign sources of funding, as well as income, property, expenses, and employee records. International organizations are prohibited from funding unregistered entities.

The Presidential Commission on Human Rights is a consultative and advisory body that includes members from the public appointed by the president. The commission reviews and investigates complaints, issues recommendations, monitors fulfillment of international human rights conventions, and publishes annual human rights reports. The commission does not have legal authority to remedy human rights violations or implement its recommendations. On September 20, the commission released a Baseline Report on Human Rights in Kazakhstan, which focused primarily on the legal framework for human rights in the country and whether it complies with international standards. The report contains numerous recommendations for the government and provided criticism in some areas.

The presidentially appointed human rights ombudsman investigates complaints by citizens of violations of their rights by state agencies, although the ombudsman is not authorized to investigate complaints concerning the president, heads of government agencies, parliament, the cabinet, constitutional council, procurator general, CEC, or courts. The ombudsman's office has the authority to appeal to the president, cabinet, or parliament to resolve citizens' complaints, to cooperate with international human rights organizations and NGOs, to meet with government officials concerning human rights violations, to access certain facilities such as military units and prisons, and to publicize results of investigations in the media. The ombudsman also publishes an annual human rights report. During the year the ombudsman occasionally briefed the press and issued reports discussing complaints investigated. The ombudsman received 1,684 complaints during the first 11 months of the year but did not report statistics on the number of cases in which the victims' rights were restored. Many of the complaints concerned court rulings over which the ombudsman had no jurisdiction.

Domestic human rights observers noted that while government human rights investigators did some laudable work, particularly with less controversial social problems and issues involving lower-level elements of the bureaucracy, the ombudsman's office and the human rights commission were limited in their ability to stop human rights abuses or punish perpetrators. In addition, observers noted that the commission and the ombudsman avoided addressing underlying structural problems that led to human rights violations.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, the government did not enforce this effectively. Violence against women, trafficking in persons, and discrimination against persons with disabilities, homosexuals, and non-ethnic Kazakhs in government were problems.

##### Women

Violence against women, including domestic violence, was a problem. There is no specific domestic violence law, but it can be addressed under assault and battery provisions of the criminal code. The maximum sentence for spousal assault and battery is 10 years in prison, the same as for any beating.

Police reviewed 12,764 domestic violence complaints and opened 1,357 criminal investigations during the year. NGOs reported that the actual number of domestic abuse crimes far exceeded the number of cases reported to police.

Police intervened in family disputes only when they believed that the abuse was life threatening. According to estimates offered by NGOs, the police investigated perhaps 10 percent of such cases.

NGOs reported that women often withdrew their complaints as a result of economic insecurity. When victims pressed charges for domestic violence or spousal rape, police sometimes tried to persuade them not to pursue a case. When domestic violence cases came to trial, the charge was most often for light battery, for which judges sentenced domestic abusers to incarceration at a minimum security labor colony and 120 to 180 hours of work. Sentences for more serious cases of battery, including spousal battery, ranged from three months to three years imprisonment; the maximum sentence for aggravated battery was 10 years' imprisonment.

The punishment for rape, including spousal rape, ranges from three to 15 years' imprisonment. The government reported it opened 1,234 criminal rape cases during the year, which resulted in 454 convictions. Under the law prosecutors cannot initiate a rape case, absent aggravating circumstances such as gang rape, unless the victim files a complaint. Once a complaint is filed, the criminal investigation cannot be dismissed if the rape victim recants or refuses to cooperate further with the investigation. This provision is intended to protect victims from coercion. There were anecdotal reports of police and judicial reluctance to act on rape and spousal rape cases.

According to the government, there are 24 crisis centers in the country providing assistance to women and two that provide assistance to men. All of the crisis centers are funded through grants to NGOs. In addition, a number of smaller NGOs provide some assistance to victims. Six of the crisis centers also provide shelter for victims of violence.

Prostitution is not prohibited by law, although forced prostitution, prostitution connected to organized crime, and acts facilitating prostitution, such as operating a brothel or prostitution ring, are illegal. During the first 10 months of the year, the government investigated 191 prostitution-related crimes and convicted 156 defendants.

Prostitution was a serious problem. NGOs reported that criminal prostitution rings often included local law enforcement officials.

Trafficking in women remained a problem.

Sexual harassment remained a problem. The law prohibits only some forms of sexual harassment, and legal and gender experts regarded the legislation as inadequate to address the problem. There were reports of incidents of harassment, but in no instance was the victim protected under the law, nor were there reports of any cases prosecuted.

The constitution and law guarantee equal rights and freedoms for men and women. During the year, however, human rights groups publicly drew attention to the problem of discrimination against women. According to observers, women in rural areas face greater discrimination than women in urban areas, and suffer from a greater incidence of domestic violence, limited education and employment opportunities, limited access to information, and discrimination in their land and property rights.

#### Children

The government was committed to children's rights, although budget constraints and other priorities limited the government's effectiveness in dealing with child welfare. In January 2006 the government established a Committee on Protection of Children's Rights within the Ministry of Education and Science; on August 28, the president signed a decree expanding the size and budget of the committee and establishing regional offices.

Education is mandatory through age 16, or secondary school; elementary schooling generally begins at age six. Primary and secondary education were free and universal. The law provides equal access to education for boys and girls. The Ministry of Education estimated 98 percent enrollment of school-aged children. The law provides for access to public education for refugee and illegal migrant children. In some cases, these children were denied access to schools or their parents did not attempt to enroll them out of fear of discovery and deportation.

The law provides for medical care to be provided for all children irrespective of gender, and care was provided in practice.

There were reports of child abuse, although there was no societal pattern. **During the year the MIA permanently terminated custody rights of abusive parents in 1,022 cases.** Minors aged 16 and older have the right to file petitions related to their interests directly with a court.

NGOs reported that a growing number of children in orphanages, boarding schools, and detention facilities for delinquent children were victims of violence, and there were increased media reports on abuses in orphanages and other institutions.

#### Trafficking in Persons

The law prohibits all forms of trafficking in persons, but it remained a problem. There were some investigations and prosecutions of law enforcement officials for complicity in trafficking, including ongoing investigations.

The country was a source, transit, and destination country for victims of trafficking. Internal trafficking was also a problem. No reliable statistics were available on the number of victims each year. Many NGOs reported a continued increase in identification of victims, which may be attributed to greater awareness of the problem. The International Organization for Migration (IOM) estimated that hundreds of citizens were trafficked per year, with an increase in the number of foreigners trafficked into the country for labor exploitation. Individuals were trafficked to the United Arab Emirates, Turkey, Israel, South Korea, Greece, Russia, and Western Europe for purposes of forced labor and sexual exploitation. Men and women were trafficked to and through the country and from the Kyrgyz Republic, Uzbekistan, Tajikistan, Ukraine and South Asia for purposes of forced labor and sexual exploitation.

Traffickers targeted young women in their teens and twenties for sexual exploitation. According to the MIA, some women were recruited with promises of good jobs or marriage abroad. Travel, employment, and modeling agencies often recruited victims through advertisements promising lucrative jobs abroad. Previously trafficked women reportedly recruited new victims personally. Some trafficking victims appeared to be aware or at least to suspect that they were going to work as prostitutes but that they did not expect to work in slave-like conditions. Many trafficked persons were from Uzbekistan and traveled to their destinations on forged passports obtained abroad.

Adolescents raised in orphanages, regardless of gender, and residents of rural and economically disadvantaged areas were particularly vulnerable to being trafficked.

There was an increase in the number of men trafficked into the country for forced labor. Officials often did not distinguish between illegal labor migrants and victims of trafficking. There were credible reports of organized criminal trafficking rings bringing construction laborers to Astana and other cities. Employers and trafficking accomplices usually held trafficked workers' passports. Victims reported traffickers used debt bondage, violence, or threats of violence to compel them to work.

NGOs suspected organized crime was involved in all forms of trafficking.

In March 2006 the government enacted a comprehensive set of legislative amendments to strengthen its ability to investigate, prosecute, and convict traffickers. These amendments also included provisions to increase the amount of resources devoted to victim protection and prevention. The Ministries of Justice, Internal Affairs, Foreign Affairs, Labor and Social Welfare, Education and Science, Culture, Information and Sports, the KNB, the National Commission on Family Issues and Gender Policy, and the procurator general all have some responsibility for combating trafficking.

Trafficking is punishable by a maximum seven-year prison term. If a minor is involved, the maximum penalty increases to 10 years' imprisonment. The maximum penalty increases to 10 years' imprisonment if a victim was trafficked abroad and to 12 years' if the victim was a minor. The maximum penalty is 15 years' imprisonment for cases involving an organized crime syndicate, the death of a victim, or other "grave consequences" incurred by the victim.

During the year the number of successful prosecutions for trafficking increased to 17, compared with one in 2006.

The government sought cooperation with authorities in both destination countries and source countries. Embassies assisted victims of trafficking. In the first nine months of the year, the Ministry of Foreign Affairs assisted in the repatriation of 28 citizens.

There was no evidence of a pattern of official complicity with trafficking, although corruption of law enforcement officials, including migration and border officials, contributed to trafficking.

The law provides trafficking victims with temporary resident status to ensure their safe repatriation or participation in trafficking prosecutions. Trafficking victims are not considered illegal immigrants under the law and generally were not deported or otherwise penalized. NGOs working with foreign trafficking victims reported government cooperation in providing administrative support for repatriation of identified trafficking victims.

The government provides some victim protection and assistance, although significant gaps remained in the level of assistance needed by victims. In the first nine months of the year, the government provided financial assistance to 31 trafficking victims who participated in seven different criminal proceedings. The assistance included security, food, lodging, and medical services. NGOs ran two crisis support centers that provided legal and material assistance and counseling, under memoranda of understanding with the government. In some cases the government provided NGOs with reduced rate leases and other limited support. In general, NGOs reported good cooperation with government officials in coordinating assistance for trafficking victims.

IOM, in conjunction with 19 NGOs across the country, continued an information campaign on the dangers of trafficking and

maintained victim hot lines. The MOJ continued to maintain separate national hot lines for trafficking victims to report crimes and to receive information. The government provided special training for law enforcement and other government officials to improve their abilities to recognize, investigate, and prosecute instances of trafficking. The MIA continued enrolling migration police and criminal police in a comprehensive antitrafficking training program at the Study Center for Specialists on Combating Illegal Migration and Human Trafficking.

The PGO enforced mandatory licensing for tourist agencies and conducted inspections throughout the year to uncover agencies involved in trafficking.

The government encouraged media to publish and report on antitrafficking efforts. The government continued airing a series of public service announcements (PSAs) provided by international organizations in Russian and Kazakh. Public and private media were required to air these PSAs.

The education ministry reported that curriculum of all high schools and colleges included trafficking awareness segments. According to the Ministry of Education, most universities had information and analysis centers that dealt with trafficking awareness issues, among other topics. As part of the National Action Plan, a chapter on trafficking in persons was introduced in secondary school curricula.

#### Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to healthcare, and in the provision of other state services and requires companies to set aside three percent of their jobs for persons with disabilities. However, there were reports that discrimination was a problem, and disabled persons faced difficulty integrating into society and finding employment. The law mandates access to buildings for persons with disabilities, although the government did not enforce it. In September 2006 the government enacted new legislation allowing inspectors to check buildings for their compliance with disability access laws and impose significant fines for noncompliance; observers reported that the law had little impact. Disabled persons also had difficulty accessing public transportation.

Mentally handicapped citizens could be committed to state-run institutions without their consent or judicial review. In practice, however, the government committed persons at a young age with permission of their families. Institutions were poorly managed and inadequately funded. NGOS reported orphanages for children with physical and mental disabilities to be overcrowded and unsanitary, with insufficient staff to care adequately for children's needs. Despite massive economic growth and government expenditure on construction and infrastructure projects, KIBHR observed that the government provided almost no care for persons with mental disabilities.

The government did not restrict the right of persons with disabilities to vote, and arranged home voting for individuals who could not travel to polling places as a result of their disability. The Ministry of Labor and Social Protection is the primary government agency responsible for protecting the rights of persons with disabilities; the Ministries of Health and Education also assist in their protection.

#### National/Racial/Ethnic Minorities

The government continued to discriminate in favor of ethnic Kazakhs in senior government employment.

Kazakh is the official state language, although organizations and bodies of local self-administration may officially use Russian on an equal basis with Kazakh. The language law is intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages. By law the ability to speak Kazakh is not required for entry into the civil service.

#### Other Societal Abuses and Discrimination

Although there were no official statistics on discrimination based on sexual orientation, there were reports of such discrimination. Representatives of international organizations reported that negative social attitudes towards marginalized groups, including homosexuals, impeded these groups' willingness to come forward and, consequently, hindered their access to HIV/AIDS programs. The law prohibits discrimination against persons with HIV and AIDS; however, observers report that cultural stigmas against drug users and other at-risk groups continued to affect general access to information, services, treatment, and care.

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides for the right to organize and form unions freely. In practice the government restricted the exercise of this right, with the result that most workers were not able to join or form trade unions of their choice. The government exercised considerable influence over organized labor and favored state-affiliated unions over independent unions. The largest trade union association, the Federation of Trade Unions, successor to formerly state-sponsored Soviet era labor organizations, remained affiliated with the government in practice. At least one-third of the workforce was unionized.

To obtain legal status, a trade union must apply for registration with the MOJ. The registration procedure is broadly similar to that of other membership organizations.

The law prohibits the operation of foreign unions and prohibits the financing of unions by foreign legal entities and citizens, foreign states, and international organizations.

Workers are protected by law against antiunion discrimination, but in practice there were violations of this right. Members of a few trade unions were dismissed, transferred to lower paying or lower status jobs, threatened, and intimidated. Union leaders reported that some workers ostensibly fired for other reasons were actually fired in retaliation for union activity. There were no court cases filed on this basis during the year. Union leaders also reported cases of large employers creating conditions unfavorable to union formation and collective bargaining.

#### b. The Right to Organize and Bargain Collectively

The law protects the rights of unions to conduct their activities without interference. However, there were reports of government pressure on labor negotiators in tripartite negotiations. The law permits collective bargaining and collective agreements; unions and associations engaged in collective bargaining in practice. Collective bargaining agreements were allowed as long as they did not reduce protections afforded to workers in individual contracts or under law. According to the Federation of Trade Unions, approximately 75 percent of unionized enterprises had collective bargaining agreements.

Union demands unacceptable to management can be presented to a tripartite commission, composed of the government, employer associations, and labor union representatives. The tripartite commission is responsible for developing and signing annual agreements governing most aspects of labor relations. The labor law provides for an individual contract between employers and each employee.

The law provides for the right to strike, but exercising this right is subject to numerous legal limitations; the government maintained a list of industries and enterprises providing essential services where strikes were permitted only under limited conditions. In general, workers may strike only if a labor dispute has not been resolved through existing compulsory arbitration procedures. Striking workers must give a mandatory 15-day advance notice to employers. The law neither sanctions nor prohibits the firing of employees for participation in an illegal strike. In practice there were reports of employers providing arbitrary justifications when firing employees attempting to organize strikes.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, except at the sentence of the court or in conditions of a state of emergency or martial law, but there were reports that such practices occurred. Increasingly a destination country for migrant workers, there were reports that some employers abused migrant workers by confiscating their passports or using debt bondage, violence, or threats of violence to compel them to work.

#### d. Prohibition of Child Labor and Minimum Age for Employment

The law protects children from exploitation in the workplace. The minimum age for employment is 16 years; children between 14 and 16 years can perform, with parental permission, light work that does not interfere with their health or education. The law also restricts the length of the work day for employees under the age of 18. The government conducted labor inspections to enforce the minimum age for employment, but enforcement was uneven.

The government did not maintain statistics on child labor. NGOs and activists reported child labor occurred routinely in agriculture, especially during harvest season. Child laborers in the cotton and tobacco industries suffered from limited rest time and had little access to health care. In urban areas the country's increasingly formalized labor market led to a decrease in many forms of child labor. However, there were reports of children begging, unloading freight, delivering goods in markets, washing cars, and working at gas stations. There were also reports of children exploited in prostitution and pornography. The Ministry of Labor is responsible for enforcement of child labor laws and for administrative offenses punishable by fines; the MIA is responsible for investigating criminal offenses. In the first 10 months of the year the government reported that there were no crimes related to illegal child labor. In 2005 the government began implementing a three-year International Labor Organization program to eliminate child labor. As part of the program, the government worked actively with NGOs to conduct a 12-day national campaign in June to raise awareness of child labor and focus

attention on preventing it. The government also cooperated with trade unions, employers, and NGOs during the year to raise awareness and promote interagency cooperation in eliminating child labor.

Trafficking in children was a problem.

#### e. Acceptable Conditions of Work

The national monthly minimum wage of \$80.40 (9,752 tenge) did not provide a decent standard of living for a worker and family; however, it was common for working class families to have more than one wage earner, and most workers earned above minimum wage in urban areas. Though the minimum monthly subsistence during the first part of the year was lower than the monthly minimum wage, the minimum monthly subsistence averaged \$87.20 (10,655 tenge) during the last four months of the year.

The law stipulates the normal workweek should not exceed 40 hours and limits heavy manual labor or hazardous work to no more than 36 hours a week. The law requires that overtime not exceed two hours in a calendar day or one hour a day for heavy manual labor, and requires overtime to be paid at a rate of no less than one and a half times normal wages for hours over the normal workweek. Overtime is prohibited for work in hazardous conditions. The law provides that labor agreements may stipulate the length of working time, holidays, and paid annual leave for each worker.

The Ministry of Labor enforces minimum wages, work hour restrictions, and limits on overtime established by the labor law. Ministry labor inspectors conducted random inspections of employers in an effort to enforce the laws and regulations under their purview. Labor advocates reported that some employers regularly violated these laws.

The law provides for the right to safe and hygienic working conditions, but working and safety conditions in the industrial, agricultural, and construction sectors were often substandard. Workers in factories usually lacked protective clothing and worked in conditions of poor visibility and ventilation.

There were reports of management ignoring regulations concerning occupational health and safety, which were not well enforced by the Ministry of Labor. In the first 10 months of the year, the ministry reported making 18,484 inspections and identifying 108,970 violations. Most of the violations were relatively minor, although the government imposed fines totaling \$1,100,000 (132,000,000 tenge), suspended 57 production facilities, and opened 72 criminal investigations as a result of the labor inspections. In addition to the inspections by the ministry, unions conducted inspections of unionized enterprises and reported their findings to authorities for investigation. The law requires employers to suspend work that could endanger the life or health of workers and to warn workers about any harmful and dangerous work conditions and about the possibility of any occupational disease. The law specifically grants the right of workers to remove themselves from situations that endanger their health or safety without losing their job. In practice some workers, particularly in the construction industry, were not free to exercise this right without jeopardizing their employment.

The government reported 2,289 workplace injuries during the first 10 months of the year, a decline of 8.7 percent from the previous year. In addition, the government reported 334 workplace deaths during the first 10 months of the year, a decline of 14 percent from 2006.

