



U.S. DEPARTMENT of STATE

Kazakhstan

Country Reports on Human Rights Practices - [2006](#)

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The Republic of Kazakhstan, with a population of approximately 15 million, has a multiparty parliamentary system dominated by President Nazarbayev's Otan Party. President Nazarbayev was re elected for a third 7-year term in December 2005; observers criticized that election as falling short of a number of international standards. 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 president exercised control over the military and the security forces, although members of the security forces committed human rights abuses in a few instances.

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

During the year the government advanced its efforts to combat trafficking in persons by enacting a comprehensive set of legislative amendments to strengthen its ability to investigate, prosecute, and convict traffickers, and to increase the amount of resources devoted to victim protection and prevention. The government also repealed a law banning election-related demonstrations from the period following the end of the voting until the results are published.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

On February 13, opposition leader Altynbek Sarsenbaiuly was found shot to death in a remote area outside of Almaty, along with his bodyguard Baurzhan Baibosyn and driver Vasiliy Zhuravliov. Following an official investigation, 10 suspects were charged with the kidnappings and murders, including five officers of an elite squad of the Committee for National Security (KNB). At the government's request, a foreign law enforcement agency provided technical support for the investigation. On August 31, the regional court in Taldykorgan found all defendants guilty as charged. The court sentenced Rustam Ibragimov, a former ministry of internal affairs official, to death, though he will remain in prison as long as the death penalty moratorium remains in effect. The remaining defendants received prison sentences from 3 to 20 years. The Supreme Court upheld the sentences on December 8.

Opposition leaders charged that the killing was politically motivated, and sharply criticized the conduct and remote location of the trial. The evidence strongly indicated the involvement of all those charged, but the court failed to follow up and investigate signs that other parties and high-level government officials may have been involved in instigating or ordering the killings. In a confession that he later retracted, Yerzhan Utembayev, the former chief of administration for the senate, claimed he ordered the killing in retribution for a public personal slight by Sarsenbaiuly.

Military hazing was a serious problem that led to deaths, suicides and serious injuries (see section 1.c.). During the year, the procurator general's office reported six suicides within the military in the first six months of the year, compared with 26 in 2005.

On February 4, conscript Amanzhol Akhmetov died on guard duty. The official investigation reported that Akhmetov left his post for an unknown reason, seized a machine gun from another soldier, and shot himself to death. Akhmetov's parents and the Soldiers' Mothers' Committee demanded further investigation of the incident, and believed that Akhmetov's death was the result of hazing.

On February 15, Junior Sergeant Adalykov was sentenced to six years in prison for the November 2005 death of conscript Asylbek Abdikov. Abdikov died after being struck in the throat by Adalykov. Senior officers in the military unit also received disciplinary penalties. On November 22, soldiers from the Darkhan border guard detachment in the Saryagash district of South Kazakhstan reportedly hazed newly arrived conscripts over the course of two days, beating them and refusing to allow them to sleep. Eighteen conscripts were injured, and one conscript died from his injuries. The head of the military investigation department of the local Ministry of Internal Affairs (MVD) garrison reported the incident. A criminal investigation was pending at year's end.

In November 2005 the military court of the Akmolinskiy army unit sentenced an older conscript, Abylair Ospanov, to five years in prison for the April 2005 death of conscript Samat Kapezov. On February 14, a higher military court extended the sentence to six and a half years based on an appeal by the procurator.

b. Disappearance

There were no reports of politically motivated disappearances.

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 tortured, beat, and abused detainees, often to obtain confessions. In its Human Rights Commission's annual report, the government 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 procuratorial practices that overemphasized a defendant's confession of guilt over collecting other types of evidence in building a criminal case against a defendant.

In February Supreme Court Judge Raisa Yurchenko publicly acknowledged that police used psychological and physical pressure on suspects under investigation, but said that law enforcement officials effectively concealed their abuses and victims were afraid to report them.

The ombudsman's office reported 2,613 citizen complaints during the year, over 20 percent of which were allegations of abuse by law enforcement.

On May 29, two police officers detained and beat alleged thief Yerbolat Ospanov after he was reportedly unable to pay a bribe to have the charges dropped. Ospanov's brother later paid a 51,200 tenge (\$400) bribe and he was released. Yerbolat filed a complaint with the procuracy the next day, but no action was taken at year's end.

On August 28, the head of the Mugalzhar district police office in the Aktobe region was sentenced to three years in prison for a January 2005 incident in which he and several deputies severely beat several murder suspects. The beatings occurred over the course of two days in an attempt to extract confessions. The deputies were sentenced to 2 and one-half years in prison.

There were unconfirmed reports that some women detained by law enforcement officers were subjected to coercive sexual advances or raped. In January an NGO in Kokshetau filed a complaint against police inspectors for sexually abusing underage detainees in the Kokshetau juvenile detention center. Local authorities initiated a criminal investigation. Three suspects were fired, though rape charges were brought against only one of the three - Yerlan Karabekov. The Kokshetau city court acquitted Karabekov of rape charges on October 12, but sentenced him to four years in prison for abuse of power. On appeal, the sentence was reduced to two years.

The MVD reported that the number of crimes related to military hazing and abuse of power declined by 14 percent during the year, though military hazing remained a serious problem.

A few army personnel continued to subject conscripts to physical and verbal abuse, despite noncommissioned officer (NCO) corps reforms that addressed patterns that led to conscript hazing. There were reports of hazing-related deaths and suicide that in some cases led to investigations and eventual convictions of service members. The government investigated allegations of conscript hazing and prosecuted soldiers who engaged in this abuse; six soldiers were convicted in the first six months of the year. The government took steps to root out soldier abuse by continuing to expand a professional NCO corps and gradually transitioning toward a largely volunteer military. The government also implemented new human rights training and responsibilities for NCOs and continued a training program for military personnel at all levels, which included mandatory anti-hazing training. The Ministry of Defense (MOD) reported that it was tightening discipline to address hazing and other offenses, and was implementing ad hoc inspections and requiring systematic reports from senior officers concerning the situation in their units. The MOD reported that these efforts resulted in a 28 percent decline in crimes by military personnel compared with the previous year including a 48 percent decline in incidents of delinquency and a 61 percent decline in unauthorized service leaves.

On July 31, 20-year-old Yerlan Kadenov, a sergeant in a Shymkent military unit, reported to military doctors with complaints of dizziness and nausea. On August 3, he was hospitalized and underwent emergency surgery for internal injuries. Military procurators suspect hazing, and were investigating the incident at year's end.

On July 2, the media reported a hazing incident in an Almaty military unit. Nurlan Zhandagulov, the father of one of the conscripts, was reportedly rebuffed when he appealed to the commander of the military unit. However, the MOD responded to Zhandagulov's appeal and military procurators arrested two soldiers for the abuses. Several senior officers were also disciplined, and younger conscripts were separated from older soldiers.

Prison and Detention Center Conditions

Though the government implemented prison reforms and granted greater access, prison conditions remained harsh and facilities did not meet international health standards. Mistreatment occurred in police cells, pretrial detention facilities, and prisons. The government took some steps to address systemic patterns that encouraged prisoner abuse. These included continued operation of and increased access for

regional penitentiary oversight commissions, training of prison officials, and seminars for MVD police; however, no prison officials were prosecuted for abuses during the year.

The government conducted 13 criminal investigations of penitentiary officials for corruption in the first eight months of the year. These investigations resulted in 12 convictions and one acquittal.

A Council for Public Oversight, established in 2004, 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 (ICRC). However, police cells operated by the MVD remained closed to outside observers.

NGOs and international observers reported good cooperation with Ministry of Justice (MOJ) leadership, and credited the MOJ with taking some active steps to improve prison conditions. Provision of medical services improved, particularly with respect to fighting tuberculosis. However, observers reported that the pace of reform has slowed in comparison to previous years.

Although the government made some efforts to upgrade existing facilities and build new ones, buildings at many prisons remained outdated and hygiene conditions were substandard. In February the procurator general's office issued an order closing one of the buildings in the Semipalatinsk pretrial investigation facility because it did not meet sanitary standards and posed a threat to the health and lives of detainees. On May 25, the procurator general's office issued a statement criticizing the MOJ for failing to address overcrowding, sewage, and poor sanitation in prisons.

During the year, 31 detainee deaths, including five suicides, were reported at pretrial detention facilities. The government reported 268 deaths in prisons during the year, including 26 suicides.

Incidents of self-mutilation by inmates to protest prison conditions continued. On March 31, inmates in the Zarechniy prison outside of Almaty rioted to protest harsh conditions, mistreatment, and confiscation of personal belongings. According to human rights activists, the prison was originally designated to house convicted law enforcement officers. However, prior to the riot, regular criminals were added to the population, leading to increased tension and the tightening of controls. Twenty-four inmates mutilated themselves by cutting their abdomens, and three inmates were injured when prison guards restored order. Local NGOs were permitted to visit the facility and interview inmates after the incident. An activist from the Public Committee for Monitoring Human Rights reported that the prison officials' response to the riot was generally appropriate. Several officers of the prison administration were disciplined for their failure to deal with the protest action. After the incident, prison officials transferred the regular criminals out of the population to reduce tension and problems.

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 MVD 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 MVD reports to the prime minister. The Committee for National Security (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 high. Police were poorly paid and widely believed to be corrupt. According to Security Council Secretary Berik Imashev, police officers committed 182 corruption crimes during the year, although only 70 officers were fired for corruption.

During the year the government maintained MVD hot lines to receive complaints about police corruption and abuse; there were no available statistics on the number of investigations. As part of an effort to address one of the underlying causes of corruption, the MVD increased police salaries during the year by 32 percent.

A council for coordination of law enforcement operations, established in the 1990s, 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 MVD 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, but the procurator general reported that illegal detention remained a problem. Warrants are required for arrest. Procurators have the power to authorize arrest and pretrial detention as well as

investigative actions such as searches and seizures. The law allows police to hold a detainee for 72 hours before bringing charges. Human rights observers alleged that authorities often exceeded this limit in practice. 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.

The 2005 Human Rights Report issued by the Presidential Human Rights Commission indicated widespread incidents of arbitrary arrest and detention of citizens in which they were brought to the police and kept in offices. The procurator general's office reported that 375 individuals were illegally detained in police offices in the first half of the year. In the first half of the year, prosecutors released 20 individuals who were illegally detained in pretrial detention facilities; criminal charges against them were dropped.

The government arrested and detained a few government opponents and critics, sometimes for minor infractions of the law such as unsanctioned assembly, and selectively prosecuted political opponents (see sections 1.e., 2.a., and 2.b.). However, there were no allegations of prolonged detention for political offenses.

On May 27, about 15 members of the opposition youth group Socialist Resistance were detained by police for several hours in Almaty. The police first claimed that they were responding to a noise complaint, and later said that there had been an armed robbery in the neighborhood. The detained youths reported that police and KNB officers interrogated them and sought incriminating information about their leaders.

Amnesty

The MOJ released 3,445 prisoners in an amnesty campaign, and 14,300 other convicts were pardoned.

e. Denial of Fair Public Trial

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

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 regional (oblast) level judges, but these appointments are made directly by the president. The president, upon the recommendation of the MOJ and the Qualification Collegium, appointed lower-level court judges. 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.

Corruption was evident at every stage and level 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 (see section 3).

Trial Procedures

The law allows for trial by jury, but jury trials were not scheduled for implementation until 2007. 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 during the year of journalists 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 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. These rights were generally exercised in practice; however, there were reports of individual cases of infringement. Lack of due process was a problem, particularly in politically motivated trials and in cases where improper political or financial influence was alleged.

The high-profile trial of the suspects in the killing of opposition leader Altynbek Sarsenbauly and his two associates was widely criticized for

procedural flaws, including a refusal to allow questioning of certain witnesses by the defense and a failure of law enforcement officials to investigate allegations that others, including high-level government officials, may have been involved. The remote location of the trial complicated public and media attendance (see section 1.a.). Likewise, attorneys for both the defendants and the victims' families criticized the conduct of the subsequent supreme court appeal. On December 7, the supreme court abruptly ended the appeal hearing before resolving several motions or allowing the victims' representatives to make final statements. On December 8, the court upheld the guilty verdicts and sentences.

Political Prisoners and Detainees

There were no reports of political prisoners; however, there were reports of individuals imprisoned following politically motivated criminal prosecutions based on nonpolitical offenses. On January 14, former governor and Democratic Choice of Kazakhstan leader Galymzhan Zhakiyanov was granted early conditional release from prison. Zhakiyanov was convicted of abuse of power and corruption charges in 2002 following a trial that international observers maintained was politically motivated and lacked due process. In 2005 opposition political activist Alibek Zhumabeyev was arrested in Taraz for allegedly damaging a poster of the president and was charged with hooliganism and insulting the honor and dignity of the president. Opposition leaders claimed that the case was politically motivated, and that students were coerced to testify against Zhumabeyev. Zhumabeyev was eligible for amnesty but procurators added an additional charge of organizing mass disorder, which disqualified him. On May 15, the city court in Taraz sentenced him to five years in prison. On June 22, the Taraz regional court conducted an open and procedurally fair appeal proceeding, but rejected Zhumabeyev's arguments without elaboration.

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, civil courts are widely viewed 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, MVD, financial police, and other agencies, with the concurrence of the procurator general's office, 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 their movements and telephone calls on occasion.

Though the constitution provides that housing shall be inviolable and that the government may not deprive citizens of their housing without a court order, authorities in the Bakay neighborhood of Almaty demolished several hundred homes under questionable legal circumstances as part of a government campaign to clear illegal settlements. On July 7, authorities appeared in Bakay with bulldozers and 1,500 riot police and demolished what they claimed were illegally built houses. Residents were given little notice of the planned eviction, and 350 to 400 houses were bulldozed with their belongings still inside. Residents claimed that the vast majority of evictions were not legally justified, as bailiffs presented court orders related to only 29 houses.

A subsequent effort to demolish homes in the Shanyrak district was violently resisted by residents. On July 14, 2,000 law enforcement officers converged on 1,500 residents, and violent conflict ensued. Many were injured and arrested, and residents took several police officers hostage. One police officer was soaked with gasoline and set alight, and later died from his injuries. Several residents were in detention awaiting trial at year's end. Ultimately, the authorities did not succeed in carrying out the evictions or demolitions. On August 16, 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.

On November 21, authorities in the Karasai district near Almaty demolished multiple homes in a Hare Krishna commune in order to evict the property owners. Although authorities produced court orders, residents received little notice of the planned demolitions, and most of their possessions were damaged or destroyed (see section 2.c.).

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, revocation of registration, 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 closure 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 provides for the protection of the dignity of the president and prohibits insulting the president and other senior officials. As in previous years, the government actively used the law to penalize media criticism of the president and other officials and members of the legislature. The government continued to characterize the distribution of pamphlets by Hizb ut-Tahrir (HT) members as incitement for political and terrorist purposes, beyond the bounds of constitutionally protected free speech. The government did not release statistics on the number of people arrested for involvement with HT, though in a December 22 speech, acting Otan Party chairman Bakhytzhan Zhumagulov said that hundreds of HT supporters are currently serving sentences.

During the year, Minister of Culture and Information Yermukhamet Yertysbayev took measures to assert government control of the country's official television outlets, which included installing new leadership in the official Kazakhstan-1 television network and consolidating government ownership of the Khabar network. He also criticized foreign ownership of media outlets, and threatened the broadcasting license of the privately owned Commercial Television of Kazakhstan (KTK) television network for allegedly failing to broadcast the legally required amount of Kazakh language programming and for its coverage of the Sarsenbaiuly killing. KTK television continued to broadcast at year's end.

On July 5, the president signed controversial new amendments to the country's media law despite widespread criticism from national and international media advocacy groups. The amendments tightened government control over the media. The law now requires media owners to re-register upon any change in editor, address, or frequency of publishing; bans anyone convicted of libel from holding a managing editor position at another media outlet; prohibits registering an outlet under a name similar to one that was shut down by court action; and imposes fines against broadcasters for failing to offer the already required 50-50 mix of Kazakh and Russian language programming time. In a July 6 interview, the minister of culture and information acknowledged that the law was designed to increase government control of the media. However, no media outlets were closed under the new law during the course of the year.

According to government statistics, 22 percent of the 2,479 media outlets were government-owned. The overwhelming majority of broadcast media considered to be independent, including the larger outlets, were owned by holding companies believed to be controlled by members of the president's family and close circle of friends. Many privately owned newspapers and television stations received government subsidies. The government controlled nearly all broadcast transmission facilities. There were 177 television and 40 radio stations. Media observers believed that six of the seven nationwide television broadcasters were wholly or partly owned by the government; one was nominally independent. Regional governments owned several frequencies; independent broadcasters arranged to use the majority of these.

In contrast to 2005, a presidential election year, the government made no attempt to seize opposition newspapers during the year, and printing houses did not refuse to print opposition papers. Unlike the previous year, there were no known cases where opposition papers were refused registration; overall, they faced fewer problems.

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

The licensing system is not transparent. There was no tender for new licenses this year.

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 no media outlets were sanctioned under this provision.

Harassment of and violence against journalists remained problems, though there were fewer incidents than in 2005, the presidential election year. Press advocacy NGO Adil Soz reported 122 incidents of harassment and violence against journalists during the first 11 months of the year, compared to 706 such incidents during the first 11 months of the previous year.

Several journalists were briefly detained in Almaty on April 26 while covering a silent protest in honor of Altynbek Sarsenbaiuly (see section 2.b.).

On August 20, riot police disrupted Channel 31's coverage of a protest rally in Aktau. The journalists alleged that the police broke a television camera and struck one of the camera operators in the head. The Mangistau regional governor later accused the Channel 31 journalists of being drunk and instigating the riot (see section 2.b.).

During the year the four attackers of Azamat Dospanov of Altyn Gasyr were identified and arrested. The court dropped charges in exchange for the perpetrators paying compensation. An investigation produced no results, and there were no further developments in the August 2005 attack against Altyn Gasr's editor-in-chief.

In November 2005 unknown assailants vandalized the office of the Region Plus newspaper in Kapchagay. The paper's staff believed the attack to be a response to its reporting. According to the paper, the police investigated the case but no charges were filed by year's end.

The procurator took no action by year's end in the investigation of the 2004 assault against Ak Zhaik correspondents Tamara Sukhomlinova and Gulzhanat Isabayeva.

Journalists covering organized crime and corruption reported harassment and intimidation by both government officials and private actors. On August 17, the minister of culture and information appealed to the media to launch a full-scale fight against government corruption, and promised to protect journalists if government employees tried to pressure them. NGO Adil Soz reported, however, that journalists were skeptical of the minister's support and his ability to intervene.

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. Legislation enacted in 2005 prohibits publication of any statement that promotes or glorifies "extremism," a term which international legal experts considered unduly vague and called upon the government to define.

In some cases, media outlets willing to criticize the president directly were subjected to intimidation in the form of law enforcement actions or civil suits. While these events continued to cast a chilling effect on all media outlets, criticism of government policies continued to be reported during the year.

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

The government continued to intimidate newspapers that reported on a several year old scandal involving a foreign investigation into possible illicit payments, allegedly from foreign companies to senior government officials, including President Nazarbayev. Local media outlets, when they did report on the case, informally dubbed it "Kazakhgate". On February 8, the Almaty city court closed the newspaper Zhuma Times: Data Nedelye for insulting the president's dignity and honor. The paper had frequently printed articles on Kazakhgate, and was previously fined during an October 2005 closed trial for publishing the article "Kazakhgate: History of One Crime." The paper resumed publishing under the new names Tashzargan and Aina Plyus. In early April the government fined and suspended for three months Aina Plyus without notification of the court hearing. On April 23 ten unknown assailants brutally beat Aina Plyus journalist Kenzhegali Aitbakiyev in an attack the editor said was connected to the paper's reporting on Kazakhgate. The chairman of the parliament's international affairs committee called on the procurator to bring the attackers to justice. In September local police asked Aitbakiyev to write up the attack as a routine brawl; he refused, and since then has received no communication from the police about the attack.

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 the content of information conveyed and had the burden of proving its veracity, regardless of its source, promoted self-censorship at each level. At times fines for libel were exorbitant and in previous years they resulted in the bankruptcy of small media outlets.

On May 31, the chairman of the oblast court in Atyrau initiated a criminal case against journalist Lion Guzikov for publishing a newspaper article that criticized the court's handling of a murder case. On June 24, the Almaty KNB filed a lawsuit against opposition journalist Kazis Toguzbayev for insulting the president's honor in a May 3 online article alleging a cover-up in the Sarsenbaiuly murder investigation. On August 8, the Almaty KNB initiated a second lawsuit against Toguzbayev for an April 2 online article critical of the president. The trials for both cases were underway at year's end. On July 24, an Almaty district court fined the Central Asia Monitor 5,120,000 tenge (\$40,000) for insulting the honor of legislator Yersayl Abylkasymov in an December 2005 article. The newspaper sought a reduced fine on appeal, but the appellate court upheld the decision on October 9.

On July 31, the government sentenced independent journalist Zhasaral Kuanyshtalin to two years in prison for "infringement upon the honor and dignity of the President" under article 318/2 of the criminal code. A criminal investigation was launched against Kuanyshtalin for his public demands to prosecute President Nazarbayev for treason. The case against Kuanyshtalin was later commuted following an amnesty.

The government continued to influence most printing and distribution facilities and to subsidize periodicals, including many that supposedly were independent. Many publishing houses were government owned. Some journalists alleged that the KNB or tax police threatened publishing houses if they printed opposition media; concern over criminal or civil proceedings influenced publishing houses. Public access to newspapers critical of the government was hindered by low circulation and limited distribution of these papers; they were dwarfed by official or pro-governmental media which reaches most of the population.

Internet Freedom

There were no formal government restrictions on access to the Internet, but independent web media reported that the government monitored e-mail and Internet activity, blocked or slowed access to opposition Web sites and materials critical of Nazarbayev or members of his family, and planted pro-government propaganda in Internet chat rooms. The country's only Internet service providers, state-owned Kaztelecom and Nursat, which are privately owned but regulated by the state, introduced technical controls such as limiting bandwidth and blocking access via proxy servers. Web site content was regularly subject to civil and criminal libel suits.

In 2005 the Agency for Information and Communication (AIC) issued regulations, without parliamentary discussion, to control the application process for registering .kz domains. The AIC may suspend or revoke registration under certain circumstances, including failure to locate servers in the country. Observers criticized the registration process as unduly restrictive and vulnerable to abuse. The Organization for Security and Cooperation in Europe's (OSCE) Representative on Freedom of the Media asked the government to withdraw these regulations. In December 2005 the government deemed as offensive the content of a satirical web site controlled by British comedian Sacha Baron Cohen and revoked the .kz domain.

Estimates of the number of regular Internet users in the country range from 100,000 to 600,000 (0.7 percent to 4 percent of the population), and these users live almost exclusively in urban areas. The government ordered a reduction in the cost of access several times over the course of the year to increase Internet access. The government reported a 50 percent increase in the number of Internet users in the first

nine months of the year, and credited the rate cuts for the increase.

During the year, the minister of culture and information stressed the need to expand public access to the Internet, but on several occasions declared the need to impose greater official control over the Internet and end libel and lies about government officials.

Academic Freedom and Cultural Events

The government generally did not restrict academic freedom, though academics, like journalists, could not violate certain restrictions, such as criticizing the president and his family.

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.

On December 22, the president signed legislation repealing the April 2005 amendment to the elections law prohibiting any election-related demonstrations from the period following the end of the voting until the Central Election Commission (CEC) publishes the official results.

The February 2005 Extremism Law prohibits "extremism" during rallies and demonstrations. "Extremism" is ill-defined in the legislation. Human rights observers were concerned that the law could be used to silence critics, stifle opposition, and limit religious freedom, though the law was not applied in this manner during the year.

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 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. Organizers of unsanctioned gatherings, including political party gatherings, frequently were detained briefly and fined (see section 3). Opposition parties at times chose to hold unsanctioned rallies and, as a result, members were arrested, detained, and fined.

Authorities dispersed several gatherings in honor of slain opposition leader Altynbek Sarsenbaily (see section 1.a.). On February 26, Almaty police attempted to block approximately 4,000 citizens from marching to Republic Square to hold a rally in memory of Sarsenbaily and victims of political repression. After the rally, several organizers and participants were detained from 5 to 15 days in the local prison, and several received significant fines. Authorities arrested and fined participants in similar rallies on February 26 in Astana, on March 5 in Kyzlorda, and on April 26 in Almaty.

On June 6, the government refused to admit opposition Alga party members into the supreme court hearing on Alga's appeal of their registration denial. Some Alga members then set up a sound system on the steps of the building. Police met with resistance their attempt to seize the sound system and in response beat and detained a number of Alga supporters, including party head, Asylbek Kozhakhmetov, on charges of holding an unauthorized demonstration.

Opposition activists from the For a Just Kazakhstan movement and the Socialist Resistance movement sought permission for a rally from the Aktoobe city akim on July 12. The authorities did not respond until the eve of the planned rally, and then provided only a vague response. The organizers were forced to cancel the event.

On August 20, several hundred residents of Aktau gathered in a central square to demand the dismissal of the oblast and city akims, alleging corruption and favoritism. Organizers promoted the gathering in advance with leaflets appealing to ethnic nationalism and strongly criticizing the akims. The police dispersed the rally and arrested about 20 protesters. According to news reports, police used batons and shields and several protesters were injured in clashes. The following day, the oblast akim issued a press release characterizing the event as hooliganism instigated by drunken reporters from the Channel 31 news service. Most media reports contradicted the press release (see section 2.a.).

On November 26, approximately 100 owners of right-hand drive vehicles held a rally in Almaty to protest a proposed ban on their vehicles. The police dispersed the protest and arrested and fined the leader for holding an unauthorized rally.

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. A public or religious association that acts outside the scope of its 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 parties to have 50,000 signatures, including 1,000 in each region, and prohibits parties established on an ethnic, gender or religious basis (see section 3). 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, though bureaucratic corruption within the registration process was common and added to the cost of registration. Many organizations hired lawyers or other consultants to expedite registration through the bureaucracy, which increased the registration cost. The official registration fee was substantially reduced in December 2005. In general, NGOs and civil society activists reported that the frequency of government inspections and audits was less than in the previous year. However, NGOs involved in human rights advocacy and political activities faced greater administrative delays and obstacles (see section 4). The Almaty Helsinki Committee and the Kazakhstan International Bureau for Human Rights reported that several youth political movements faced harassment and registration problems during the year.

The February 2005 extremism law criminalizes membership in certain prohibited organizations. At year's end, Islamist political organization HT was the only organization banned under this law. Several members of HT were convicted on charges including extremism and terrorism during the year. 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 called the caliphate.

c. Freedom of Religion

The constitution and law provide for freedom of religion, and most religious communities worshiped largely without government interference. Higher-level officials or courts usually intervened to correct occasional attempts by local officials to limit the practice of religion by some nontraditional groups. Religious leaders praised the role the government played in ensuring their right to the peaceful practice of religious beliefs. Some perceived the former chairman of the Secretariat of the Council on Relations with Religious Communities, now the deputy head of the newly-organized Religious Issues Committee (RIC), and the Ombudsman's Office, as advocates for religious freedom within the government.

The constitution and law define the country as a secular state. The generally amicable relationship among religions in society contributed to religious freedom. The country is multiethnic, with a long tradition of tolerance and secularism. The population, particularly in rural areas, is sometimes wary of nontraditional religions. The government invited the leaders of the two largest religions, Islam and Russian Orthodoxy, to participate jointly in some state events. Leaders of other faiths have at times also participated in some government events. In September, President Nazarbayev hosted the second Congress of World Religions in Astana, an event which featured the participation of a wide variety of religious groups, including nontraditional groups. In the run-up to the event, Nazarbayev publicly highlighted and praised the country's tradition of interethnic and interfaith tolerance.

In July 2005 amendments to the religion law restricted legal protections of religious freedom. 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.

Most religious groups, including minority and nontraditional denominations, reported that in practice the amendments did not materially affect religious activities. However, 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 RIC frequently intervened to assist with registration problems at the local level.

Members of the Council of Churches of Evangelical Christians and Baptists reported they were harassed by law enforcement for not being registered. The council has a policy of not seeking or accepting registration in former Soviet countries for religious reasons and as a result of persecution and government harassment suffered during Soviet times. Although the government generally did not enforce court orders for congregations affiliated with the council to register or pay fines, the level of harassment, fines, and court cases increased. In one instance authorities imprisoned a pastor for three days for failure to pay a fine. In addition, local representatives of the KNB or police officials disrupted meetings in churches and private homes during the year. In May a group of 10 Baptist pastors were detained and fined in the Almaty oblast for preaching and distributing holy books without registration.

According to media reports, members of the unregistered Tabligh Jamaat movement, an Islamic missionary group, also faced detentions and fines for conducting religious activities without registration. In September the Aktau prosecutor brought administrative charges against several Tabligh members for proselytizing in a mosque in the village of Kyzyl-Tobe. Five members were each fined 51,500 tenge (\$400). In October police arrested six members of the group in the city of Ekibastuz for delivering a theological lecture at a local mosque. The leader of the group was fined 51,500 tenge (\$400).

Although the Spiritual Association of Muslims of Kazakhstan (SAMK), a coalition of mosques and clergy, is nominally independent and has no official status, there were reports that the government attempted to coerce independent mosques and Muslim clergy to affiliate with the group to ensure liturgical orthodoxy. According to press reports, the SAMK itself criticized small, nontraditional Muslim groups such as the Ahmadis, Bahais, and Sufis, maintaining that their teachings contradicted the principles of Islam.

The national Jehovah's Witnesses Religious Center had generally positive relations with the national government, but the group alleged several incidents of local government harassment during the year. Though Jehovah's Witnesses organizations are registered at the national level, in Astana and Almaty, and in thirteen regions, the Jehovah's Witnesses Religious Center has attempted unsuccessfully since 2001 to register in Atyrau Oblast. The Atyrau regional procurator's office maintained that the group has consistently failed to comply with registration

laws. The group did not submit a registration application this year; its most recent application was turned down in December 2005 based on incomplete registration materials. The center claimed that local officials sometimes denied the group permits to rent stadiums and other large public or private sites for religious meetings. However, the center also reported that government treatment of these requests varied. No other religious groups reported such instances of being denied permits for public gatherings.

The Karasai regional government near Almaty continued a campaign to seize title to land used by the Hare Krishna movement. In April an appeals court upheld a lower court decision that the land should revert to the Karasai regional government because the farmer from whom Hare Krishna followers had purchased the land in 1999 did not hold title, and thus the land had not been properly privatized. On April 25, local officials went to the commune to evict the followers. Hare Krishna followers peacefully resisted and local authorities did not use force. The Hare Krishnas appealed to the supreme court. On August 24, the supreme court denied the Hare Krishna's appeal without elaboration on lower court rulings.

Following the denial, the RIC formed a special commission to resolve the issue and promised that no further action would be taken against the commune until the commission completed its work. The commission was described by some participants as disorganized and subjective; Hare Krishna leaders alleged it was created merely to deflect criticism of the government on the eve of the Congress of World Religions, which took place in the country in September. On November 21, with little notice to residents, Karasai district officials arrived at the commune with court orders, bulldozers, trucks, and riot police. Authorities blocked access to the commune, cut electricity, and demolished multiple homes, destroying possessions and leaving homeowners without shelter or compensation. The police beat several Hare Krishnas and arrested at least one resident who protested the action. The police attempted to bar observers from the process. The demolitions occurred without the knowledge of the RIC and before the special commission released its results. On December 22 the commission released its decision; however, the commission took no steps towards resolving the situation by year's end. Government officials stated in public comments following the decision that the Hare Krishnas were in violation of various land-use laws and they were not victims of religious discrimination. Although observers believed the Karasai district government's actions were motivated primarily by a financial interest in the land, the Hare Krishnas claimed the local government targeted them because they are a nontraditional religious community. Local officials criticized the Hare Krishnas as an illegitimate and threatening religious group; in an April 25 television interview a Karasai akimat official stated that the Hare Krishnas were dangerous for the country and "not accepted as a religion."

On October 23, the Ust-Kamenogorsk city administrative court convicted a foreign citizen of violating the terms of his business visa for giving a lecture at a legally registered protestant church. The foreign citizen was an administrator at a local university and had attended the church for many years. The court imposed a 41,200 tenge (\$322) fine, and ordered his deportation. On November 14, the appeals court upheld the fine but eliminated the deportation penalty, contingent on the defendant leaving the country voluntarily.

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

Societal Abuses and Discrimination

The Jewish community, estimated at below 1 percent of the population, has synagogues in several larger cities, including Almaty, Astana, and Pavlodar. There were no reports of anti-Semitic acts apart from the distribution of anti-Semitic literature by banned extremist Islamist political organization HT. The country's chief rabbi consistently praised the government for its proactive protection of the Jewish community.

The government made efforts to promote religious tolerance in its ranks. The MVD provides seminars to its police officers on sensitivity to religious minorities. Human rights training provided to law enforcement officers by NGOs in cooperation with the government included information on religious rights under the law.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

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

The law provides for these rights, but there were some regulatory restrictions. Citizens and foreigners in the country for more than five days were required 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. Persons who were suspects in criminal investigations were often required to sign statements that they would not leave their place of residence. Individuals were detained routinely for identity checks without suspicion of a criminal offense (see section 1.d.).

Although the government did not require exit visas for temporary travel of citizens, certain instances in which exit from the country could be denied remained, 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 travel by active-duty military was controlled. 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.

Courts interpreted and the MVD enforced parole and travel restrictions in a manner that interfered with the activities of opposition leaders. Opposition leader Galymzhan Zhakiyanov, who was released from prison on January 14, (see section 1.e.) was barred from boarding a plane on April 24 to fly to Brussels and address the European Parliament. The terms of his parole did not require him to obtain permission to travel, but the MVD, working with the Pavlodar Oblast Court, retroactively imposed such a condition to justify their action. On May 3, the MVD denied Zhakiyanov's request to travel from Almaty to Astana to participate in a May 6 roundtable with a prominent foreign official, and on May 26 denied his request to travel to Moscow. However, the government permitted Zhakiyanov to travel internally for nonpolitical

purposes. Deputy chair of the opposition party True Ak Zhol, Bulat Abilov, was also barred from traveling to Brussels on April 24. Police summoned him to Karaganda on April 23 concerning a July 2005 criminal allegation, and ordered him not to leave the country pending a future court date (see section 3).

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. A permanent exit visa was required for emigration; obtaining this visa required criminal checks, credit checks, and letters from any dependents expressing no objection to exit visa issuance.

Foreigners were required to obtain prior permission to travel to some border areas with China and cities in close proximity to military installations. The government continued to declare certain 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 MVD.

It was government policy to encourage and assist all ethnic Kazakhs living outside the country to return. The government accorded special immigration treatment to ethnic Kazakhs and their families who fled during Stalin's era and wished to return. These returnees were in principle entitled to citizenship and many other privileges. Other persons, including ethnic Kazakhs who were not considered refugees from the Stalin era, had to apply for permission to return. Each region had a quota for returnees; apart from Almaty and the southern regions bordering Uzbekistan, these quotas went unfilled.

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 fully implement 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 they feared persecution. In contrast to 2005, no refugees were forcibly returned 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 Commonwealth of Independent States (CIS) countries or China as described below. Only the president can grant political asylum, and he did not do so during the year. In some cases, asylum seekers and refugees were allowed 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 which give them some renewable temporary status in the country, though not the full protection of refugee status. Citizens from China are not granted any legal status, but 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 increased levels of government cooperation 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, though the UNHCR intervened on behalf of UNHCR mandate asylum seekers.

The Agency for Migration was incorporated into the Ministry of Labour and Social Protection and renamed the Committee on Migration. It 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. The government, in cooperation with the UNHCR and Chechen organizations, did grant indefinite but temporary legal resident status to Chechens until they could return home to safe conditions. Even though there was a temporary registration procedure for Chechens, reports persisted that Chechens did not have the same access to registration as others, and often resorted to paying bribes to local officials to obtain registration.

On June 24, the KNB detained Uzbek refugee Gabdurafikh Temirbayev in response to an extradition request from the Government of Uzbekistan. On August 15, the government released Temirbayev into UNHCR custody. The UNHCR feared that his life would have been endangered upon return to Uzbekistan, and praised the government for its handling of the case.

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 Uighurs from China living in the country, and there were reports of Uighurs forcibly returned to China during the year, though none with a UNHCR refugee certificate. In July, the government detained Arkin Yarmamat Sabirov, an ethnic Uighur and Chinese citizen, on unspecified charges. His wife requested asylum on his behalf, but neither his family nor the UNHCR was granted access to him during his detention. On October 23, an Almaty court acquitted him and he was released. He disappeared immediately after his release, and UNHCR officials feared he may have been deported to China.

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.

The constitution concentrates 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, and the chairman and members of the CEC, who oversee presidential and parliamentary elections. The parliament has never failed to confirm a presidential nomination. Modifying or amending the constitution effectively requires the president's consent.

Elections and Political Participation

In December 2005 the country held its presidential election. The OSCE reported that despite some improvements in the administration of this election in the pre-election period, the December 2005 presidential election did not meet a number of OSCE commitments and other international standards for democratic elections. The opposition also claimed that the presidential election was marred by numerous violations.

The OSCE assessment noted several areas of improvement over the conduct of the previous presidential election, including that multiple candidates were allowed to participate in the election, the CEC acted with increased transparency and corrected voting-process deficiencies noted in prior elections, state media outlets generally met their legal obligations to provide free airtime to candidates, and the CEC responded to opposition and independent candidate complaints of denial of media access. Most lower-level election commission members were adequately trained and equipped to conduct voting; however, opposition parties were underrepresented in the makeup of these commissions. The CEC strengthened cooperation with the OSCE and accredited a large number of foreign observers.

The OSCE noted that none of the OSCE recommendations regarding the legislative framework were implemented. The OSCE reported undue involvement of the authorities in the election campaign, serious limitations on political speech that prohibited certain criticism of the president, unequal access to the media for opposition and independent candidates, government refusal to grant the majority of opposition assembly permit requests, restrictions on holding outdoor meetings, inadequate venues, insufficient access to advertising space for opposition and independent candidates, and an overall atmosphere of intimidation. There were frequent reports of opposition campaign events being disrupted by organized protests that at times reportedly escalated to violence; opposition campaign staff were harassed, beaten and detained; opposition members were detained for unsanctioned assemblies. Domestic, international and foreign NGOs were also subject to stricter governmental scrutiny during the election period. The OSCE assessment noted apparent improvements to the e-voting system since its 2004 introduction, but criticized the lack of a mechanism to verify or to audit election results.

Of the more than 1,000 cases of alleged violations submitted to the courts, a handful were upheld. The authorities censured more than 50 officials, mostly local administrators and members of precinct election commissions. Overall the government refuted many alleged electoral violations and failed to investigate them fully.

Several legal changes in 2005 limited the ability of opponents to campaign freely against incumbent Nursultan Nazarbayev. Amendments prohibited election-related demonstrations and rallies during the period following voting until the CEC publishes the official election results (see section 2.b.), although on December 22 the government repealed this prohibition. The amendments also restrict political blocs, which are required to have a coordinating council and written agreement between parties. July 2005 amendments to the political parties law require 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 members from each oblast and the cities of Astana and Almaty; registration from the CEC; and registration from each oblast-level election commission for final registration. The amendments also prohibit political party names that resemble the names of liquidated political parties. After the presidential election, the OSCE issued a final report recommending multiple legislative changes to improve the legal framework for elections. By the end of the year, the government had adopted only one--the repeal of the prohibition on election-related demonstrations during the period following voting.

In June the president issued a decree establishing a trial election of 30 percent of district and city akims (county executives and mayors) for four-year terms. According to the rules developed by the CEC, regional akims (governors), who are appointed by the president, had the sole authority to nominate candidates for county executive and mayoral positions. Regional governors were required to nominate at least two candidates for each position. Directly elected local-level legislatures (maslikhats) had the sole authority to vote on the nominees.

On October 20, the government conducted the trial elections. The maslikhats chose 49 county executives and 10 mayors (representing roughly 30 percent of the country's regions). In some cases, the president's Otan Party recommended candidates to the regional governors, and the majority of candidates in the election were Otan Party members. Campaigning occurred, but was focused on influencing maslikhat members and not widely publicized. The CEC and observers reported that the elections were conducted without major procedural violations. Democracy activists and opposition leaders widely criticized the closed nature of the process, and did not consider the event an election.

President Nazarbayev's Otan Party dominated political life, and beginning in October there was only one opposition member in parliament. Individuals and registered parties could declare their candidacy and stand for election if they met certain criteria. Candidates for presidency, for example, were required to provide financial statements, submit to a Kazakh language test, and provide a petition with 85,000 signatures. Independent candidates could run for office. 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 pro-presidential Otan party.

At year's end there were nine registered political parties, including opposition parties Ak Zhol, True Ak Zhol, and the Communist Party of Kazakhstan. At year's end Alga, Atameken, and National Social Democratic Party's registrations were all pending. On March 17, the MOJ registered True Ak Zhol after one of its co-chairmen, Sarsenbaily, was murdered. The MOJ continued to deny attempts to register opposition party Alga. In September, despite extensive but unsuccessful litigation, the party reinitiated the registration process; Alga was still not registered at year's end. On December 22, in a series of moves to consolidate pro-presidential parties, the Asar, Civic, and Agrarian parties merged with Otan, the president's party. The name of the party was changed to Nur Otan.

The government restricted the functioning of the political opposition by enforcing onerous registration requirements, hindering or denying party registration, charging critics with libel (see section 2.a.), enforcing burdensome assembly permit requirements and refusing to grant assembly permits, dispersing opposition rallies (see section 2.b.), arresting opposition leaders on politically motivated charges, and preventing opposition leaders from traveling (see section 2.d.).

The law prohibits parties established on an ethnic, gender, or religious basis (see section 3). Acceptance of an illegal donation is penalized by a fine, administrative arrest for up to 15 days, and prohibition of political party activities. Political parties may also be fined or suspended if they fail to register or re-register or file an annual financial disclosure statement.

On July 24, the Temirtau City Court convicted True Ak Zhol co-chairman Bulat Abilov of attacking a police lieutenant and insulting a government official while campaigning on behalf of opposition candidate Zharmakhan Tuyakbay during the 2005 presidential election. Abilov and his supporters claimed the charges were politically motivated. The court issued a three-year suspended sentence and two years of probation, and the conviction prevented him from registering as a candidate in future elections. In a separate case, he was charged with fraud and tax evasion in connection with earlier business activities and was not permitted to leave the country during the investigations. The trial was underway at year's end.

There were 2 women in the 39-seat senate and 8 women in the 77 member lower house of parliament. There were four women in the cabinet. Traditional attitudes sometimes hindered women from holding high office or playing active roles in political life (see section 5), although there were no legal restrictions on the participation of women and minorities in politics. There were 7 non-Kazakhs in the senate, and 14 in the lower house of parliament. There were three non-Kazakh cabinet members.

Government Corruption and Transparency

Corruption remained a serious problem, including in the executive branch, various law enforcement agencies, local government administrations, the education system, and the judiciary. The MVD, financial police, KNB, and Disciplinary State Service Commission are responsible for combating corruption. Opposition leaders accused the government of rampant corruption.

The government took some measures to address it and increased its attention to the problem through educational and public awareness efforts. An April 2005 anticorruption decree restructured disciplinary councils in all provinces, instructing them to become more accountable and transparent and to reduce government interference in business activities. The financial police and KNB conduct most corruption investigations under the supervision of the procurator general's office.

Lower- and middle-ranking officials and minor political figures were penalized on corruption charges. There were no prosecutions of high-ranking officials for corruption.

The law mandates the government, public associations, officials, and media outlets to 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. During the year parliamentary discussion of controversial pieces of legislation was closed to the public and the media.

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, arbitrary tax investigations, and surveillance of NGOs' offices and personnel.

The Kazakhstani International Bureau for Human Rights (KIBHR), the Almaty Helsinki Commission, the Republican Network of Independent Monitors, the Confederation of NGOs, Penal Reform International, and Adil Soz were among the most active local human rights NGOs. Less than 10 percent of NGOs are engaged in civil liberties, human rights, and minority protection issues; these organizations are subject to the most stringent government control such as difficulties in registration and acquiring office space and technical facilities, periodic tax and financial audits, and legal constraints. Employees of local NGOs often were subjected to government harassment and intimidation.

NGOs reported a decrease in government investigations and harassment compared to the level experienced in 2005, a presidential election year, when the government used tax, immigration and other administrative investigations to question international and local NGOs concerning their activities. NGOs perceived these actions as an attempt to intimidate and to restrict their activities.

On July 25, the president signed a decree "On the concept of civil society development in Kazakhstan for 2006-2011," which outlined the government's vision for civil society development in the country. The document received mixed reviews among the NGO community, and did not have a tangible impact on civil society development during the year.

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 as well as with 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.

National security laws, including July 2005 National Security Amendments, prohibit foreigners, international organizations, NGOs, and other nonprofit organizations from engaging in political activities, such as advocating for or against parties or candidates or attempting to influence elections. The July 2005 National Security Amendments stipulate that a noncommercial organization (NCO) 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. Observers criticized the legal provisions as being vague.

The procuracy general suspended nonpartisan political party building activities conducted by foreign NGOs on the basis of constitutional provisions. NGOs active in nonpolitical spheres, such as those supporting women and children or protecting the environment, were generally welcomed by the government.

The Presidential Commission on Human Rights is a 22-member consultative and advisory body that includes members from the public. Members are 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. In May 2005, the commission issued a report analyzing 1,500 complaints of human rights violations and containing recommendations for state agencies. The bulk of the complaints concerned court judgments, law enforcement actions, and violation of citizens' rights during inspections and investigations.

The presidentially appointed human rights ombudsman investigates complaints by citizens of violations of their rights by state agencies, though 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 regularly briefed the press and issued regular reports discussing complaints investigated. The ombudsman received 2,613 complaints during the year, and reported a restoration of rights in 162 cases. Many of the complaints concerned court rulings over which the ombudsman had no jurisdiction. Some human rights NGOs credited the ombudsman for serving as a valuable voice on behalf of human rights within the government while others believed that the ombudsman was influenced by the government and did not vigorously pursue investigations.

Domestic human rights observers noted that while government human rights investigators did some creditable work, the ombudsman's office and the human rights commission were limited in their ability to stop human rights abuses or punish perpetrators. Several human rights defenders criticized the proliferation of government commissions that nominally address human rights issues, none of which has independent authority to initiate criminal prosecutions of human rights abuses or corruption. On July 25, the constitutional council rejected draft amendments that would have allowed the ombudsman to intervene in court cases involving human rights.

On March 20, the president signed a decree establishing the State Commission on Drafting and Elaborating the Democratic Reform Program (Democratization Commission) for the purpose of conducting a national dialogue on reforming the political system and deepening democratic transformation. The commission was chaired by the president and includes high-level government officials, legislators, and representatives of political parties and public associations. Representatives from opposition parties were invited to participate, but many declined, citing concerns about the structure and true purpose of the commission. During the year, the commission analyzed and debated a number of proposals and served as the government's primary vehicle for discussing democratic reform in the country. Human rights activists and opposition leaders criticized the top-down, government-controlled nature of the dialogue and decision-making process, and lack of concrete changes resulting from the commission's work.

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 over 10,000 domestic violence complaints and opened 1,157 criminal investigations during the first nine months of the year. An additional 4,700 of the complaints resulted in administrative punishment, including fines. NGOs reported that the actual number of domestic abuse crimes far exceeded the number of cases reported to police.

Law enforcement officials' reluctance to investigate domestic violence was a problem; police declined to investigate one-third of domestic violence complaints, considering them to be family matters. Police intervened only when they believed that the abuse was life threatening. According to estimates offered by NGOs, the police investigated only 10 percent of domestic violence complaints.

NGOs reported that women often withdrew their complaints as a result of economic insecurity. When victims did decide to press 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 domestic abusers were sentenced to incarceration at a minimum security labor colony and a minimum of 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 892 criminal rape cases during the first seven months of the year, a 7 percent increase over the same time period last year. The investigations resulted in approximately 400 prosecutions. NGOs credited the increase in investigations to a growing awareness of legal rights among women. Under the law, procurators 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 Union of Crisis Centers of Kazakhstan, there are 22 crisis centers in the country providing assistance to women, as well as a number of smaller NGOs that provide some assistance. Four of the crisis centers also provide shelter for victims of violence; the government funded two additional shelters.

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 nine months of the year the government reported 241 criminal cases for prostitution-related crimes. Prostitution was a serious problem. NGOs reported that criminal prostitution rings often included local law enforcement officials.

Trafficking in women remained a problem (see section 5, Trafficking).

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, the government's Human Rights Ombudsman and the Presidential Human Rights Commission publicly drew attention to the problem of discrimination against women. According to the Ombudsman's office, 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. The Presidential Human Rights Commission echoed these concerns, and reported a decline in the quality of employment opportunities for women.

According to government statistics for 2005, women's salaries averaged 61.1 percent those of men, and women's average salaries in 2005 were 147.7 percent greater than women's average salaries in 2003. Women had unrestricted access to higher education.

Children

The government was committed to children's rights, though budget limitations and other priorities severely limited the government's effectiveness in dealing with child welfare. In January the government established a Committee on Protection of Children's Rights within the Ministry of Education and Science.

Education is mandatory through age 16, or the ninth grade; elementary schooling generally begins at age 6. Primary and secondary education were both free and universal. The law provides for equal access to education by both boys and girls. According to Ministry of Education figures, enrollment for the year was estimated at over 98 percent 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 of such abuse. During the year, the MVD permanently terminated custody rights of abusive parents in 1137 cases. Minors aged 16 and older have the right to file petitions related to their interests directly with a court.

In the first five months of the year, the procurator general's office issued 218 warnings, filed five lawsuits, and initiated three criminal investigations concerning violations of children's rights in orphanages, boarding schools, and detention facilities for delinquent children. NGOs reported that a growing number of children in these facilities were victims of violence.

Trafficking in girls was a problem (see section 5, Trafficking).

Child labor, prostitution and pornography were problems (see section 6.d.).

Trafficking in Persons

The law prohibits trafficking in persons, but it remained a problem. There was no evidence of a pattern of official complicity in trafficking, although corruption among law enforcement officials was widespread.

On March 2, the government enacted a comprehensive set of legislative amendments to strengthen its ability to investigate, prosecute, and convict traffickers. These amendments also include provisions to increase the amount of resources devoted to victim protection and prevention. The new amendments were preceded by the adoption of a National Action Plan for 2006-2008 and represented coordination between the MOJ, and the Ministries of Internal Affairs (MIA), Foreign Affairs (MFA), Labor and Social Welfare, Education and Science, Culture, Information and Sports; the KNB; the National Commission on Family and Women; and the Procurator General, all of which have some responsibility for combating trafficking. The government also worked closely with international organizations and local NGOs to develop the legislation. Trafficking is now 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.

The country was a source, transit, and destination country for victims of trafficking. Internal trafficking was also a problem. No reliable statistics were available on the number of victims each year, but NGOs estimated there were several thousand. 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 thousands 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 (UAE), Turkey, Israel, South Korea, Greece, Russia, and Western Europe. They were trafficked from the Kyrgyz Republic, Uzbekistan, Tajikistan, and South Asia.

Traffickers targeted young women in their teens and 20s for sexual exploitation. According to the IOM, most women were recruited with promises of good jobs or marriage abroad. Travel, employment, and marriage agencies often recruited victims through advertisements promising lucrative jobs abroad. Offers to participate in international beauty contests also were used. Previously trafficked women reportedly recruited new victims personally. Many trafficking victims appeared to be aware or at least to suspect that they were going to work as prostitutes, but did not expect to work in slave-like conditions. Most trafficked persons traveled to their destinations on forged passports obtained abroad, most often from Russia or the Kyrgyz Republic.

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

Men and women were trafficked to the country for labor exploitation; children were trafficked for agricultural work. According to IOM, the number of men trafficked into the country for forced labor increased during the year. 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 during their stay in the country. Victims reported traffickers used debt bondage, violence, or threats of violence to compel them to work.

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

Despite stronger legislation enacted during the year, some NGOs remained critical of the level of prosecutions for trafficking crimes. Prosecutions for trafficking were rare.

The MOJ reported that 18 criminal investigations related to trafficking in persons were initiated during the first eight months of the year, though only five were prosecuted. In 2005 the government investigated 29 cases; of these, courts prosecuted by cases and convicted 13 traffickers. However, convicted traffickers regularly receive suspended sentences and do not serve any prison time. Several arrests and investigations were reported in the press.

The government sought cooperation with authorities in both destination countries where its citizens were trafficked and in source countries of victims brought into the country. Embassies abroad assisted victims of trafficking; in 2005 the Ministry of Foreign Affairs (MFA) assisted in the repatriation of 22 citizens, down from 36 in 2004.

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

In February the government passed legislation to provide trafficking victims with temporary resident status to ensure their safe repatriation or participation in trafficking prosecutions. Trafficking victims were no longer considered illegal immigrants under the law and were not deported or otherwise penalized as such. NGOs working with foreign trafficking victims reported government cooperation in providing administrative support for repatriation of identified trafficking victims.

The government increased its efforts to provide victim protection and assistance, though significant gaps remained in the level of assistance needed by victims. NGOs ran 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 support. In general, NGOs reported good cooperation with government officials in coordinating assistance for trafficking victims.

The 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 maintained separate national hotlines 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 MVD continued enrolling migration police in a comprehensive antitrafficking training program at the Study Center for Specialists on Combating Illegal Migration and Human Trafficking established in August 2005.

The procurator general's office enforced mandatory licensing for tourist agencies and conducted inspections throughout the year to uncover agencies involved in trafficking.

During the year 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 both 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 new National Action Plan, a chapter on trafficking in persons was introduced into the university law 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. However, there were reports that discrimination was a problem. The law mandates access to buildings for persons with disabilities, although the government did not enforce it. In September the government enacted new legislation allowing inspectors to check buildings for their compliance with disability access laws and impose significant fines for noncompliance; the law takes effect in 2007.

Mentally handicapped citizens could be committed to state-run institutions without their consent or judicial review. In practice, however, persons were generally committed at a young age by their families. Institutions were poorly managed and inadequately funded. Orphanages for children with physical and mental disabilities were reported to be overcrowded and unsanitary, with insufficient staff to adequately care for children's needs. KIBHR observed that the government provided almost no care for persons with mental disabilities due to a lack of funds.

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 people 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 (see section 3).

Kazakh is the official state language, although organizations and bodies of local self-administration may officially use Russian on an equal basis with Kazakh. Most ethnic Russians believed that Russian should be designated as a second state language. The language law was intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages. In reality the government had insufficient funding available to make Kazakh language education universal.

Other Societal Abuses and Discrimination

Although there were no press reports or official statistics on sexual orientation discrimination, there were reports of such discrimination. Representatives of international organizations reported 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 continue 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 had to apply for registration with the MOJ. The registration procedure followed largely that of other membership organizations (see section 2.b.).

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 anti-union discrimination, but in practice there were violations of this right. Members of a few trade unions have been dismissed, transferred to lower paying or lower status jobs, threatened, and intimidated. Union leaders reported that some workers who were 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. In actuality 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 could 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 approximately 80 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 not permitted. According to the law, 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.

In late September workers in a large international conglomerate's coal mines and steel plants in Karagandy Oblast held a series of strikes following the September 20 death of 41 miners in a coal mine explosion. The strikes, which ultimately encompassed thousands of workers, ended around October 5 after the company agreed to substantial pay raises, improved safety conditions, and significant monetary compensation to the accident victims' families. Although the strikes did not meet legal requirements, the workers were not penalized for striking.

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 (see section 5).

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 were permitted to perform light work that does not interfere with their health or education, with parental permission. The government conducted labor inspections to enforce the minimum age for employment, but enforcement was uneven given inadequate resources for inspections, the vast size of the country, and poor economic conditions in rural areas.

The government did not maintain statistics on child labor. NGOs and activists reported that child labor was used routinely in agricultural areas, especially during harvest season. 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 (MOL) is responsible for enforcement of child labor laws and for administrative offenses punishable by fines; the MVD is responsible for investigating criminal offenses. In the first nine months of the year the MOL reported 94 criminal cases involving child labor. In 2005 the government began implementing a three-year International Labor Organization program to eliminate child labor. As part of the program, in June the government conducted a 12-day national campaign 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 (see section 5).

e. Acceptable Conditions of Work

The national monthly minimum wage of 9,200 tenge (\$72.40) 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. The minimum subsistence wage was \$70.10 (8912 KZT). During the first six months of the year, the average monthly wage was \$297.20 (37,769 tenge).

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 1 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, vacation days, holidays, and paid annual leave for each worker.

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

The law provides for the right to safe and hygienic working conditions. In reality working and safety conditions in the industrial, agricultural, and construction sectors were often substandard. Workers in factories usually did not have protective clothing, such as goggles and hard hats, and worked in conditions of poor visibility and ventilation.

Management largely ignored regulations concerning occupational health and safety, which were not well enforced by the Ministry of Labor. In the first six months of the year, the ministry reported making 11,900 inspections and identifying 70,000 violations. In addition to the inspections by the ministry, unions conducted inspections of unionized enterprises. 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. Although the law does not specifically grant the right of workers to remove themselves from situations that endanger their health or safety without jeopardy to their employment, this right was considered to be implied by general legal provisions on worker safety; workers' inability to refuse to work under unsafe work conditions was not a problem in practice.