

Kazakhstan

by Bhavna Dave

Capital: Astana
Population: 15.7 million
GNI/capita: US\$9,720

Source: The data above was provided by The World Bank, *World Bank Indicators 2010*.

Nations in Transit Ratings and Averaged Scores

	1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Electoral Process	6.00	6.25	6.25	6.50	6.50	6.50	6.50	6.50	6.75	6.75	6.75
Civil Society	5.00	5.00	5.50	5.50	5.50	5.50	5.75	5.75	5.50	5.50	5.75
Independent Media	5.50	6.00	6.00	6.25	6.50	6.50	6.75	6.75	6.75	6.50	6.75
Governance*	5.00	5.00	5.75	6.25	6.25	n/a	n/a	n/a	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	6.50	6.75	6.75	6.75	6.75	6.75
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	6.25	6.25	6.25	6.25	6.25	6.25
Judicial Framework and Independence	5.50	5.75	6.00	6.25	6.25	6.25	6.25	6.25	6.25	6.00	6.25
Corruption	6.00	6.25	6.25	6.25	6.50	6.50	6.50	6.50	6.50	6.50	6.50
Democracy Score	5.50	5.71	5.96	6.17	6.25	6.29	6.39	6.39	6.39	6.32	6.43

* Starting with the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance to provide readers with more detailed and nuanced analysis of these two important subjects.

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

In January 2010, Kazakhstan became the first Central Asian state and the first former Soviet republic to assume the rotating one-year chairmanship of the 56-member Organization for Security and Cooperation in Europe (OSCE). While the country's leadership hailed the honor as international recognition of Kazakhstan's rising economic status and record of promoting ethnic and religious tolerance, the government has failed in recent years to take a single convincing step toward democratic rule, political liberalization, genuine tolerance, or hospitable conditions for independent media and civil society groups.

President Nursultan Nazarbaev, who turns 70 in July 2010, is a Soviet-era politburo member who has held the top office in his country since 1989. While steering Kazakhstan toward the OSCE chairmanship, he has continued to build a strong and personalized presidential system by extending his patronage over the country's key political institutions, media outlets, the judiciary, executive bodies, and the business sector, and offering considerable rewards to entrepreneurs, professionals, and technocrats in exchange for their loyalty and support. Any prospects for democratization have been undermined by the unchecked presidential powers granted by the 1995 constitution, subsequent amendments that confer special rights on the "first president" by removing term limits and offering immunity from prosecution, and the emergence of a one-party system under Nur Otan, which controls all seats in the parliament. A personality cult centered on the president has only intensified since Nazarbaev secured 91 percent of the vote in the 2005 presidential election, according to official results.

Since late 2008, Kazakhstan's economy has been struggling against the combined effects of global recession and a domestic credit crunch, and massive state bailouts over the past two years have helped the ailing banking sector—acclaimed just three years ago as one of the most dynamic in the post-Soviet sphere—to avert a collapse. The worsening economy has led to more intense competition among powerful factions within the ruling elite and stiffened their resistance to political reforms.

National Democratic Governance. Bolstered by its growing oil exports and rising prosperity over the past decade, Kazakhstan has employed a rhetoric of democratization to gain recognition from Europe and the United States, but it has failed to demonstrate its commitment in practice. The parliament is monopolized by the ruling Nur Otan party and its associated powerful financial interests, and has proven incapable of initiating any substantive amendments to reverse or limit the authoritarian presidential system. Instead, the pliant legislature has removed all term limits for the "first president," namely Nazarbaev, and essentially granted him

the status of president for life. Moreover, the government has continued to pursue a vendetta against disaffected former members of the regime. For example, Mukhtar Ablyazov, a former minister and opposition figure who later became chairman of BTA, the country's leading bank, faced politically motivated fraud charges in 2009, and the widely respected technocrat and former state uranium company head Mukhtar Zhakishev was arrested on questionable grounds, apparently because of his personal ties to Ablyazov. *Due to this consistently poor performance, there is no improvement in Kazakhstan's rating for national democratic governance, which remains at 6.75.*

Electoral Process. Despite the understanding that the award of the OSCE chairmanship depended heavily on Kazakhstan holding genuinely competitive, free, and fair elections, the amended election law of 2007 resulted in the president's Nur Otan party capturing all seats in that year's lower house (Mazhilis) elections. All elected seats are filled through party-list proportional representation, and parties must cross a 7 percent electoral threshold to be represented, hindering party formation and fair contestation. An amendment passed in 2009 allows the party placing second in elections to enter the parliament even if it fails to cross the 7 percent barrier. This minor reform also makes it harder for new parties to register, however, and essentially paves the way for another progovernment party or an "authorized" opposition party to enter the parliament and create the illusion of a multiparty system. *Therefore, Kazakhstan's rating for electoral process remains at 6.75.*

Civil Society. Kazakhstan portrays itself as a democratizing state, committed to promoting civil society and the nongovernmental sector. The removal of limits on nongovernmental organizations (NGOs) receiving state funding has primarily helped government-organized NGOs engaged in social and infrastructural development. While the Constitutional Council intervened in 2009 to annul amendments requiring all religious communities to reregister, existing laws place numerous restrictions on minority religious groups by labeling them "nontraditional" and "sects," and grant the authorities considerable power to monitor the activities of religious congregations, opposition groups, and independent NGOs. Also in 2009, human rights activist Evgeniy Zhovtis was sentenced to four years in prison for vehicular manslaughter after a trial that was fraught with procedural violations. *Because of this case and Kazakhstan's broader failure to heed the recommendations of the OSCE and international and domestic NGOs by lifting restrictions on civil rights and religious freedom, Kazakhstan's rating for civil society worsens to 5.75.*

Independent Media. Kazakhstan's media outlets are privately owned and compete keenly with one another, but they are entirely under the control of major financial groups affiliated with the regime. While the government has initiated minor amendments to the highly restrictive Media Law, it has not yet offered any significant liberalization of this law or of the criminal code, both of which contain numerous provisions that criminalize criticism of the president and leading

government figures. Having driven a handful of surviving independent newspapers out of circulation through the levying of massive fines following libel convictions, the government has imposed new restrictions on the posting of content on the internet, effectively introducing online censorship. *Because of these internet controls, an increase in libel suits targeting investigative journalism, and the government's failure to liberalize the Media Law in keeping with OSCE obligations, Kazakhstan's independent media rating worsens from 6.50 to 6.75.*

Local Democratic Governance. In Kazakhstan's unitary administrative framework, the central government exerts top-down control over the regional and local levels of government, with the president maintaining full authority over the appointment of the heads, or akims, of all regions and districts. Nazarbaev has steadfastly refused to consider demands for the election of akims or to allow further regional autonomy. Regional akims, however, may enjoy considerable informal autonomy if they have close personal links with the president. *Although constitutional amendments in 2007 granted a greater voice to local legislators in the appointment and removal of akims, the dominance of the Nur Otan party at all levels of government effectively nullifies the formal powers granted to local bodies. Therefore Kazakhstan's rating for local democratic governance remains at 6.25.*

Judicial Framework and Independence. The judiciary, which like the legislative branch operates under presidential patronage, has remained loyal to the regime and protected the interests of the state and its functionaries rather than those of individuals, minorities, and the weaker strata of society. A significant increase in funding allocated to the judiciary has led to an improvement in professional training, technical infrastructure, and wage levels to reduce corruption. Adoption of a new system of jury trials and incremental reforms to the penitentiary system denote positive changes. However, the 2009 trial of Evgeniy Zhovtis, which was marred by procedural violations and a failure to adequately consider evidence, and the ongoing legal persecution of regime opponents and critical media, have proven the inability of the judiciary to follow proper procedures and render fair and independent verdicts. *Kazakhstan's judicial framework and independence rating consequently worsens from 6.00 to 6.25.*

Corruption. Corruption is systemic and entrenched in the rentier behavior guiding the appropriation, control, and distribution of key resources by ruling elites. All inquiries into official corruption are handled by the presidentially appointed prosecutor general and the financial police, working in conjunction with the Ministries of Justice and Internal Affairs, as well as the National Security Committee (KNB). Charges of corruption, misuse of office, or criminal activities are routinely levied against individuals engaging in open criticism of the president or the regime. The fraud charges filed against Mukhtar Ablyazov and Mukhtar Zhakishev, and the sensational (though unverified) disclosures made by former presidential son-in-law Rakhat Aliev, offer credible grounds to surmise that top officials within the regime

are as complicit in fraud and misuse of office as those being tried for corruption. Moreover, the authorities entrusted with the task of combating corruption lack credibility and a mandate to act impartially. *Therefore Kazakhstan's corruption rating remains at 6.50.*

Outlook for 2010. Kazakhstan takes on the 2010 chairmanship of the OSCE amid looming questions as to how it will bridge the divide between the democratic member states to the west and those in the former Soviet Union, many of which share Russia's view that the organization's mission should be centered on security.¹ The country's new foreign minister, Kanat Saudabaev, has intimated that Kazakhstan will work to combat security threats and advance the peace-brokering role of the OSCE, implying that its democracy-building agenda—particularly the role of the Office for Democratic Institutions and Human Rights (ODIHR) in aiding electoral transparency, media freedom, and democratic reforms—would be a lesser priority.²

While a few experts assess that Kazakhstan could use its close relations with Russia to encourage Moscow to strengthen the OSCE, enabling the organization to help resolve frozen conflicts in the Caucasus and engage more actively in Central Asia and Afghanistan,³ Kazakhstan is likely to elevate security and economic cooperation at the expense of human rights and democracy. It is too late to expect the Nazarbaev regime, which has failed to initiate any serious democratizing measure since it made the bid to chair the OSCE in 2003, to implement promised reforms of the country's laws on media, elections, and public assembly. As the government struggles under close international scrutiny to manage its OSCE obligations, mitigate the effects of a dire economic and banking crisis, and organize celebrations of Nazarbaev's 70th birthday in July, the contest for power and control among key factions of the elite is likely to intensify ahead of parliamentary and presidential elections scheduled for 2011 and 2012.

MAIN REPORT

National Democratic Governance

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
n/a	n/a	n/a	n/a	n/a	6.50	6.75	6.75	6.75	6.75	6.75

Kazakhstan's successful bid for the 2010 Organization for Security and Cooperation in Europe (OSCE) chairmanship was the result of a relentless campaign by the ruling establishment to raise its international profile through a mix of diplomacy, intense public-relations activities, some cosmetic reforms, and a series of pledges and promises. A crucial factor was the last-minute assurance by then foreign minister Marat Tazhin at an OSCE meeting in Madrid in November 2007 that Kazakhstan would work toward reconciling the differences between the older and newer participating states of the organization and advance its democratization agenda. In a compromise among OSCE members, Kazakhstan was granted the chairmanship for 2010, a year later than the slot it had lobbied for.

Kazakhstan has a close relationship with Russia and is sympathetic to its criticism of the OSCE–Office for Democratic Institutions and Human Rights's (ODIHR) democratization mission, which centers on facilitating free, fair, and transparent electoral contests. However, unlike Russia, which created highly unfavourable conditions that led the OSCE to decide not to monitor its elections, Kazakhstan has tried to engage tactically with the organization without substantively implementing any of its proposals for democratic reforms.

Kazakhstan's enormous oil and mineral wealth, small but well-educated population, and well-developed industrial infrastructure have proved to be vital assets in transforming it into a politically stable middle-income country. The shrewd leadership of President Nazarbaev has also played a critical role in the country's achievements, but he has used his position to acquire an apparently interminable tenure and extensive control over the country's natural resources, legal and political institutions, security services, and media and propaganda machinery. These tools have allowed Nazarbaev to reward his supporters with enormous patronage and quash all challenges to his authority.

Kazakhstan's political system consists of Soviet-era institutions and practices overlaid with some formal and cosmetic elements of the democratic model. The country assumes the OSCE chairmanship with the dubious distinction of possessing a one-party parliament and a president elected with 91 percent of the vote, both of which are reminiscent of the defunct Soviet system. Nur Otan, the ruling party, has relied on an unabashed use of propaganda, including domestic and international public-relations campaigns, to trumpet Nazarbaev's enlightened leadership in forming a distinct "Kazakhstani way to development" and steering the country toward "prosperity, peace, and stability."⁴ Nazarbaev is also hailed as the author of the constitution and the national hymn, and the chief architect, designer,

and planner of the capital, Astana. His posters, speeches, and writings (including “creative-literary works”) adorn all public spaces, state offices, and educational institutions. Kazakhstan’s ruling establishment has built a loose international network of foreign professionals and public figures, often without a specialized knowledge of the country, who are courted to produce favorable assessments of Kazakhstan’s political, social, and economic accomplishments and potential. One example is the flattering biography of Nazarbaev by Jonathan Aitken, a British journalist who had no prior experience with the country.⁵ In the book, Aitken, a former Conservative Party government minister who served time in prison for perjury, praises Nazarbaev for his “talent,” “courage,” and other personal qualities in steering Kazakhstan to a market-oriented economy. In reality, the president has remained in power and manufactured popularity thanks to his ability to combine coercion and patronage, and the Soviet-inculcated skill of balancing different socioeconomic, regional, and ethnic interests.

The Parliament has proven incapable of introducing a single amendment that demonstrates a genuine commitment to the establishment of a democratic polity; respect for human rights, civil liberties, and tolerance; or the development of civil society. Instead, its task has been reduced to formulating and passing the various laws proposed by the prime minister and cabinet. The prime minister, in turn, is entrusted with implementing the policies and guidelines set by the president, who has the sole power to appoint and dismiss him.

The Nazarbaev regime has used or sanctioned the use of a repertoire of tactics against its political opponents, including coercive control, criminal conviction, and suspicious deaths. The president has not refrained from using these methods against anyone, including family members, who dare to challenge his authority or display unacceptable political or economic ambitions. A prime example of this is the abrupt sacking in 2007 of Rakhat Aliev, the president’s son-in-law and ambassador to Austria who had previously held a key position in the National Security Committee (KNB). His dismissal was accompanied by a divorce notice from his wife, the president’s eldest daughter, and an arrest warrant that ultimately led to his trial in absentia and a 40-year prison sentence. Aliev remains in Austria and has published a damning book entitled *Godfather-in-Law* that purports to expose the numerous corrupt practices of Nazarbaev and his close associates. Aliev himself is reputed to have engaged in shadowy political and financial activities in Kazakhstan, and his claims against the president are as untested as the charges levied against him by the Kazakhstani authorities.

The country’s entrepreneurs enjoy considerable economic freedom and privileges as long as they refrain from any independent political activity and publicly pledge support for the president and the Nur Otan party. Similarly, skilled professionals, technocrats, and politicians can gain rapid career advancement if they renounce any activity that could be seen as politically oppositional. The concentration of wealth and power in the top circle of government officials has created a new class of elites who enjoy unlimited privileges and immunity as long as they play by the unwritten rules of the game.

Kazakhstan's enormous economic resources are managed by major business groups that may compete intensely among themselves but have so far remained closely entwined with the regime and exert profound political influence. They have coalesced around the broad-based platform of Nur Otan and taken control of the parliament, the ministries, and major media outlets.

Timur Kulibaev, the president's son-in-law and the apparent head of the largest financial group in the country, holds several crucial positions, serving as chairman of Kazmunaigaz, the state railway company Kazakhstan Temir Zholy, and the energy company Samruk Energo, as well as deputy chairman of the Samruk-Kazyna National Welfare Fund.⁶ He and his wife Dinara Nazarbaeva, the second of the president's three daughters, were listed by *Forbes* as two of Kazakhstan's eight billionaires in 2008,⁷ although they were not featured in the 2009 list. Kulibaev has not directly engaged in politics, but he is widely seen as a close associate of Prime Minister Karim Masimov, a 39-year-old technocrat who has held the office since early 2007.

The president has sweeping powers to appoint and dismiss the prime minister and dissolve the Parliament. The prime minister has little independent power to formulate policies. The president also appoints a third of the members of the Senate, nominates nine members from the Assembly of the Peoples of Kazakhstan (APK) to the Mazhilis, the lower house of parliament, and chooses the chair and two members of the seven-member Central Election Commission. The APK is itself appointed by the president to represent ethnic minorities.

The military and security services remain under firm control of the president, who appoints their heads and key members. The role of the Kazakhstan National Security Committee (KNB) has drawn greater public attention since the conviction of some of its officers for the murder of opposition leader Altynbek Sarsenbaev in February 2006. There were allegations that the officers involved may have been acting at the behest of Rakhat Aliev, who then held a position in the agency. Meanwhile, Nartai Dutbaev, who headed the KNB at the time and resigned soon after Aliev's arrest warrant was issued, later resurfaced as deputy head of Kazatomprom, the state uranium firm, and adviser to the president on national security.

Electoral Process

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6.00	6.25	6.25	6.50	6.50	6.50	6.50	6.50	6.75	6.75	6.75

Kazakhstan has had regular parliamentary and presidential elections and invited international monitors to observe the polls. While delegations from the Commonwealth of Independent States (CIS) have praised Kazakhstan's elections, not one vote has been recognized by the OSCE as "free and fair" or in compliance with international standards. Despite technically qualifying as multiparty and multicandidate contests, the elections have never offered a level playing field for opposition parties and candidates.

The last parliamentary elections, held in August 2007, failed to meet a number of OSCE commitments, “in particular with regard to elements of the legal framework, and to the vote count and tabulation.”⁸ This shortfall, which came despite the elections’ importance to the success of Kazakhstan’s OSCE chairmanship bid—and to its reputation as a state committed to democratic reforms—demonstrated the tremendous resistance within the political establishment and the administrative machinery to an open, competitive, democratic system. Moreover, contrary to the expectation that at least one opposition party would be allowed parliamentary representation, the Nur Otan party captured all seats. It obtained 88.5 percent of the votes cast, while the opposition Social Democratic Party came second with less than 5 percent, below the 7 percent threshold required for representation. In the previous elections in 2004, the opposition Ak Zhol party had refused to accept the single seat it won, alleging electoral fraud.

Constitutional amendments introduced before the 2007 elections had virtually assured the Nur Otan victory. They increased the number of seats in the lower house from 67 to 107. Of these, 98 are elected from party lists on a proportional basis, and the president appoints the remaining nine deputies to represent the APK. The Senate, the upper house of the Parliament, is composed of 47 deputies. The assemblies of the 14 regions, the capital Astana, and the former capital Almaty each select two senators. The remaining 15 are appointed by the president. Senators serve six-year terms, with half of the indirectly elected members coming up for election every three years. The last round of Senate elections, held in 2008, received little public attention, though members of Nur Otan or those affiliated with it won the seats in question.

With a growing number of government officials joining the Nur Otan bandwagon, it has come to resemble the Soviet-era Communist Party, pushing all other factions out of the political arena. It has exploited its control over administrative resources and propaganda channels to induce state officials, media, prominent businesses, public figures, and university and school administrators to sign on to the “stability and peace” guaranteed by the party of the president. Meanwhile, the state-controlled propaganda machinery has worked to portray the weak and ineffective opposition as “lacking any positive social agenda” and threatening to undermine the country’s economic achievements.

Having adopted stringent legislation that hampers party formation and fair multiparty contests (the opposition party Alga has persistently been denied registration), Kazakhstan in 2009 introduced palpably ineffective amendments to its flawed Law on Elections and Political Parties. The changes provide for the creation of a minimal two-party system by allowing the second-placed party to win representation in the parliament whether or not it crosses the 7 percent barrier. This token party will likely be a “loyal opposition” group or simply another base of support for the president that is authorized to compete with Nur Otan. Such a system would be no less authoritarian than the current arrangement. These minor amendments, undertaken largely in response to OSCE pressure, are unlikely to lead to any democratic change unless they proceed in conjunction with a fundamental shift in the upper tiers of the power structure.

The constitution and political system permit Nazarbaev to be reelected for as many terms as he wishes. Several constitutional amendments passed in previous years have conferred a special status on the country's "first president," allowing him to serve indefinitely. Subsequent presidents, however, will presumably be bound by a two-term limit. Proposals to pronounce Nazarbaev president for life and thus dispense with further presidential elections are emerging from various parts of the country in what resembles a top-down, Soviet-style mobilization of popular opinion in favor of a desired political outcome. Rendering support to such supposed calls from below, Darkhan Kaletaev, the deputy chairman of Nur Otan, has proposed introducing a law on the "leader of the nation" that would make Nazarbaev president for life.⁹

By eliminating single-mandate voting from parliamentary elections and establishing that all candidates must be elected by party list on proportional basis, the amended Law on Elections and Political Parties privileges loyalty to the party over accountability to voters. And because candidates are required to be members of parties, citizens are denied the right to seek election as independents. Furthermore, the high 7 percent threshold is clearly aimed at blocking the rise of new parties. Finally, the reservation of nine seats for APK members fails to provide a democratic method for representing ethnic minorities. The APK is an appointed body chaired by the president, and in practice ethnic minorities lack any means of participating in the selection of their representatives.

Developments over the past decade and a half amply show that the political system established under Nazarbaev's leadership has become entirely personalized, grants very little real power to the country's various institutions, and lays down no effective mechanism of succession. Kazakhstan has a constitution that grants unlimited presidential powers, the parliament is composed entirely of ruling party representatives, and the party-list voting system effectively bars rival parties and independent candidates from the legislature. These factors impede the development of formal participatory institutions and a normal competitive democratic system.

Civil Society

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5.00	5.00	5.50	5.50	5.50	5.50	5.75	5.75	5.50	5.50	5.75

The four-year prison sentence imposed on Evgeniy Zhovtis, director of the International Bureau for Human Rights and Rule of Law of Kazakhstan, was a blow to civil society and NGO activists that has further tarnished the country's international reputation. A district court in the Almaty region convicted Zhovtis of manslaughter in September 2009, following an automobile accident. The trial was fraught with procedural violations, and the judge did not consider any of the mitigating evidence. While the accident was unfortunate, the authorities demonstrably acted in unison to exploit it for a desirable political objective: Zhovtis's four-year detention would prevent him from traveling abroad and participating

in meetings and conferences related to democracy and civil society issues in Kazakhstan.¹⁰ He had argued in international forums that offering the OSCE chairmanship to the country was unlikely to aid transparency and democratization, and that the honor was more likely to be utilized by the regime to enhance its international profile.

Kazakhstan credits itself with being the most open, prosperous, tolerant, and democratic country in the Central Asian region, but in practice the policies and actions of the government are increasingly similar to those of other Central Asian states. Indeed, the country's rising prosperity, liberal economic climate, and growing engagement with the international community have failed to create a hospitable environment for the development of civil society and democracy. Instead, by hailing the achievement of the OSCE chairmanship as an affirmation of Kazakhstan's democratic commitment, the ruling elite is seeking to legitimize a patronage-based regime that is deeply fearful of and resistant to genuine democratization and civic activism.

As with political parties, all NGOs, public associations, and religious bodies are required by law to register with the Ministry of Justice. One of the most basic civil liberties, the right to public assembly, remains severely curtailed in Kazakhstan, as any group of more than 20 people must secure permission from the Ministry of Internal Affairs to assemble. Citizens holding a public demonstration are required to notify the authorities 10 days in advance. NGO leaders who protested the sentence against Zhovtis were fined up to US\$120 for failing to acquire permits for demonstrations.

The government uses its enormous power of patronage to target nascent NGOs and public associations for co-optation, aiming to promote its own agenda of social and infrastructural development rather than allowing the nongovernmental sector to develop independently. While progovernment NGOs are offered funds, publicity, and recognition for engaging in "constructive cooperation" with the government, independent NGOs that resist such pressures tend to be portrayed as either irresponsible, serving outside interests, or opposed to reforms and prosperity.

According to the president's official website (www.akorda.kz), there are about 5,000 registered NGOs in Kazakhstan, of which 1,709 are active. Most of these are quasi-governmental groups, propped up to compete with independent NGOs in obtaining grants, and fewer than 200 are able to make a positive impact. Official figures, which exaggerate the activities and contribution of the nongovernmental sector, show that it consists of about 200,000 people—roughly 40,000 full-time employees, up to 50,000 temporary employees, and over 100,000 volunteers—and that about two million people benefit from the sector's services.

This information seems to conflict with other official sources. For instance, the website of Kazakhstan's embassy in the United States claims that there are more than 25,000 nonprofit organizations, including 13,000 NGOs, in Kazakhstan, employing more than 550,000 people.¹¹ The largest share of NGOs is focused on environmental issues (15 percent), followed by children and youth (13.6 percent), women's rights (13.3 percent), health and medical concerns

(13.1 percent), education (12.5 percent), civil rights (7.6 percent), and social welfare (6.8 percent).¹²

As part of its effort to steer the development of the “third sector,” the government has created a biannual Civic Forum to forge cooperation between itself and NGOs. The stated goal of this mechanism is to aid the establishment of a vibrant civil society, but in practice it serves to co-opt existing NGOs and tends to limit and control efforts at self-organization among societal groups and interests.

Although an amendment in 2007 authorizes the state to fund contracts undertaken by NGOs, the process of issuing contracts is not transparent, and government officials reportedly demand kickbacks. The U.S. Agency for International Development (USAID) has been the largest single-country donor organization in Kazakhstan, providing over US\$500 million in programs to assist the development of the country’s economy, health care system, and democratic institutions. The increase in state funding of NGOs over the past decade has heralded a decline in international aid. The recent economic slowdown, however, may portend a reduction in state funding to many progovernment NGOs.

Working under state patronage, the corporate sector is induced to fund government-organized NGOs or invest in social or community development projects. However, there are reports of private businesses covertly funding civil rights advocacy campaigns and independent media channels in an effort to safeguard their own interests and carve out a sphere of activity that is free from governmental control.

No more than about 10 percent of NGOs are engaged in civil liberties, human rights, and minority protection issues, and the number of genuinely independent NGOs among these is extremely small. Such independent groups are subjected to far greater surveillance by the KNB and the Office of the Prosecutor General.

According to the second national census since independence, conducted in 2009, the share of ethnic Kazakhs has increased to 63 percent of the population, from 53 percent in 1999, whereas the share of ethnic Russians has declined from 30 percent in 1999 to 23.7 percent in 2009. Uzbeks form the third-largest ethnic group at 2.9 percent. Kazakhstan’s political elites, government, and administrative structures bear a multiethnic profile. An individual’s willingness and ability to operate within the regime-controlled patronage networks, rather than ethnicity per se, are crucial for acquiring a prominent public post.

A 2006 presidential decree categorizes various minority religions as “sects” or “nontraditional” groups, suggesting that they are potentially subversive or extremist in nature. The roughly 20 minority religious groups in this category include Jehovah’s Witnesses, Hare Krishna devotees, and some independent Muslims whose affiliations, beliefs, or practices are at variance with the approved version of Islam.¹³ Media campaigns were organized to spread fear of “nontraditional” religions and generate support for an amended Law on Religion, which would seriously restrict freedom of thought, conscience, and religion. The Hare Krishna community (Society for Krishna Consciousness), which has acquired some following among young urban residents, is still struggling to acquire acceptable land on which to rebuild its temple and farm after a court order in 2006 demolished a previous

temple and relocated the farm from the Karasai region near Almaty City to a less hospitable venue in the Almaty region.

Ninel Fokina of the Almaty Helsinki Committee notes that the methods employed by the government to control religious groups are not unlike those used in Uzbekistan, Turkmenistan, and Tajikistan. They include numerous raids of religious institutions, fines for failing to acquire registration, expulsion of foreign missionaries, seizure of assets, and obstacles to the dissemination of religious literature. Human Rights Watch characterizes the state's policies toward religious groups as one of "quiet repression."¹⁴

While claiming a commitment to promoting "interethnic peace and reconciliation," the government tightly regulates public expression of ethnic and religious identity by placing restrictions on freedom of assembly and encouraging ethnic groups to organize themselves into "official" national-cultural centers. These are expected to work closely with the APK, chaired by the president.

Notwithstanding criticisms by domestic religious groups and various international organizations, the parliament passed amendments to the Law on Religion in late 2008 that introduced strict requirements for reregistration of all religious communities within 18 months after the law took effect. The Constitutional Council rejected the amended law in 2009. However, many human rights activists in Kazakhstan have warned that a number of its objectionable features are likely to resurface in late 2010, as Kazakhstan completes its term as OSCE chair and gears up for parliamentary elections in 2011.

While the security and intelligence services publicly portray themselves as combating terrorism, extremism, drug trafficking, and other regional and international security threats, many of the vast resources of the KNB are diverted toward monitoring the activities of opposition groups, independent NGOs, media outlets, religious bodies, and foreign missionaries in the country. Asserting that religious pluralism and tolerance are fueling extremism, government officials and the security establishment are openly calling for stringent action against religious groups operating outside the official, state-recognized structures. The Ministries of Justice and Internal Affairs together with the KNB have created special divisions to work with various religious denominations.¹⁵

Independent Media

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5.50	6.00	6.00	6.25	6.50	6.50	6.75	6.75	6.75	6.50	6.75

Most media outlets in Kazakhstan are privately owned and nominally independent, but in reality regulated by the government and controlled by politically entrenched financial groups. These outlets may compete intensely with one another, but they do not engage in investigative work or criticize the president, his close family, or other top figures in the regime. The few truly independent media outlets in the country

have had difficulty surviving in the traditional media market and consequently operate mainly on the internet.

According to the 2009 Reporters Without Borders Press Freedom Index, Kazakhstan ranked 142 out of 175 countries (behind Tajikistan and Kyrgyzstan, though ahead of Uzbekistan and Turkmenistan). Its media are far more diverse than those of some other countries in the region, and the outlets allow some debate on the prevalent socioeconomic issues. However, the president and his inner circle remain completely above scrutiny, while parliamentary deputies and regional akims have increasingly used their positions to punish critical journalists.

Highly restrictive laws and numerous unauthorized and informal mechanisms of control have ensured the national media's subordination to the government. Article 318 of the criminal code penalizes a person who "insults the honor and dignity of the president" and is used routinely to prosecute independent journalists. Influential members of the government have also won libel suits against opposition-oriented media. The pliant judicial system fully protects top members of the government while rendering independent and oppositionist media outlets highly vulnerable.

Existing legislation does not regulate the size of compensation for libel, exposing any publishing house to sudden bankruptcy. Opposition newspapers have also been subjected to numerous bureaucratic interventions ranging from tax audits to fire and safety inspections, and they encounter continual difficulties in finding printing facilities.

In 2009, the weeklies *Respublika* and *Taszhargan*, two of the most prominent independent newspapers publishing investigative and critical stories, were ordered to pay massive damages as a result of libel suits filed against them by senior officials. The BTA Bank of Kazakhstan had launched a court case against *Respublika* demanding US\$500,000 for allegedly spreading false information about its activities. The newspaper has closed down, as it was unable to pay the exorbitant fine. Meanwhile, *Taszhargan* failed to recover following various lawsuits filed against it in 2008.

Ramazan Yesergepov, editor of the *Alma-Ata Info* weekly, was seized by KNB agents from a hospital bed and detained on charges of disclosing state secrets in an article. The article had alleged that regional KNB officials had tried to influence a prosecutor and judge in a criminal tax-evasion case. Since Yesergepov's case was classified as secret, his family could not access the case file or attend hearings, and the lawyer defending him resigned without explanation. Yesergepov was sentenced in August 2009 to three years in prison.

In December, Gennady Pavluk, a prominent opposition journalist in Kyrgyzstan, died after being pushed from a sixth-floor window in Almaty with his limbs bound. While media outlets blamed Kyrgyz security forces for Pavluk's death, Kazakhstan has failed to demand that the Kyrgyz government conduct an official investigation.¹⁶

The government formed a working group that included the Ministry of Culture and Information, the OSCE, and the independent media watchdog Adil Soz to consider reforms to the existing Media Law. However, it has rejected virtually

all the recommendations made by NGOs, despite its pledge to introduce greater media liberalization before receiving the OSCE chairmanship. Minor amendments to the law over the past two years were offset by the adoption of two new restrictive measures on the internet and privacy in August 2009.¹⁷ The changes categorized all websites in Kazakhstan as mass media outlets, and hold bloggers or website owners accountable for anything they publish. Bloggers who publish items that are critical of the government have been charged under clauses protecting the president's "honor and dignity." The new measures essentially institutionalize a practice in which the Office of the Prosecutor General monitored blog comments and held the moderator of a site responsible for its content.

In another sign of what is effectively the censorship of the internet, over a dozen Kazakhstani websites were being investigated by the authorities for a range of charges, such as publishing materials supplied by Rakhat Aliev or inciting interethnic and religious hatred. The prosecutor general has warned that printing or quoting any excerpts from Aliev's book would lead to criminal charges.¹⁸

Internet use has not spread as fast as one would expect in a rapidly growing economy. About 55 percent of the country could access the internet from home in 2008, though this number has likely risen since then.¹⁹ As Kazakhstan's urban middle class and student population increasingly turn to the internet to obtain news, the authorities have stepped up their efforts to directly limit the availability of information online rather than relying entirely on criminal penalties. The state-owned Kazakhtelecom and its subsidiaries have a monopoly on internet service provision, and they have fully cooperated with regular instructions from the government and security services to block access to opposition websites and apply technical controls.

Kazakhstan baffled many observers by introducing the additional restrictions to its much-criticized Media Law just before it assumed the chairmanship of the OSCE, thereby risking fresh international criticism. One explanation is that Nazarbaev is unwilling or unable to control the various factions vying for power and influence within the government, and that none of these groups has a strong incentive to push for democratization.

Articles adulating Nazarbaev for Kazakhstan's multifarious accomplishments proliferate in the media. Virtually every page in the state-owned papers *Kazakhstanskaya Pravda* and *Egemen Kazakhstan* contains extracts from speeches by Nazarbaev. The state channels Khabar and Kazakhstan 1 continually broadcast the president's speeches and report on his travels. In addition, 50 percent of the billboards in Astana feature images of Nazarbaev or quotations from his pronouncements. In this environment, the president risks becoming a hostage to his own propaganda, effectively cutting himself off from accurate information about the problems facing the country. Furthermore, beneath the pervasive personality cult depicted in the media and the various government public-relations campaigns is a struggle for supremacy among the numerous individuals and financial interests that form the president's inner circle.

Local Democratic Governance

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
n/a	n/a	n/a	n/a	n/a	6.25	6.25	6.25	6.25	6.25	6.25

Notwithstanding its enormous size, Kazakhstan has a unitary administrative framework in which the central government exerts top-down control over regional and local bodies. The constitution does not provide for elections of regional or local administrative heads (akims). All regional akims are appointed by the central government and may be dismissed by the president at his discretion. The akims at the lower administrative levels, districts and villages, report to their immediate superiors.

Members of the local legislative councils, or maslihats, are elected for five-year terms to represent their constituencies, but in practice the maslihats serve primarily as rubber-stamp bodies to approve acts by the local executives. Patronage and personal influence, rather than a constitutional mandate, define the powers of the incumbent. The regional maslihats, and those of Almaty and Astana, each name two members to the Senate. The last maslihat elections were held concurrently with the parliamentary elections in August 2007 and attracted almost no popular or media attention, as they were completely overshadowed by the national polls.

Regional and city maslihats now have the right to refuse the president's nominee for akim, and the share of maslihat members required to oust a sitting akim has been reduced from two-thirds to one-fifth. However, given the minimal functions assigned to regional maslihats and the patronage exerted by akims, it is unlikely that the councils play any significant role in the composition of their governments.

Nazarbaev remains resolutely opposed to holding direct elections for local and regional akims and granting local autonomy, and there is virtually no public discussion of the subject. The most prominent advocate of such reforms was Galymzhan Zhakiyanov, founder of the opposition Democratic Choice of Kazakhstan party and a popular former akim of Pavlodar, who was jailed from 2002 to 2006 on politically motivated charges. If direct elections were introduced under the current framework, it is doubtful that they would have a democratizing effect as long as a single party dominates the political landscape. In addition, the incumbent akims and their patrons, together with members of the Central Election Commission and the district election commissions, wield enormous influence in the nomination of candidates.

The lack of financial autonomy for local bodies is also a serious limitation. The central government determines taxation rates and budgetary regulations. The regions are officially responsible for the provision of social services such as education, local law enforcement, and medical assistance. Local governments are allowed to keep all fines for environmental pollution, but are required to transfer other revenues to higher authorities. Regions are not allowed to keep their budget surpluses, which are forfeited to needier areas.

The extent to which a regional administration can retain the collected tax payments in their budgets and not remit them to the center is influenced in part by

the standing of the akim and the region's revenue-generating capacity. The akims in oil-rich regions as well as Astana and Almaty, which have attracted the most foreign investment, exert a greater control over budgetary matters, mainly by extracting significant contributions from investors to various "social and welfare projects," and thus informally negotiating revenue-sharing rates with the central government. These akims also tend to have a high personal standing with the central government that appointed them and their modest fiscal autonomy does not have further institutional repercussions. The regional akims have shown no inclination to share power or revenues with the lower-level governments.

Judicial Framework and Independence

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
5.50	5.75	6.00	6.25	6.25	6.25	6.25	6.25	6.25	6.00	6.25

While Kazakhstan's constitution recognizes the separation of the three branches of power and safeguards the independence of judiciary, in practice both the judiciary and the legislature remain subservient to the executive. The record of the judiciary over the past decade shows that it has consistently protected the interests of the ruling elites, state functionaries, and top business groups rather than those of individuals, minorities, and the weaker strata of society. It has particularly tended to toe the official line when penalizing the political opposition, independent media, and civil society activists who are critical of the government.

The constitution provides an elaborate mechanism for appointing members of the Supreme Court. The president proposes nominees from among those recommended by the Supreme Judicial Council, which comprises the chairs of the Constitutional Council and of the Supreme Court, the prosecutor general, the minister of justice, senators, judges, and others appointed by the president. The nominees proposed by the president are then approved by the Senate. The president may remove judges, but not members of the Supreme Court, on the recommendation of the Supreme Judicial Council. There has been no instance to date of any disagreement between the executive and legislature over the appointment of Supreme Court justices. A number of constitutional amendments have reinforced presidential control over judicial appointments.

The level of formal training and professionalism has improved significantly as a result of steady increases in state funding. However, although Kazakhstan set up a Judicial Academy in 2004 with help from the OSCE/ODIHR, the quality of training remains substandard. The legal profession is perceived to be among the most prestigious, which has led to a disproportionate number of lawyers, but their quality remains uneven.

Under a judicial mentorship program launched by USAID, senior judges serve as mentors to young protégés, guiding them in making difficult legal and moral decisions while gaining exposure to fresh ideas and new thinking. Another

innovation financed by USAID is the introduction of the latest video-recording technology for transcribing court proceedings.

Corruption is entrenched in the judicial system, as in other organs of the government. Corrupt behavior is widely accepted as natural, and many believe that the judiciary serves only the interests of the rich and powerful. For several small and medium offenses, bribery is seen as an effective means of achieving the desired verdict. It is also widely understood that it is almost impossible to become a judge without giving bribes to various officials and court administrators.

A survey by the Association of Sociologists and Political Scientists noted that bribe taking was most rampant among judges, with an average bribe costing \$2,092, more than in any of four other spheres—property acquisition, housing, employment or promotion in the state sector, and military service.²⁰

The country's courts often intervene to ban media outlets that are critical of the president or the political establishment. The Zhovtis trial confirmed a long-established tradition in which the judiciary's verdicts align with the state's interests. The court did not take into consideration several relevant factors, such as the circumstances in which the accident occurred, and the fact that the victim's family did not file a case and chose to forgive Zhovtis after he offered apologies and paid for expenses. The U.S. mission to the OSCE, echoing numerous international and domestic human rights groups, complained that the case involved "serious allegations of procedural irregularities and apparent lack of due process."²¹

Kazakhstan began holding jury trials in 2007, adopting the continental or Franco-German model in which two professional judges and nine jurors take part in the final decision-making process. The jury of nine is selected by local authorities from a list of eligible persons, but no credible mechanisms exist to balance language, gender, and ethnic criteria. The number of jury trials is still limited, as the mechanism is restricted to cases involving the death penalty or life imprisonment. If conducted properly, jury trials even in such a limited form could play a vital role in reducing graft and corruption, decreasing the waiting period for cases, and helping to establish judicial independence, transparency, and accountability in a system where citizens tend to distrust the courts. However, there has not yet been a comprehensive review of the impact of jury trials on the administration of justice.

The OSCE is working to reform the penitentiary system and other aspects of criminal justice. The structure of the prison system in Kazakhstan has remained largely unchanged since Soviet times. In 2009, the inmate population was 59,141, and the incarceration rate of 382 per 100,000 people was the highest among Central Asian countries. The introduction of judicial authorization of arrests in Kazakhstan denotes a first step toward compliance with one of the central provisions of the International Covenant on Civil and Political Rights. However, this reform can have a significant effect in criminal law only if the Office of the Prosecutor General and the judiciary are mutually independent, which is not the case in Kazakhstan.

While Kazakhstan's criminal justice system is undergoing incremental reforms, the judiciary has a poor record when it comes to cases involving civil liberties, political freedom, independent media, and human rights issues. The courts have convicted all major political or public figures brought to trial on politically motivated charges without credible evidence or proper procedures.

Kazakhstan has a National Human Rights Commission headed by an ombudsman, but he has only limited authority to monitor the government's observance of human rights and is officially barred from any "interference with the work of either the police or the judicial system." As a presidential appointee, the ombudsman lacks an impartial image and the support of civil society and human rights activists.

Corruption

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
6.00	6.25	6.25	6.25	6.50	6.50	6.50	6.50	6.50	6.50	6.50

Corruption in Kazakhstan is systemic and difficult to prove, as it is embedded in the rentier mentality of ruling elites who use their official positions to appropriate, control and distribute key resources for personal gain. The criminalization of investigative journalism, the absence of a genuinely independent anticorruption body, and an overall lack of transparency make it impossible to publicly identify the misuse of state resources by top officials. The scarcity of information on the privatization of major state assets, the issue of tenders, the finalization of major financial deals, and government figures' personal assets all point to the blurred lines between public office and private wealth.

Ordinary citizens, journalists, and civil society activists face criminal charges if they attempt to draw public attention to the ostentatious lifestyles and accumulated wealth of state officials, civil servants, members of the judiciary, and local leaders. This has led to a pervasive social perception that the use of state resources for the enrichment of one's family, friends, and personal networks is a normal and integral aspect of the local culture and social structure, and that it is not properly understood by foreign policymakers and advisers.

Charges of corruption and abuse of office tend to be leveled against government officials or political figures only after they enter into a personal or political rivalry with more powerful elites or challenge Nazarbaev's authority. The political motivations behind such cases were described in detail by Rakhat Aliev in his book. While the veracity of his allegations remains suspect, there is little doubt that Aliev was privy to sensitive information during his time as a regime insider. He has threatened to reveal new information about the "Kazakhgate" case, for which the American businessman James Giffen is being investigated in a New York court for allegedly passing US\$80 million from U.S. oil companies to Nazarbaev and other top officials in exchange for lucrative contracts in Kazakhstan. Proceedings in the case have been delayed for a variety of reasons and are expected to resume in mid-2010.

Two recent high-profile corruption cases—the multimillion-dollar fraud charges levied against the former BTA management headed by Mukhtar Ablyazov, and the related case against former Kazatomprom head Mukhtar Zhakyshev—have a clear political overtone. BTA Bank suffered huge losses amid the global financial crisis, leading the state to acquire a majority stake in early 2009. In August, the company's new state-controlled management commenced legal proceedings in the High Court in London, where Ablyazov and his associates had fled, accusing them of defrauding the bank of close to US\$300 million through a series of questionable agreements. The London court granted an injunction freezing the assets of Ablyazov and his associates as the case proceeded.²²

Ablyazov, who served jail time in 2002 and 2003 after cofounding the opposition Democratic Choice of Kazakhstan party, has maintained that he and his associates acted in accordance with the law and with the knowledge of the government, and that the global financial crisis had served as a pretext for the state to take over the company. Moreover, he has accused the president of personally extracting a share from all key business ventures and establishing private control over the country's strategic resources.

Zhakyshev was arrested in May 2009 on charges of fraud worth US\$690,000. He was accused of establishing his own subsidiary companies in Austria using state resources and illegally selling uranium assets. The case linked him to Rakhat Aliev, who served as ambassador to Austria at the time. Zhakyshev contends that his transactions were legal and approved by the government, and that Nazarbaev directly controlled the uranium industry, meaning no deposit could be sold without his knowledge. There is a widespread perception that Zhakyshev, who shares a close friendship with Ablyazov, was targeted in an effort to extract information about Ablyazov's assets, and that he could be released if he agreed to cooperate.

By late 2009, a dozen senior managers affiliated with BTA had received prison sentences ranging from two to eight years, though the veracity of the charges and the evidence presented in court remained doubtful.²³ A number of other professionals who were either connected to Ablyazov and the BTA management or suspected of involvement with them have reportedly avoided arrest by offering huge bribes to the prosecutor general and the financial police.

The Ministry of Internal Affairs, the KNB, and the tax and financial police are the main bodies tasked with combating corruption. In the present climate, the anticorruption drive has become a political and economic tool that allows the officials involved to accrue special power and influence and extort bribes. As one critic of the government alleged, these organs are used by the state to “settle scores with inconvenient highly placed officials and with business.”²⁴

Kazakhstan was ranked 120 out of 180 countries surveyed in Transparency International's 2009 Corruption Perceptions Index (CPI), up slightly from 145 out of 180 the previous year. Similarly, its score improved from 2.2 in 2008 to 2.7 in 2009. Any score below 5.0 denotes a serious corruption problem, but Kazakhstan performs better on the index than Russia and the other Central Asian states.

The index defines corruption as the abuse of public office for private gain and measures the degree to which corruption is perceived to exist among a country's public officials and politicians. In reality, Kazakhstan's improved ranking does not necessarily indicate a substantive change. The CPI has numerous limitations, and a key one here is the lack of any defined criteria to account for a system in which top government officials enjoy virtual immunity unless they break implicit rules against engaging in activities that undermine the authority of the president and his immediate circle. In addition, the ranking is not linked to specific actions. A marginal improvement, as in the case of Kazakhstan, can be portrayed by the ruling authorities as evidence of the effectiveness of its anticorruption measures.

Kazakhstan endorsed the Extractive Industries Transparency Initiative (EITI) in 2005. However, it needs to complete the validation process by March 2010, which requires not only government initiative and the participation of oil companies, but monitoring and oversight by NGOs and civil society. Since EITI reporting for oil, gas, and mining is voluntary, the state is not required to disclose the revenues it receives from leading oil companies, or to involve independent NGOs in overseeing how oil revenues are managed. The government's increased spending on public construction projects and bank bailouts raises questions about efficiency and transparency, and no institutions or structures currently exist to guarantee these qualities. The parliament has no authority to conduct an audit of oil revenues or determine how and under what conditions the funds are to be used.

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