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2010 Country Reports on Human Rights Practices - Kazakhstan

Bureau of Democracy, Human Rights, and Labor
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The Republic of Kazakhstan, with a population of approximately 15.6 million, has a parliamentary system dominated by President Nursultan Nazarbayev's Nur Otan Party. 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 2007 national elections for the Mazhilis (lower house of parliament) fell short of international standards. Nur Otan received 88 percent of the vote, winning every seat in the chamber. Security forces reported to civilian authorities.

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

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were reports that the government or its agents committed arbitrary or unlawful killings.

On February 9, the prosecutor general denied a request for an inquiry into the death of Azamat Karibayev, who died in prison in December 2009. Three months after authorities sentenced Karibayev on terrorism charges, his body was found in his prison cell with evidence of abuse. Karibayev's widow claimed that a stranger alerted her by phone that her husband had been killed and said that the Committee for National Security (KNB) tortured him to force him to abandon his "nonofficial" form of Islam. Prior to his death, human rights activists considered his trial fraught with irregularities.

On July 22, Maksim Kozhanov, an inmate of the Dolinka prison near Karaganda, reportedly committed suicide. Kozhanov had produced a video showing an inmate beaten by a prison officer, which prison authorities and independent NGO observers later proved to be falsified. To protest subsequent punishment, a group of inmates, including Kozhanov, cut open their abdomens as an act of group self-mutilation. Officials placed Kozhanov in the prison hospital, where he was found hanged the next day. On November

11, a court sentenced the inmates who helped orchestrate the video to an additional year in prison.

Military hazing led to deaths, suicides, and serious injuries. The government reported 93 incidents of nonlethal military hazing during the year. The government did not publish statistics on the number of deaths linked to hazing during the year. The number of suicides in the army did not significantly change from the previous year. Authorities reported 17 suicides; there were 16 in 2009.

On March 4, a contract-service sergeant in the Almaty-garrisoned Air Defense Brigade apparently beat several conscripts severely, causing the death of Azamat Orazbayev and seriously injuring two other conscripts. Authorities arrested the sergeant, fired the garrison commander, and initiated an ongoing investigation.

On May 15, authorities found Yerlan Torebekov's body in a military hospital maintenance facility, where the main Military Prosecutor's Office alleged he had swallowed a needle while repairing his shirt. Officials later claimed he hanged himself. Torebekov's parents exhumed their son's body and discovered evidence of abuse. Authorities initiated an ongoing investigation into the death.

b. Disappearance

On August 14, Edgar Salduzi, a prominent businessman involved in a highly publicized business dispute with Maira Nazarbayeva, President Nazarbayev's sister-in-law, disappeared after leaving his home to meet with a business partner. Almaty police and the city department of the National Security Committee found the kidnapped businessman alive on September 27.

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

The law prohibits torture; nevertheless, the police and prison officials regularly beat and abused detainees, often to obtain confessions. Human rights activists asserted that the legal definition of torture was too vague and did not meet UN standards and that the penalties for the crime were too lenient. The Prosecutor General's Office (PGO), the Presidential Human Rights Commission, and the human rights ombudsman acknowledged that some law enforcement officers used torture and other illegal methods of investigation. Human rights and international legal observers noted investigative and prosecutorial practices that overemphasized a defendant's confession of guilt over collecting other types of evidence in building a criminal case against a defendant. Courts generally ignored allegations by defendants that their confessions were obtained by torture or duress.

From September 29 to October 1, Manfred Nowak, the UN special rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, met with government officials and NGOs to discuss recommendations made during his May 2009 visit, during which he inspected several prisons and detention facilities. At an event hosted by the Office of the UN High Commissioner for Refugees (UNHCR) and several NGOs, Nowak stated that, in his six years in office, Kazakhstan was the only country that attempted to conceal the actual situation in its prisons. According to his assessment, torture was not widespread, although a culture of impunity allowed police to use extreme methods, such as heavy beating and asphyxiation, to obtain confessions. Nowak stated that police rarely investigated complaints of torture.

The human rights ombudsman reviewed prisoner and detainee complaints. The ombudsman can either issue a recommendation directly to the relevant agency or release a public statement, though it legally cannot force compliance with its recommendations. The Coalition of NGOs against Torture received 263 complaints during the year. Local NGOs reported that, in contrast with past practice, the government acknowledged publicly that torture was a problem.

On March 20, according to a Coalition of NGOs report, a group of prison officers and prisoners severely beat Zhandos Sagatov, a convict in the Zarechniy prison near Almaty, for several hours. Responding to NGO pressure, prosecutors brought charges of torture against prison officials in an ongoing investigation. On October 6, prisoner Kanat

Mukhambetkaliyev died in the hospital after experiencing kidney failure. Multiple NGOs reported that prison authorities severely beat him causing bruises on his body, which later resulted in his death. As of November 17, authorities had charged two prison officers, Nikolay Sidorovich and Gabit Baytishkin, with abuse of power in an ongoing investigation.

At year's end authorities continued the case against three fishermen who were detained in April 2009 on suspicion of poaching and reportedly beaten in detention. The KNB asserted that they released the fishermen, although the fishermen told the media they escaped from the detention facility. All three were hospitalized for internal injuries, and one fisherman suffered from a concussion. The KNB denied any wrongdoing and opened a criminal investigation against the men for poaching.

The government charged 162 military service members with crimes related to military hazing and abuse of power during the year, compared with 167 in 2009.

The government investigated some allegations of conscript hazing and prosecuted soldiers who engaged in this abuse, forwarding 32 hazing cases to the courts. The Ministry of Defense continued unannounced inspections and required systematic reports from senior officers about hazing in their units.

Prison and Detention Center Conditions

Prison conditions remained harsh and facilities did not meet international health standards. Scarcity of medical care continued to be a problem. NGOs reported that approximately half of the inmate population needed professional treatment, especially for HIV/AIDS, tuberculosis, and other infectious diseases. Abuse occurred in police cells, pretrial detention facilities, and prisons. Observers cited severe overcrowding, poor treatment of inmates and detainees, and the lack of professional training programs for administrators.

According to observers prisoners and detainees generally had reasonable access to visitors, and there were no complaints concerning religious observance. The Coalition of NGOs against Torture reported an increase in the submission of all complaints from prisoners. Due to new regulations that mandate civil society engagement in torture complaints, Prison Reform International (PRI) representatives stated that authorities granted media and independent monitors increased access to report on prison conditions. PRI credited these monitors with ensuring prison officials' accountability in a handful of cases.

During the year the government reported 31 deaths in pretrial detention centers and police cells, compared with 43 in 2009, and PRI reported 351 deaths during the first 10 months of 2010 among both detainees and prisoners. The government reported 40 suicides in 2010 – a decrease from 2009 – of which three occurred in pretrial detention facilities, 36 in prisons, and one in a police cell.

According to the latest statistics available from prison monitoring NGOs, there were approximately 55,000 prisoners and detainees in pretrial facilities. Men, women, and juveniles were held separately. Detainees were lodged apart from prisoners. There were no reports that political prisoners were held separately from the rest of the prison population.

Incidents of inmates' self-mutilation as a protest against harsh prison conditions and abuse continued, with 87 cases involving 174 inmates reported during the year; 27 were group mutilations. NGOs reported that the increase of reports on prison abuse did not reflect worsening conditions but rather increased transparency throughout the prison system.

On February 1, several inmates in Eastern Kazakhstan prison 156/17, designated for former law enforcement officers, committed self-mutilation to protest the lack of heat and hot water during the winter.

On July 3, 14 inmates from Stepnoy village prison 166/26 committed self-mutilation to protest abuse by prison personnel. The authorities pressed criminal charges of abuse of power and torture against two officials, including the deputy director of Akmolinsk

regional penitentiary committee, whom they also fired. The prosecutor's office concluded its investigation, and a court hearing was pending. On July 5, another group of inmates committed self-mutilation. The inmates' relatives and prisoners' rights advocates disseminated to the media images and videos of the mutilation taken with cell phones.

On July 22, 37 inmates from prison 164/4 in Gorni village, North Kazakhstan, committed group self-mutilation to protest abuse. After an investigation authorities transferred 12 inmates to other prisons.

On July 30, according to the Kazakhstan International Human Rights Bureau, four prisoners from the Almaty pretrial detention facility cut their abdomens. Following subsequent reports that authorities severely beat the four prisoners, their relatives protested in front of the detention facility. Approximately 40 prisoners submitted written complaints to the prosecutor general. According to Ardak Zhanabilova, leader of the Public Monitoring Commission, all reasonable complaints have been satisfied.

On August 9, approximately 300 inmates from prison 166/25 in Granitni village, Akmolinsk region, engaged in a group self-mutilation protest. Because of an ensuing riot to which authorities dispatched troops, two inmates died, 100 were injured, and 70 were hospitalized.

On August 24, Yermek Narymbayev went on a hunger strike in an attempt to urge the Almaty Court of Appeals to review his case. His initial 15-day sentence for holding an unsanctioned demonstration in May turned into four years when claims of violent behavior toward police surfaced.

Civil society activists worked with the councils for public oversight of the Ministry of Justice and the Ministry of Internal Affairs, as well as the human rights ombudsman's Countertorture Working Group, to monitor the situation in prisons and detention facilities. Many observers criticized the councils for lacking independence and clearly defined authority or power.

The government addressed systemic patterns that encouraged prisoner abuse by increasing access for regional penitentiary oversight commissions, training programs for prison officials, and police seminars. By year's end, authorities had investigated 48 law enforcement officials and prosecuted 15 for abuses. Courts convicted four law enforcement officers on torture charges.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but problems remained.

Role of the Police and Security Apparatus

The Ministry of Internal Affairs supervises the national police force, which has primary responsibility for internal security, including investigation and prevention of crimes and administrative offenses and maintenance of public order and security. The Agency for Combating Economic and Corruption Crimes (Financial Police) has administrative and criminal investigative powers. The KNB plays a role in border security, internal security, antiterrorism efforts, and the investigation and interdiction of illegal or unregistered groups, such as extremist groups, military groups, political parties, religious groups, and trade unions. In February 2009 the government established a separate external intelligence service, Syrbar, which reports directly to the president. The Financial Police and the KNB report directly to the president.

During the year the government maintained Ministry of Internal Affairs hotlines and received more than 13,617 complaints about police corruption and abuse. The majority of ministers, including the prime minister, maintained personal blogs where citizens could submit their complaints.

The prosecutor general chaired a council for coordination of law enforcement operations. Staff included heads of other law enforcement agencies. Among its many duties, the council reviewed complaints against law enforcement.

The Ministry of Internal Affairs cooperated with NGOs to provide human rights training programs for local police. The government cooperated with international organizations to provide limited law enforcement training courses aimed at decreasing abuse by emphasizing investigative skill development.

Arrest Procedures and Treatment While in Detention

In 2008 the government passed legislation to transfer the power to sanction arrest from prosecutors to the judiciary. Independent observers reported that judges usually sanctioned prosecutors' requests. Of the suspects detained by police in 2009, 98 percent were arrested, compared with 91.3 to 92 percent between 2006 and 2008.

Prosecutors continued to have the power to authorize investigative actions, such as search and seizure. The law allows police to hold a detainee for 72 hours before bringing charges. Human rights observers criticized this period as too lengthy and said that authorities often used this detention to exert pressure and extract confessions. A bail system exists but was not widely used, and many individuals remained in pretrial detention until their trial. By law prisoners are granted prompt access to family members; however, prisoners sometimes are sent to facilities located far from their home and relatives, restricting access for those who could not afford the travel.

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. The law does not require police to inform detainees that they have the right to an attorney, and in practice police did not do so. Human rights observers alleged that law enforcement officials dissuaded detainees from seeing an attorney, gathered evidence through preliminary questioning before a detainee'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 faces serious criminal charges. In practice public defenders often lacked the necessary experience and training to assist defendants.

Some defendants were barred from freely choosing their defense counsel because the cases against them involved state secrets, and the law only allows lawyers who have special clearance to work on such cases. In the embezzlement case that resulted in the March 15 conviction of the Mukhtar Dzhakishev, former manager of the state-owned uranium company KazAtomProm, the KNB barred Dzhakishev from meeting with his attorney because the lawyer lacked the necessary clearance. Dzhakishev eventually chose an attorney from the list of approved lawyers and was allowed to meet with him.

Prosecutors reported continuing problems with arbitrary arrest and detention of citizens. During the first nine months of 2010, authorities released 1,000 persons from illegal pretrial detention and 973 from illegal custody in police offices.

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

e. Denial of Fair Public Trial

The law does not provide for an independent judiciary. The executive branch limited judicial independence. Prosecutors enjoyed a quasijudicial role and had authority to suspend court decisions.

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

Military courts have jurisdiction over civilian criminal defendants allegedly connected to military personnel undergoing a criminal trial. Military courts use the same criminal code as civilian courts.

Trial Procedures

All defendants enjoy a presumption of innocence and are protected from self-incrimination. Trials were public except in instances that could compromise state secrets or when necessary to protect the private life or personal family concerns of a citizen. Nevertheless, there were several reported cases of journalists and observers denied access to open court hearings. Only defendants charged with capital crimes are entitled to trial by jury.

Courts conducted jury trials for aggravated murder cases, pursuant to legislation enacted in 2006. Observers noted that the juror selection process was inconsistent and that judges, who deliberate with the jurors, tended to dominate the process. Through the first 11 months of 2010, courts conducted 206 jury trials involving 286 defendants; jurors acquitted 19.

Defendants in criminal cases have the right to counsel and to a government-provided attorney if they cannot afford counsel. Under the criminal procedure code a defendant must be represented by an attorney when the defendant is a minor, has mental or physical disabilities, does not speak the language of the court, or faces 10 or more years of imprisonment. In practice defense attorneys reportedly participated in only half of all criminal cases, in part because the government did not provide sufficient funds to pay them. The law also provides defendants the right to be present at their trials, to be heard in court, to confront witnesses against them, and to call witnesses for the defense. They have the right to appeal a decision to a higher court. According to observers, defense attorneys play a narrow role in trials, which are dominated by prosecutors.

Kazakhstani and international human rights organizations reported numerous problems in the judicial system, including lack of access to court proceedings, lack of access to government-held evidence, frequent procedural violations, poor explanation of rights to defendants, denial of defense counsel motions, and failure of judges to investigate allegations that confessions had been extracted through torture or duress. Activists called for the use of juries for a wider range of trials. Lack of due process was a problem, particularly in a handful of politically motivated trials involving protests by opposition activists and in cases when improper political or financial influence was alleged.

On April 26, the Supreme Court Panel for Procedural Review rejected a petition submitted by Vitaly Voronov, a lawyer for prominent human rights defender Yevgeniy Zhovtis, to review the lower-court ruling that convicted Zhovtis for vehicular manslaughter and sentenced him to four years in prison. The charge stemmed from a July 2009 accident in which Zhovtis struck and killed a pedestrian with his car. In December 2009 an Almaty district court judicial review panel refused to review the appellate court's decision based on a request by Zhovtis' defense team. Local and international observers strongly criticized the trial for numerous procedural violations. Some observers alleged that the sentence imposed on Zhovtis, a critic of the government, was harsh and politically motivated.

On August 9, the Supreme Court rejected an appeal by Vremya journalist Tokhniyaz Kuchukov for a more lenient sentence for his involvement in a fatal vehicular accident in 2009.

On December 6, the Supreme Court rejected an appeal by Aydos Sadykov, an opposition journalist found guilty of "hooliganism" and resisting police in July. There were reports the two-year sentence was politically motivated.

Political Prisoners and Detainees

Local and international human rights NGOs asserted that the prison sentence imposed on Yevgeniy Zhovtis amounted to political persecution to silence the government's most vocal critic in advance of the country's 2010 chairmanship of the Organization for Security and Cooperation in Europe (OSCE). Although Zhovtis was closely monitored and was the only prisoner not allowed to work or spend weekends outside of his penal colony, he was allowed to publish articles and release statements.

Civil Judicial Procedures and Remedies

Economic and administrative court judges handle civil cases under a court structure that largely mirrors the criminal court structure. The law and constitution provide for the resolution of civil disputes in court. In practice observers viewed civil courts as corrupt and unreliable. Observers noted that litigants experienced 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 privacy violations; however, the government at times infringed on these rights.

The law provides prosecutors with extensive authority to limit citizens' constitutional rights. The KNB, the Ministry of Internal Affairs, Financial Police, and other agencies, with the concurrence of the PGO, may infringe on the secrecy of private communications and financial records as well as on the inviolability of the home. Courts may hear an appeal of a prosecutor's decision but cannot issue an immediate injunction to cease an infringement. In June 2009 parliament amended the criminal procedure code to expand the range of cases in which police could wiretap and record communications without a warrant, allowing it in cases of medium gravity as well as in urgent and grave ones, which was previously the standard.

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

Section 2 Respect for Civil Liberties, Including:**a. Freedom of Speech and Press**

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

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

According to government statistics, approximately 20 percent of the 2,973 media outlets were government-owned. Many privately owned newspapers and television stations received government subsidies. The majority of broadcast media that the government did not own, including the larger outlets, nonetheless were owned by holding companies believed to be controlled by members of the president's family or by loyal associates. Media observers believed that most of the seven nationwide television broadcasters were owned wholly or partly by the government. Regional governments owned several frequencies, and the Ministry of Communications and Information distributed them to independent broadcasters via a tender system.

All media were required to register with the Ministry of Communications and Information, although Web sites were exempt from this requirement. In February 2009 the president signed amendments to the media law that removed requirements for media to reregister if their senior leadership changes and to obtain permission to record interviews. The State Commission on the Distribution of Television and Radio Frequencies did not meet in 2010, which made new licensing impossible. As a result of a 2009 government tender, all radio frequencies in major cities and regions went to one company that the government favored. Similarly, in 2008 the government conducted a tender for new licenses for television frequencies, but media monitors charged that the

government predetermined the results and awarded all new television frequencies to companies that it favored.

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 programs, although the government did not sanction any media outlet under this provision.

Harassment of and violence against journalists remained a problem. During the year press advocacy NGO Adil Soz recorded eight attacks on newspaper offices and journalists, five threats to journalists, and three cases of forced suspension or discontinuance of a publication. Reporters were prevented from performing their professional duties in 24 instances, and journalists were denied or given significantly restricted access to public information 210 times, according to the NGO. Journalists working in opposition media and those covering corruption reported harassment and intimidation by government officials and private actors.

There were no developments in the January 2009 attack by unknown assailants on Yermek Boltay, Web site editor and part-time contributor to Radio Free Europe and Radio Azzatyk. Several men reportedly approached Boltay on the street and asked him for money; when he refused, they assaulted him. The police treated the case as a "hooligan attack."

On July 6, jailed and ailing Ramazan Yesergepov, owner and editor in chief of the Alma-Ata Info newspaper, went on a hunger strike to protest his imprisonment. In an August 2009 closed hearing, a Taraz city court found Yesergepov guilty of divulging classified documents and sentenced him to three years in prison. The charge stemmed from a 2008 article in Alma-Ata Info on government corruption that contained ostensibly secret KNB documents. In August 2009 in a separate hearing, the Supreme Court ruled against Alma-Ata Info and upheld a lower court's ruling that suspended the newspaper for three months for publishing classified documents. In October 2009 the Zhambyl regional court denied Yesergepov's appeal and upheld the original conviction.

On December 15, AKI Press news agency reported that the PGO provided Kyrgyzstani authorities with suspects in the case of Kyrgyzstani opposition journalist Gennadi Pavlyuk, who died in Almaty in December 2009 from injuries sustained after unknown assailants allegedly bound his hands and feet and pushed him from a sixth-floor window. On December 1, a court in Almaty issued an arrest warrant for one of the suspects, Aldayar Ismankulov, on charges of kidnapping and extortion. According to media reports, Pavlyuk intended to establish an opposition newspaper and Internet portal in Kyrgyzstan. In December 2009 the Ministry of Internal Affairs claimed it had identified several suspects in the case, all of whom were Kyrgyz nationals. The Ministry of Internal Affairs did not provide further details on the suspects or their possible motives.

Incidents of local government pressure on the media continued. On October 7, Adil Soz reported that the Ust-Kamenogorsk deputy akim advised Internet portal Stan.TV correspondent Alla Stepanova to refrain from covering a protest rally and threatened her with criminal charges. Following her publication of these allegations, the deputy threatened to sue Stepanova for defamation.

There were no reports of forced closures under the restrictive media law enacted in 2006. The amendment to the media law included tightened government control, requiring media owners to reregister upon any change in editor, address, or frequency of publishing; a prohibition on persons convicted of libel to hold a managing editor position at another media outlet; a prohibition on registering an outlet under a name similar to one that had been closed by court action; and imposition of fines against broadcasters for failing to offer the required 50/50 mix of Kazakh- and Russian-language programming time.

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 unless it came from an official source. The government used this provision to limit media freedom. The law

prohibits publication of any statement that promotes or glorifies "extremism," a term that international legal experts said the government had not clearly defined.

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

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

Private parties could initiate criminal libel suits without independent action by 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 increasingly 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 liability for libel. The requirement that owners, editors, distributors, publishing houses, and journalists prove the veracity of published information, regardless of its source, promoted self-censorship at each level. In 2009 Respublika ceased its printing operations because it could not pay exorbitant libel claims.

NGOs and monitors reported that libel cases against journalists and media outlets remained a problem. During the year, according to Adil Soz, seven local journalists were prosecuted for libel. A total of 54 civil lawsuits, including 24 from state officials and 21 from private citizens, were brought against media outlets and claimed moral damages amounting to 7.5 million tenge (\$5.14 million). During the year five journalists were serving prison sentences.

Internet Freedom

Observers reported that the government monitored e-mail and Internet activity, blocked or slowed access to opposition Web sites, and planted progovernment propaganda in Internet chat rooms. The state regulated the country's three Internet service providers, including the state-owned Kaztelecom. Nevertheless, Web sites expressed a wide variety of views, including viewpoints critical of the government. According to an independent marketing firm, there were 4.3 million regular (primarily urban) Internet users in the country (26.5 percent of the population).

During the year Adil Soz reported that no media outlets or Web sites were shut down for inciting ethnic violence following a 2009 law that made it easier for the government to shut down media outlets, including Web sites, for violations during electoral periods or for inciting interethnic violence. The law reclassified all Web sites, including chat rooms and blogs, as "media outlets," making them subject to the media law. It broadened the definition of "disseminated media products" to include information posted on the Internet.

The government did not attempt to collect, request, obtain or disclose personally identifiable information of a person in connection with that person's peaceful expression of political, religious, or ideological opinion or belief.

The Ministry of Communications and Information controlled the registration of .kz Internet domains. Authorities may suspend or revoke registration for failure to locate servers in the country. Observers criticized the registration process as unduly restrictive and vulnerable to abuse.

Adil Soz reported 12 cases of government blocking or restricting access to Web sites and the government's continuing intermittent blocking of the Web site LiveJournal throughout the year, although the site remained accessible through other servers. Bloggers reported anecdotally that their sites were periodically blocked.

The opposition-oriented Web site zona.kz reported coordinated cyber attacks against it in February and April, and a 10-day attack in May.

Throughout the year the Committee to Protect Journalists reported the Web site of opposition newspaper Respublika remained inaccessible by Kaztelecom users, the government-owned Internet service provider. Users were able to access the newspaper online by use of alternative Web addresses. On February 2, an Almaty court prohibited the distribution of Respublika's printed newspaper due to the publication's inability to pay 60 million tenge (approximately \$400,000) after it lost a 2009 lawsuit filed by BTA Bank.

Academic Freedom and Cultural Events

The government generally did not restrict academic freedom, although academics, as with other citizens, were prohibited from infringing on the dignity and honor of the president and his family.

In August the administration of the Eurasian National University of Astana denied the appointment of Aleksander Ukhman as a permanent lecturer, reportedly because the Ministry of Internal Affairs did not want the job given to a Communist Party member. According to Ukhman, during a conflict with the local police in Karaganda city on July 10, a police officer, Major Kiril Korniyenko, threatened to jeopardize Ukhman's employment prospects at the university.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

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

Under the laws governing public assembly, organizations must apply to local authorities for a permit to hold a demonstration or public meeting at least 10 days in advance. Opposition and human rights monitors complained that complicated and vague procedures and the 10-day notification period made it difficult for groups to organize public meetings and demonstrations, and noted that local authorities turned down most applications for demonstrations. Authorities often detained briefly and fined organizers of unsanctioned gatherings, including political party gatherings. Authorities designated locations for sanctioned protests in less populous city outskirts.

The National Human Rights Action Plan 2009-12 noted that the country's legal norms on public gatherings at times contradicted international standards.

On March 16, a court fined Bakhytzhan Toregozhina, chairperson of the Ar.Rukh.Khak public fund, 56,520 tenge (\$382) for holding a "flash mob" (a spontaneous demonstration organized using mobile technology) on March 11 in a public garden in Almaty. The representatives of the prosecutor's office who observed the event failed to warn her that the action was illegal.

On March 26, a court sentenced the chairman of the unregistered Alga political party to 10 days in prison for distributing booklets with biographical information about the former head of the KazAtomProm Company, Mukhtar Dzhakishev. The courts considered booklet distribution an unsanctioned demonstration.

On May 5, an Almaty court sentenced the leader of the Alga party, Vladimir Kozlov, to a 15-day sentence for organizing an unsanctioned rally. The Alga and Communist Parties organized the rally on May 1, with more than 500 activists in the yard of the Alga office in Almaty. Following the rally police blocked the yard entrance to prevent activists from marching en masse and detained a number of activists, including journalist Zhanna Baytelova and the leader of the Arman movement, Yermek Narymbayev.

On June 21, journalist Yekaterina Belyayeva approached the Monument of Independence in Almaty alone and unfolded a poster to protest of the Leader of the Nation Law. Police seized the poster, tore it apart, and detained Belyayeva for five hours.

On July 10, local police dispersed a gathering of residents in Karaganda. The district akim, who had promised to meet residents to discuss water supply problems, did not show up. The residents picketed his office, but local police reportedly provoked a scuffle, dispersed the gathering, and detained three activists, Andrey Tsukonov, A. Bomdarenko, and Aleksander Ukhman. Police reportedly beat Ukhman during questioning at the police station. On July 12, the Administrative Court of Karaganda City sentenced Tsukanov and Ukhman to a one-day jail term for disobedience to the police.

Freedom of Association

The law provides for limited freedom of association. There were significant restrictions on this right in practice. Any public organization set up by citizens, including religious groups, must be registered with the Ministry of Justice as well as with ministry branches in every region in which the organization conducts activities. The law requires public or religious associations to define their specific activities, and associations that act outside the scope of their charter may be warned, fined, suspended, or ultimately prohibited. 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 in order to register at the local level and must have branches in more than half of the regions for national registration. The government considered political parties and labor unions to be membership organizations but had additional specific registration requirements for them. The law requires 40,000 signatures for registration. If authorities challenge the applications alleging irregular signatures, the registration process can continue as long as the total number of eligible signatures remains above the minimum. The law prohibits parties established on an ethnic, gender, or religious basis. The law prohibits members of the armed forces, employees of national security and law enforcement organizations, and judges from participating in trade unions or political parties.

On June 28, Vladimir Kozlov, leader of the unregistered political party Alga, and his lawyer Sergey Utkin, received an Almaty Tax Committee letter stating that they owed an additional six million tenge (\$41,000). In calculating the tax, the tax committee included party branch office buildings in every region of the country as Kozlov's property. Kozlov stated that Alga party members could not legally conduct political party-related business during the year because the party had not been registered. The group continued its activities through public associations registered at a regional level. On October 28, the government began an investigation of Kozlov for a possible tax evasion charge, claiming he owed over three million tenge (\$20,000).

In July the Ministry of Justice refused to reregister the Azat National Social Democratic Party (ANS DP) due to discrepancies between the Russian and Kazakh versions of the party charter.

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

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

c. Freedom of Religion

For a complete description of religious freedom, please see the Department of State's [2010 International Religious Freedom Report](#).

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

The law provides for freedom of movement, but there were some regulatory restrictions. The government generally respected the right in practice, and citizens were able to move within the country with relative ease. The government cooperated with the UNHCR and other organizations to provide some protection and assistance to refugees, asylum seekers, and other persons of concern.

The government required citizens and foreigners who remained in the country for more than five days to register with 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 occasionally requested bribes before completing registration. Migration police routinely checked the registration of foreigners, including labor migrants, and reportedly requested bribes. Some foreigners experienced problems travelling to regions outside their registration area.

During the first nine months of the year, the Ministry of Internal Affairs deported 11,677 foreigners for alleged gross violations of the visitor rules; the majority of the foreigners were citizens of countries in the Commonwealth of Independent States (CIS). The government required persons who were suspects in criminal investigations to sign statements that they would not leave their place of residence and detained individuals routinely for identity checks without suspicion of a criminal offense.

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

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

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

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

Protection of Refugees

The government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government did not forcibly return any refugees during the year.

In April, the country temporarily closed its border with Kyrgyzstan following the unrest leading to the ouster of former Kyrgyz president Bakiyev.

In January a new law on refugees came into force that outlines refugee status determination (RSD) procedures and access to state services, including the right to be registered and issued documents. With UNHCR encouragement, the Committee on Migration under the Ministry of Labor and Social Protection assumed responsibility for

RSD procedures formerly performed by the UNHCR for CIS citizens and Chinese Uighurs. Former UNHCR mandate refugees had to reapply for refugee status through the government beginning in April; if granted, applicants must reapply every year to maintain their refugee status. Observers stated that council representatives suffered from lack of expertise, which the UNHCR attributed to rushed implementation of the law. While the law stipulates that refugees have the right to education and social services, administrative regulations and prohibitive costs for services often precluded this right in practice. In January authorities formed an interministerial working group with the UNHCR to address these problems.

In June the media reported that the Ministry of Internal Affairs and local Almaty law enforcement detained 30 Uzbek and one Uighur asylum seekers for security reasons. The UNHCR maintained regular access to all detainees and did not report abuse.

During the year the KNB launched a probe into a September 2009 incident in which armed and masked men, later identified as Almaty KNB officers, detained three Uzbek and Chinese Uighur national refugees and two asylum seekers, and held them for three hours. Some reported the KNB officers threatened them with deportation or put plastic bags on their heads. In response to the UNHCR's inquiry, the KNB said it was running checks on the detainees. The detainees reported that the KNB officers accused them of killing a police officer in Uzbekistan. The UNHCR had sent a formal protest letter to the government. The KNB did not release results of the probe by year's end.

The government generally registered asylum seekers and determined their status in consultation with the UNHCR. In some cases the government allowed asylum seekers and refugees to stay in the country while the UNHCR found third countries that would accept them. Although the government registered refugees already present in the country, it did not accept any refugees for resettlement and naturalization. The government also provided temporary protection to individuals, including some Afghans who would not qualify as refugees.

During the year the UNHCR reported generally excellent cooperation from the government in assisting refugees and asylum seekers. The government usually allowed the UNHCR access to detained foreigners to ensure proper treatment and fair determination of 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.

The Committee on Migration in the Ministry of Labor and Social Protection continued to work with the UNHCR and a local NGO, Kazakhstan Refugee Legal Support, to review refugee claims. Consistent with the Minsk Convention on Migration within the CIS, the government did not recognize Chechens as refugees. Chechens were eligible for temporary legal resident status for up to 180 days, as are any other CIS citizens. This temporary registration was renewable, but local migration officials have discretion over the renewal process. In some cases they solicited bribes, exploiting the vulnerability of Chechens due to their inability to return safely to Chechnya. The government has 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 about the effect of this agreement on Uighurs from China living in the country, especially following the transfer of RSD for Uighurs from the UNHCR to the government.

Stateless Persons

According to government statistics, 7,585 documented stateless persons resided in the country. The UNHCR estimated that the number of stateless persons was 60-100,000. This group largely constituted holders of Soviet passports who failed to renew their documents since independence, ethnic Kazakh repatriates, and labor migrants. There was no reliable source of data on stateless persons. Although provided with the same rights as individuals with resident permits, stateless persons reported difficulty finding legal employment and limited access to education and health care.

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 older than 18 years of age; in practice, the government severely limited the right of citizens to change their government.

On December 23, a group of government supporters initiated, in accordance with Kazakhstani law, a petition process to replace two scheduled presidential elections with a 2011 referendum to extend President Nazarbayev's term until 2020. By the end of the year, the referendum movement collected approximately 2.5 million signatures – well more than the required 200,000 – although there were credible reports many were obtained by coercion. Although parliament expedited constitutional amendments to allow the referendum to take place, the referendum bid ultimately failed and was replaced by an early presidential election.

Although the 2007 constitutional amendments increased legislative authority in some spheres, the constitution continues to concentrate power in the presidency. The president appoints and dismisses most high-level government officials, including the prime minister, the cabinet, the prosecutor general, the KNB chief, Supreme Court and lower-level judges, regional governors, and the chairman and two members of the Central Election Commission (CEC), which oversees presidential and parliamentary elections. The Mazhilis (lower house of parliament) must confirm the president's choice of prime minister, and the senate must confirm the president's choice of prosecutor general, chief of the KNB, Supreme Court judges, and head of the national bank. The parliament has never failed to confirm a presidential nomination. Modifying or amending the constitution effectively requires the president's consent. The 2007 constitutional amendments exempted President Nazarbayev from the two-term presidential term limit, and an amendment passed during the year gave him protection from prosecution.

On June 15, two leader-of-the-nation laws came into force. The measures established President Nazarbayev as chair of the Kazakhstan People's Assembly, granted him lifetime membership on the Constitutional and Security Councils, allowed him "to address the people of Kazakhstan at any time," and stipulated that all "initiatives on the country's development" must be coordinated through him. Despite a public rejection of the law by Nazarbayev, the presidential administration failed to return the law to parliament, which brought it into force after 30 days.

The government took no further steps toward meeting the democratic reform commitments it made at the 2007 OSCE Ministerial. In February 2009 the president signed into law amendments on political parties, parliamentary elections, and the media. Some civil society representatives and opposition party members criticized the legislation for not going far enough with reforms and claimed that the legislative process lacked transparency.

Elections and Political Participation

In the 2007 elections for the Mazhilis, President Nazarbayev's Nur Otan party, the country's dominant political force, received 88 percent of the vote, winning every seat in the chamber. No other party received the necessary seven percent of the vote to obtain Mazhilis seats.

An OSCE election assessment noted several areas of improvement in the conduct of previous national elections, including increased transparency on the part of the CEC. Nevertheless, the assessment criticized a number of legal provisions related to the election, including excessive requirements for registration of political parties; limitations on the right to seek public office, such as 10-year residency and party membership requirements; and a provision allowing the Assembly of People of Kazakhstan – an unelected body whose members President Nazarbayev appointed – to choose nine of the 107 members of the Mazhilis. Opposition leaders filed 400 court cases alleging violations. The courts dismissed or denied the majority of the cases.

The government permitted all registered parties that sought to compete in the 2007 elections to do so, although the system introduced by 2007 constitutional amendments makes no provision for independent candidates in parliamentary elections. 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 authorities pressured persons entering government service to join the Nur Otan party.

At year's end there were 10 registered political parties, including the opposition parties Ak Zhol, Azat, the National Social Democratic Party, and the Communist Party of Kazakhstan.

In order to register, a political party must hold a founding congress with minimum attendance of 1,000 delegates from two-thirds of the oblasts and the cities of Astana and Almaty. Parties must obtain at least 700 signatures from each oblast and the cities of Astana and Almaty, registration from the CEC, and registration from each oblast-level election commission.

The February 2009 amendments to the law on elections require that the party with the second-highest vote count automatically receives seats in the Mazhilis, even if it fails to reach the 7 percent threshold.

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

In May 2009 the Almaty District Court found Azat chairman Bulat Abilov, Shanyrak movement's Asylbek Kazhakhmetov, and oppositionist Tolen Tokhtasynov guilty of concealing the whereabouts of a suspect in a murder investigation. The court did not impose a sentence on the three oppositionists, because the statute of limitations on the case had run out. The three appealed the charges, claiming the allegations were politically motivated. In July 2009 the Almaty City Appellate Court denied the appeal. There were no further updates on this case.

There were two women in the 47-seat senate and 19 women in the 107-member Mazhilis. There were three women in the cabinet. Traditional attitudes sometimes hindered women from holding high office or playing active roles in political life, although there were no legal restrictions on the participation of women and minorities in politics. There were nine non-Kazakhs in the senate and 27 in the Mazhilis. There were two non-Kazakh cabinet members. Under the 2007 constitutional amendments, the president gained the ability to appoint 15 members of the senate, with the requirement that the appointments facilitate representation of different ethnic and cultural groups.

Section 4 Official Corruption and Government Transparency

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

On February 24, the Akmola garrison military court sentenced the former deputy defense minister, Lieutenant-General Kazhimurat Mayermanov, to 11 years in prison for corruption and abuse of office. On April 29, Murat Zhumanbay claimed the Financial Police initiated 87 criminal cases under the state program "100 schools, 100 hospitals," which was designed to build schools and hospitals in disadvantaged communities. On May 7, the Special Interdistrict Court of Astana sentenced the former vice minister for emergency situations, Ablay Sabdalın, to 10 years in prison for bribery and abuse of power. On September 17, the head of the Financial Police, Kayrat Kozhamzharov, announced that the government had convicted 473 individuals for corruption offenses, including one minister and five to six vice ministers and akims (mayors) since the beginning of the year. In a press release, the Customs Committee announced that the government had filed 81 criminal cases against officials and 66 corruption offenses were uncovered during the year.

On October 12, the Financial Police initiated two criminal investigations against former health minister Zhaksylyk Doskaliyev for abuse of power and accepting a bribe. At year's end Doskaliyev remained in detention as the investigation was ongoing.

In March 2009 a court sentenced former aide to the president Serik Burkitbayev to six years in prison for committing economic crimes. In May 2009 the KNB arrested the chairman of the state uranium company, Mukhtar Dzhakishev, on charges of abuse of office. A court convicted him in March and sentenced him to 14 years in prison.

Lower- and middle-ranking officials and minor political figures were penalized on corruption charges. The government reported that during the first 11 months of the year, 1,852 corruption crimes were disclosed, and 662 government officials were convicted. In July the Customs Committee announced that 190 criminal cases had been opened against corrupt customs officials since the beginning of the year. On July 19, Supreme Court Chairman Musabek Alimbekov told the media that 24 judges had been fired for incompetence since the beginning of the year. Two judges were convicted for corruption. Authorities dismissed 61 law enforcement officers for corruption during the year.

In September 2009 President Nazarbayev publicly ordered that all new legislation undergo an "anticorruption examination" to eliminate loopholes that could lead to bribery or embezzlement.

The law mandates that the government, public associations, officials, and media outlets provide citizens with information that affects their rights and interests; in practice citizens' requests for information were not fulfilled in a timely manner. In an NGO Poll, 70.7 percent of respondents stated they could not get information from state agencies and cited red tape, poor content on official Web sites, and long lines in state agencies. Government and public employees, including parliamentarians and their spouses, are subject to financial disclosure requirements.

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 could observe some parliamentary sessions via video link from a separate room. Transcripts of parliamentary sessions were not available to the public. During the year parliament closed public and media access to discussion of controversial legislation.

Section 5 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, some government restrictions on domestic and international human rights NGO activities remained. International human rights groups reported that the government continued to monitor the activities of NGOs that worked on sensitive issues and noted government harassment, including police visits and surveillance, of NGO offices and personnel.

The Almaty Helsinki Commission, the Republican Network of Independent Monitors, the Charter for Human Rights, PRI, and Adil Soz were among the most active local human rights NGOs and occasionally faced difficulties in registering and acquiring office space and technical facilities. They also reported the government audited their records and imposed various legal constraints. Roza Akyzbekova, acting director for the Kazakhstan International Bureau of Human Rights (KIBHR), stated that KIBHR activists faced no government interference in their work during the year and that KIBHR participation in government meetings, workshops, and discussions on human rights issues increased.

On September 27, Ayman Kurmanov, the head of the Talmas public association, stated that the investigation into the September 2009 assault against him was still pending. Although he was not aware of any actions taken by the police, he was questioned by police early in the year. In September 2009 unidentified persons assaulted Kurmanov near his home. Kurmanov and Azat party representatives claimed that the attack directly related to his work with trade unions and alleged that the authorities were involved with the attack.

In general the government did not prevent international NGOs and multilateral institutions dealing with human rights from visiting the country and meeting with local human rights groups and government officials. The government cooperated with the

OSCE and its field mission. The UN, the International Organization for Migration, and the Red Crescent Society also operated freely in the country.

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

The Presidential Commission on Human Rights is a consultative and advisory body that includes members from the public appointed by the president. The commission reviews and investigates complaints, issues recommendations, monitors fulfillment of international human rights conventions, and publishes annual human rights reports. The commission does not have legal authority to remedy human rights violations or implement its recommendations.

The presidentially appointed human rights ombudsman investigated complaints by citizens of violations of their rights by state agencies, although the ombudsman was not authorized to investigate complaints concerning the president, heads of government agencies, the parliament, the cabinet, the Constitutional Council, the PGO, the CEC, or the courts. The Ombudsman's Office has 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 visit certain facilities such as military units and prisons, and to publicize the results of investigations in the media. The Ombudsman's Office also published an annual human rights report. During the year the Ombudsman's Office occasionally briefed the media and issued reports discussing complaints it had investigated. According to the 2009 ombudsman's report submitted on March 29, the office received 1,348 complaints in 2009, 273 more than in 2008. Of the total complaints, 20 percent were directed against law enforcement agencies and 17.3 percent concerned court rulings. However, the Ombudsman's Office rejected complaints about court rulings because the office has no jurisdiction over the judicial system.

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

Section 6 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 effectively enforce the law. Violence against women, trafficking in persons, and discrimination against non-Kazakhs in government, persons with disabilities, and those involved with homosexual activity were problems.

Women

The law criminalizes rape. The punishment for rape, including spousal rape, ranges from three to 15 years' imprisonment. Among 1,234 officially reported rape cases, authorities charged 540 with criminal rape and convicted 372. Under the law a prosecutor 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 was intended to protect victims from coercion. There were anecdotal reports of police and judicial reluctance to act on rape and spousal rape cases.

Violence against women, including domestic violence, was a problem. In December 2009 President Nazarbayev signed a new law on domestic violence. The law defines for the first time "domestic violence" and "victim;" identifies various types of violence, such as physical, psychological, sexual, and economic; and outlines the responsibilities of the

local and national governments and NGOs in providing support to domestic violence victims. The law also outlines mechanisms for issuance of restraining orders and provides for the 24-hour administrative detention of abusers. The criminal procedure code sets the maximum sentence for spousal assault and battery at 10 years in prison, which is the same as for any beating.

NGOs allege that the domestic violence law does not have an effective mechanism for implementation. According to NGOs, domestic violence remained a serious problem. Although official statistics were scarce, activists assessed that one in four families experienced domestic violence. Among 16,197 official domestic violence reports, authorities initiated 1,311 criminal investigations. NGOs reported that 40 percent of such crimes went unreported. In a May 5, interview to *Kazakhstanskaya Pravda*, Zhakyp Asanov, a Mazhilis member and former vice minister of justice, reported that police annually registered over 10,000 domestic violence incidents, some of which resulted in deaths. According to Asanov, 715 women and 129 children died in 2008 as a result of domestic violence. The Union of Crisis Centers claimed that about 500 women died annually as a result of domestic conflicts.

Police intervened in family disputes only when they believed the abuse was life-threatening. According to NGO estimates, police investigated approximately 10 percent of such cases. NGOs conducted training for police officers on how to handle victims of domestic violence.

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

According to the government there were 25 crisis centers in the country providing assistance to women and two centers providing assistance to men. All the crisis centers received funding through government and international grants to NGOs. A number of smaller NGOs provided assistance to victims, and six of the crisis centers also provided shelter for victims of violence.

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

According to the Population Reference Bureau (PRB), the birth rate in the country was 23 births annually per 1,000 members of the population, and the infant mortality rate was 26 infant deaths per 1,000 live births, compared with 32 in 2009.

Couples and individuals have the right to decide the number, spacing, and timing of their children, and have the means to do so free from discrimination, coercion, or violence. Modern contraceptive methods were widely available. Less than 1 percent of women between the ages 15 and 24 and less than 1 percent of the adult population between the ages of 15 and 49 years had contracted or were living with HIV/AIDS between the years 2007 and 2009. Women and men received equal treatment for sexually transmitted infections, including HIV. Skilled personnel attended 100 percent of births, and 100 percent of women received at least one postnatal care visit, according to the PRB. According to the United Nations Population Fund, the maternal mortality ratio was 36.9 deaths per 100,000 live births in 2009.

The constitution and law provide for equal rights and freedoms for men and women. In December 2009 the president signed a new gender equality law that defines the terms "gender," "gender equality," "sexual discrimination," and "equal opportunity" and prohibits discrimination based on gender. The financial and economic crisis affected women more than men, with more women than men losing their jobs. According to observers, women in rural areas faced greater discrimination than women in urban areas and suffered from

a greater incidence of domestic violence, limited education and employment opportunities, limited access to information, and discrimination in their land and property rights.

Children

Citizenship is derived both by birth within the country's territory and from one's parents. The government has a duty to register all births immediately.

Children's rights are governed by the Law on the Rights of the Child, the Marriage, and Family, the Law on Prevention of Juvenile Delinquency, the Law on Social and Medical Support to Children with Disabilities, and related UN conventions to which the country is a party. In 2006 the government established a Committee on the Protection of Children's Rights within the Ministry of Education and Science.

Education is mandatory through 16 years of age or secondary school; elementary schooling generally begins at age six. Primary and secondary education is free and universal. The law provides equal access to education for boys and girls. 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 enroll them for fear of discovery and deportation. According to the Ministry of Education, more than 10,000 children were identified as "street children" during the year. According to media reporting, homeless children found by police were placed in centers for temporary detention, where they received medical and psychological assistance before they were released or sent to orphanages. On August 17, President Nazarbayev issued a decree on Law Enforcement Reform, which includes the transfer of temporary detention centers for delinquent and street children from the police to the Ministry of Education.

There were reports of child abuse, although there was no societal pattern. NGOs estimated that more than half of all children younger than 14 experienced at least one incident of physical or psychological abuse by adults. Abuse was more common in rural areas. During the year the Ministry of Internal Affairs permanently terminated custody rights of 1,054 abusive parents. Minors who are 16 or older have the right to file petitions related to their interests directly with a court.

NGOs reported a high number of incidents of violence against children in orphanages, boarding schools, and detention facilities for delinquent children, and there were increased media reports on abuses in orphanages and other institutions. According to media reports, incidents of illegal placement of children in special correction facilities (prisons for underage criminals) and in facilities for the mentally ill occurred.

On March 23, a group of orphans in Pavlodar filed a complaint against the institution's director, Bibigul Karimova, accusing her of abuse. A preliminary investigation confirmed their claims, and Pavlodar police initiated a criminal investigation against Karimova for failure to perform duties to raise an underage child. The investigation was ongoing at year's end.

In June 2009 the courts convicted D. Seytkhanov, a teacher at the Zyrjanovsk boarding school for children with mental disabilities, for "inappropriate performance of duties in the education of underage persons related to abusive treatment." The court sentenced Seytkhanov to one year of restricted freedom of movement and a two-year prohibition from teaching.

The minimum age for consensual sex is not specified in any article of the criminal code, but an article provides for 5 to 10 years in prison as punishment for individuals who force underage (less than 18) boys or girls to have sexual intercourse.

During the year the country introduced a criminal statute on the production and distribution of child pornography, and expanded administrative penalties to cover the sale of pornographic materials to minors. The country retains administrative penalties for child pornography.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction,

please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

Approximately 30,000 to 40,000 Jews lived in the country. There were no reports of anti-Semitic acts apart from the distribution of anti-Semitic literature by Hizb ut-Tahrir. Leaders of the Jewish community reported no cases of anti-Semitism by the government or in society.

Trafficking in Persons

For information on trafficking in persons please see the Department of State's annual [Trafficking in Persons Report](#).

Persons with Disabilities

According to the Ministry of Labor and Social Protection, there were 455,600 disabled persons (3 percent of the total population) in the country, although analysts argued that the real number was higher. The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services or other areas.

The Law on Social Support to Disabled People protects access to information for persons with disabilities. The government produced periodicals, scientific journals, reference literature, and fictional works that were either recorded on disk or in Braille. The law requires one national television channel to broadcast news programs with sign-language translation. NGOs believed that implementation of the laws on disability was lacking, and the Nur Otan Party's Institute of Parliamentary Development assessed that access for disabled persons to information and communications was insufficient.

The law requires companies to set aside 3 percent of their jobs for persons with disabilities. International and local observers noted some improvement regarding the rights of persons with disabilities. Nevertheless, there were reports that persons with disabilities faced difficulty integrating into society and finding employment. The law mandates access to buildings for persons with disabilities. Vice Minister of Labor and Social Protection Assel Nusupova identified the two biggest problems facing persons with disabilities as poor infrastructure and lack of access to education. Persons with disabilities had difficulty accessing public transportation. The government did not make a concerted effort to address these problems.

Citizens with mental disabilities could be committed to state-run institutions without their consent or judicial review. In practice the government committed persons at a young age with permission of their families. Institutions were poorly managed and inadequately funded.

There are no regulations regarding the rights of patients in mental hospitals; human rights observers believed this led to mass abuse of patients' rights. NGOs reported that patients often were drugged and isolated for minor infractions, and experienced poor conditions and a complete lack of privacy. NGOs reported orphanages for children with physical and mental disabilities were overcrowded and unsanitary, with insufficient staff to care adequately for children's needs. The KIBHR observed that the government provided almost no care for persons with mental disabilities.

The government did not restrict the right of persons with disabilities to vote and arranged home voting for individuals who could not travel to polling places as a result of their disability.

The Ministry of Labor and Social Protection was the primary government agency responsible for protecting the rights of persons with disabilities; the Ministries of Health and Education also assisted in their protection. In 2009 the human rights ombudsman received five complaints from patients of mental hospitals who disagreed with their placement in these institutions or with treatment they received; the ombudsman did not report any further developments in the cases.

National/Racial/Ethnic Minorities

The government continued to discriminate in favor of ethnic Kazakhs in senior government employment. Minorities experienced ethnic prejudice and hostility; encountered incidents of insult, humiliation, or other offenses; and were discriminated against in employment or job retention.

Ethnic Kazakh migrants (oralmans) who returned to the country from abroad experienced domestic discrimination, including problems with housing, employment, and access to social services.

Kazakh is the official state language, although organizations and bodies of local self-administration officially may use Russian on an equal basis with Kazakh. The language law was intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages. By law the ability to speak Kazakh is not required for entry into the civil service, but most government agencies officially have switched to conducting business in Kazakh, which elicited protests from non-Kazakh speakers against language discrimination. The Election Law requires presidential candidates to be fluent in Kazakh.

Among other forms of discrimination, critics mentioned a scarcity of representatives of non-Kazakh ethnicities in the government, the fact that only two of the 20 cabinet members were non-Kazakhs, and a reduction in the number of Russian-language schools.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Although there were no official statistics on discrimination or violence based on sexual orientation, there were reports of such discrimination. Representatives of international organizations reported that negative social attitudes towards marginalized groups, including lesbian, gay, bisexual, and transgender (LGBT) persons, impeded these groups' willingness to come forward and consequently hindered their access to HIV/AIDS programs.

LGBT individuals, particularly gay men, were among the most oppressed groups, although the country does not outlaw homosexual conduct. According to a 2009 Soros Foundation study, 64.1 percent of LGBT respondents said they did not face open discrimination in the work place, although LGBT individuals often concealed their sexual orientation to avoid such discrimination. LGBT individuals whose sexual orientation was known publicly risked physical and verbal abuse, possible loss of work, and unwanted attention from police and authorities. Several LGBT organizations operating in the country reported that government-run HIV clinics occasionally breached confidentiality and reported patients' sexual orientation to their families and employers. Attempts to report violence against gay, lesbian and transgender persons to law enforcement officers occasionally were met with resistance and hostility.

Other Societal Violence or Discrimination

The law prohibits discrimination against persons with HIV and AIDS. Observers reported that cultural stigmas against drug users and other at-risk groups continued to affect general access to information, services, treatment, and care.

Section 7 Worker Rights**a. The Right of Association**

The law provides for the right to organize and form unions. On March 1, officials reported that 47,362 collective agreements were signed as a result of a prounion collective bargaining campaign initiated following a widely publicized 2008 mining accident in Satpayev. The campaign, designed to empower workers, increased the number of agreements by 2.4 percent since 2008. Independent union organizers described this campaign as a significant change in policy. During the year the government began to encourage the signing of memorandums of understanding (MoUs) in lieu of unionization. By May the Federation of Trade Unions' chairman claimed that more than 8,000 large and

medium-size businesses employing approximately one million persons had signed MoUs to guarantee jobs and labor rights. Nevertheless, organizers reported that the government continued to restrict the right to organize, and most workers were not able to join or form trade unions of their choice.

The government exercised considerable influence on organized labor and favored state-affiliated unions over independent unions. At least one-third of the workforce was unionized. The largest trade union association, the Federation of Trade Unions, successor to formerly state-sponsored Soviet-era labor organizations, remained affiliated with the government. The federation united 25 national unions and 13 regional industrial unions. The industrial unions represented workers in a wide range of industries, including oil and gas, construction, textiles, education, and public health. Each union elects its own leader and has a representative on the General Council, which elects the 14-member Executive Committee. The committee runs the federation's day-to-day operations and deals with issues of social and economic protection, labor protection, organization, and international cooperation.

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

The law prohibits the operation of foreign unions and prohibits the financing of unions by foreign legal entities and citizens, foreign states, and international organizations. Foreign workers have the right to join unions.

Workers are protected by law against antiunion discrimination, but in practice there were violations of this right. The violations ranged from threats of being fired, which would lead to the loss of social benefits to physical intimidation and assault.

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, such as railway, civil aviation, military, law enforcement, fire services, health, and other services that provide for major life needs where strikes were permitted only under limited conditions. In general workers may strike only if a labor dispute has not been resolved through existing compulsory arbitration procedures. Striking workers must give 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 for firing employees who had attempted to organize strikes.

The Miners' Family Public Organization, an association of miners' widows that has increasingly taken on traditional trade union functions, experienced several incidents of harassment during the year. On June 7, it cancelled a meeting in its Karaganda office to discuss labor issues with workers following a warning several days earlier from the city prosecutor to the organization's leader, Nataliya Tomilova, not to hold the meeting. On September 12, her landlord evicted Tomilova from her apartment, reportedly after local authorities pressured the landlord, and after authorities cut her water, electricity, and phone service. On October 11, the garage of the organization's deputy director exploded and caught fire, destroying a vehicle used by the organization to visit homes of workplace accident victims and to attend court hearings for victims' families. During October and November, local authorities pressured and threatened the landlord of the building in which the organization's offices were located, eventually convincing him to evict the organization. The group ultimately relocated.

On June 15, 300 workers from a CNPC-Aktobemunaigas joint Kazakhstani-Chinese venture went on strike to demand a salary increase as well as equipment and vehicle improvements. The CNPC filed a lawsuit against the strikers and won the case because the court considered the strike illegal. Company management fired three organizers, Karlybay Tolybayev, Kosain Kulmuratov, and Serik Bitikbayev.

On July 1, police detained a trade union leader, Asylkhan Musin, human rights activist M. Bokayev, and five other activists for an illegal strike in which over 200 workers of Dossrmunaigas and EmbasMunaiGas companies, branches of the national KazMunaiGas company, stopped operations in the Atyrau and Mangistau oil production facilities. The

court sentenced Musin and Bokayev to seven days of administrative arrest, and all others were released with a reprimand. The company later fired Musin. Musin subsequently filed a lawsuit for reinstatement, which was still pending at year's end.

On August 18, a coalition of NGOs and independent trade unions issued a statement to protest escalating pressure on Kazakhstan's independent labor movement. The statement accused the government of contributing to the punishment of labor activists. NGOs expressed concern over the growing number of persons fired for labor union activity and over the persistent media campaign to discredit trade union leaders.

In September the Almaty Electric Car Repair Plant fired Yessenbek Ukteshbayev, who organized a June 30-July 2 plant wide strike to demand increased salaries and nationalization of the enterprise.

As of year's end the government had not released its findings from an investigation into the 2008 attack on Confederation of Free Trade Unions (CFTU) vice president Mukhtar Umbetov. Umbetov, an active participant in many labor disputes, was beaten by two masked assailants after receiving threatening telephone calls.

There were no further developments in the May 2009 public beating of two independent labor union activists by company managers at the oil company UzenMunaiGas in Aktau or the August 2009 shooting and wounding of Zhondeu company labor union leader Yklas Shangereyev by unknown attackers. Representatives of the independent labor union community unanimously believed that the shooting directly resulted from Shangereyev's activism.

b. The Right to Organize and Bargain Collectively

The law protects the rights of unions to conduct their activities without interference, and unions were free to recruit new members, conduct meetings, and bargain collectively with employers. The law permits collective bargaining and collective agreements; unions and associations engaged in collective bargaining in practice. The government continued its efforts to encourage collective bargaining. Officials report 47,362 collective bargaining agreements. Activists stressed that political pressure was driving the rapid conclusion of agreements.

Union demands unacceptable to management may be presented to a tripartite commission composed of government, employer association, and labor union representatives. The government was supposed to be the neutral broker on the commissions, but there were cases in which it favored the interests of labor unions or employers. The tripartite commission is responsible for developing and signing annual agreements governing most aspects of labor relations. Through this mechanism, labor unions raised the minimal wage for several industries, including mining and metallurgy, and forced employers to pay back salaries in a number of industrial areas during the year.

The labor law provides for an individual contract between an employer and each employee that sets the employee's wage and outlines the rights and responsibilities of the employee and the employer. Employers occasionally used individual contracts to weaken collective bargaining power.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, except at the sentence of the court or in conditions of a state of emergency or martial law; however, there were reports that such practices occurred. There were reports that some employers abused migrant workers by confiscating their passports or using debt bondage, violence, or threats of violence to compel them to work. The majority of migrant workers came from Kyrgyzstan, Tajikistan, and Uzbekistan and were primarily employed in agriculture and construction. The Ministry of Labor and Social Protection was responsible for dealing with issues of migrant workers.

For further information, please see the Department of State's annual [Trafficking in Persons Report](#).

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; children who are between 14 to 16 years of age can perform, with parental permission, light work that does not interfere with their health or education. The law also restricts the length of the workday for employees younger than 18. The government conducted labor inspections to enforce the minimum age for employment, but enforcement was uneven.

The government concluded an agreement with national employer associations that committed them to eradicate the use of forced labor and the worst forms of child labor and to develop alternative employment opportunities for children and their families. The Ministry of Education's 2007-11 Children of Kazakhstan program continued to address child labor problems. Nevertheless, NGOs contended that the government's efforts were insufficient to address fully the use of child labor.

The government did not maintain statistics on child labor. NGOs and activists reported that child labor occurred in agriculture, especially during harvest season. Children were involved in growing cotton and tobacco. Past NGO studies have found that more than 70 percent of the children employed in this work were from migrant families, primarily Uzbek and Kyrgyz. Labor conditions frequently presented a physical health risk, and some children suffered from inadequate rest and nutrition. Many child workers lacked proper clothing to protect them from harmful chemicals used in agriculture and harsh weather conditions. In urban areas, the country's increasingly formalized labor market led to a decrease in many forms of child labor. Nevertheless, there were reports of children begging, unloading freight, delivering goods in markets, washing cars, and working at gas stations.

The Ministry of Labor and Social Protection is responsible for enforcement of child labor laws and for administrative offenses punishable by fines. The Ministry of Internal Affairs is responsible for investigating criminal offenses. During the year, the government reported no crimes related to illegal child labor. The government cooperated with trade unions, employers, and NGOs to raise awareness and promote interagency cooperation in eliminating child labor.

For further information, please see the Department of State's annual [Trafficking in Persons Report](#).

e. Acceptable Conditions of Work

The national monthly minimum wage of 14,952 tenge (approximately \$102) did not provide a decent standard of living for a worker and family. 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 law stipulates that 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 limits overtime to two hours in a day or one hour a day for heavy manual labor, and requires overtime to be paid at least a 50-percent premium. Overtime is prohibited for work in hazardous conditions. The law provides that labor agreements may stipulate the length of working time, holidays, and paid annual leave for each worker.

The Ministry of Labor and Social Protection enforced minimum wages, work hours restrictions, and overtime. Ministry inspectors conducted random inspections of employers. Labor advocates reported that some employers regularly violated these laws.

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

There were reports that management ignored regulations concerning occupational health and safety. In the first 11 months of the year, the Ministry of Labor and Social Protection reported 16,883 inspections and 68,283 violations of occupational health and safety standards and rules. In addition to inspections by the ministry, unions conducted inspections of unionized enterprises and reported their findings to authorities for investigation. The law requires employers to suspend work that could endanger the life or health of workers and to warn workers about any harmful or dangerous work conditions or the possibility of any occupational disease. The law specifically grants workers the right to remove themselves from situations that endanger their health or safety without losing their job. In practice some workers, particularly in the construction industry, were not free to exercise this right without jeopardizing their employment.

During the first 11 months of the year, the government reported 1,918 workplace injuries, compared with 1,811 during the first 11 months of 2009. The government reported 319 workplace deaths during the first 11 months of the year, compared with 298 deaths reported in the first 11 months of 2009. According to officials at the Federation of Trade Unions, many of the deaths were due to antiquated equipment, Soviet-era infrastructure, and disregard for safety regulations in the mining and metallurgy sectors.
