

## Kazakhstan

*Capital:* Astana

*Population:* 15.5 million

*GNI/capita:* US\$9,600

### Nations in Transit Ratings and Averaged Scores

	1999-2000	2001	2002	2003	2004	2005	2006	2007	2008
Electoral Process	6.00	6.25	6.25	6.50	6.50	6.50	6.50	6.50	6.75
Civil Society	5.00	5.00	5.50	5.50	5.50	5.50	5.75	5.75	5.50
Independent Media	5.50	6.00	6.00	6.25	6.50	6.50	6.75	6.75	6.75
Governance*	5.00	5.00	5.75	6.25	6.25	n/a	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	6.50	6.75	6.75	6.75
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	6.25	6.25	6.25	6.25
Judicial Framework and Independence	5.50	5.75	6.00	6.25	6.25	6.25	6.25	6.25	6.25
Corruption	6.00	6.25	6.25	6.25	6.50	6.50	6.50	6.50	6.50

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

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

## EXECUTIVE SUMMARY

Having held the top office since 1989 under Soviet rule, President Nursultan Nazarbaev has continued to build a strong and personalized presidential system by extending his patronage over the country's key political institutions, media, judiciary, administration, and business. The adoption of a new Constitution in 1995 conferring unchecked powers on the presidency, further amendments granting special rights to the "First President"—including removal of any term limits—and the emergence of a one-party system under Nur Otan, which bears his name and controls all seats in the Parliament and the regional administration, have consolidated the authoritarian regime of Nazarbaev and dimmed the prospects of democratization under his leadership. A personality cult centered on the president has intensified since Nazarbaev secured a 91 percent vote in the 2005 presidential elections.

Exercising personal patronage to disburse resources, power, and privileges to family, friends, and clients, Nazarbaev has also allowed much economic freedom to the country's budding entrepreneurs and offered rapid career mobility to the growing class of skilled professionals, technocrats, and top bureaucrats. A sustained 8–10 percent growth rate fueled by rising oil exports during 2002–2007 has enabled him to exert top-down political and ethnic control while delivering relative prosperity and stability to the population and mustering considerable electoral and popular support as a result. But since late 2008, an economic slowdown and a growing financial and banking crisis have emphasized the enormous and widening gap in accumulated wealth between the ruling elites and the country's ordinary citizens, an imbalance that is likely to stir popular discontent.

Notwithstanding its impending takeover of the 2010 chairmanship of the Organization for Security and Cooperation in Europe (OSCE), the Kazakhstani government has not taken a single convincing step toward promoting democratic rule, aiding political liberalization, establishing genuine tolerance, or creating conditions for the functioning of an independent media and civil society.

National Democratic Governance. Despite the pledge made to the OSCE in November 2007, the one-party Parliament failed to pass any substantive amendment to reverse or limit the authoritarian system under the patronage of the president. Rather than aiding the development of a legal-institutional framework that allows for political competition and democratic participation, Kazakhstan has relied on employing rhetoric of democratization while removing all legal barriers to establishing a lifelong presidency for Nazarbaev. A narrow circle of kin, clients, and powerful financial groups and a limited stratum of government officials, technocrats, and entrepreneurs have benefited

the most from Kazakhstan's resource wealth and economic growth. *The failure to introduce any amendments that would illustrate its commitment to democratization as a future OSCE chair means that Kazakhstan's rating for national democratic governance stagnates at 6.75.*

Electoral Process. Despite the realization that gaining the chairmanship of the OSCE depended heavily on Kazakhstan holding genuinely competitive, free, and fair elections, the 2007 Mazhilis (lower house) polls resulted in the Nur Otan party, headed by the president, capturing all seats in the Parliament. By requiring all candidates to be elected on a party list alone, and setting a high 7 percent electoral threshold for political parties, the ruling authorities have closed all avenues for independent candidates to contest elections and made it very challenging for a genuinely competitive multiparty system to emerge. The absence of legal channels available for independent candidates or other political parties to partake in the formal political process and institutions of representation not only illegitimizes them, but disadvantages them in any future electoral contest. The amendments at the end of 2008 requiring second-party representation in the Parliament attest to the attempt to create an "authorized" opposition. *Owing to the failure to introduce the promised amendments to legislation on political parties, electoral competition, and the legislative framework that has erected and consolidated a one-party system, Kazakhstan's rating for electoral process remains at 6.75.*

Civil Society. Kazakhstan has used its success in attaining the OSCE chair for 2010 to portray itself as a democratizing state, committed to promoting civil society and the nongovernmental sector. The removal of limits on nongovernmental organizations (NGOs) receiving state funding has facilitated the disbursement of such aid through government-organized NGOs engaged in social and infrastructure development. Parliament passed controversial amendments to the existing Law on Religion that place numerous restrictions on minority religious groups by labeling them "nontraditional" and "sects" and grant further surveillance powers to the Ministries of Justice and the Interior, together with the National Security Service, over activities of religious congregations, the opposition, and independent NGOs engaged in civil rights advocacy. *Owing to the failure to adequately consider criticisms of the OSCE, Human Rights Watch, Freedom House, domestic NGOs, and minority religious groups in passing these amendments, Kazakhstan's rating for civil society remains at 5.50.*

Independent Media. Kazakhstan's media are privately owned but entirely under the control of major financial groups affiliated with the regime, although they are engaged in a keen competition with one another. While the government has initiated minor amendments to the highly restrictive Media

Law, it has not yet offered any significant liberalization to this law or to the criminal code, both of which contain numerous provisions that criminalize criticisms of the president and leading government figures. *Although the Office of the Prosecutor General and Ministries of Justice and the Interior continue to censor, ban, and criminalize criticisms of leading figures, minor amendments to the Media Law and a small reduction in libel cases suggest a marginal improvement in Kazakhstan's independent media rating from 6.75 to 6.50.*

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

**Judicial Framework and Independence.** Under the country's strong executive system based on presidential patronage, the judiciary, like the legislative branch, has remained loyal to the regime and protected the interests of the state and its functionaries rather than those of individuals, minorities, and the weaker strata of society. In 2008, a significant increase in funding allocated to the judiciary led to an improvement in professional training, technical infrastructure, and wage levels to reduce corruption. Furthermore, an OSCE/Office for Democratic Institutions and Human Rights (ODIHR) report in 2008 noted that the new continental model of jury trials adopted in 2007 has positively impacted the administration of justice. Yet despite the important reforms taking place, the level of public trust in the judiciary remains very low. *Improvements in criminal law as attested to by the introduction of jury trials, and increased levels of state funding, along with OSCE/ODIHR and U.S. Agency for International Development programs to improve the judiciary, have demonstrated small but significant steps forward in Kazakhstan's judicial independence. Kazakhstan's judicial framework and independence rating improves, with some caution, from 6.25 to 6.00.*

**Corruption.** Corruption is systemic and entrenched in the rentier behavior guiding the appropriation, control, and distribution of key resources by the ruling elites. All inquiries into official corruption are handled by the prosecutor general and the financial police, appointed by the president, working in conjunction with the Ministries of Justice and the Interior as well as the

National Security Service. Controls over the media and judicial system make it impossible for ordinary citizens or independent NGOs to file corruption charges against high-ranking state officials. *Charges of corruption, misuse of office, or criminal activities are routinely levied against individuals engaging in open criticism of the president or the regime. The top officials entrusted with the task of combating corruption have been widely criticized for misusing their positions. Therefore, Kazakhstan's corruption rating holds at 6.50.*

Outlook for 2009. Kazakhstan's aspirations to emerge as the fifth-largest exporter of oil by 2015 were dwindling as 2008 drew to a close. The government has already allocated US\$10 billion to its failing banks from the US\$27.6 billion in the national fund set up as a stabilization and welfare fund from oil revenues. Kazakhstan's banks will likely face further financial injections with the combined effects of global recession and the mortgage and credit crunch.

With its economic growth down to about 5 percent in 2008, the Nazarbaev regime is confronting a growing economic crisis that threatens to undermine the prevalent stability. Rising discontent among Kazakhstan's middle classes could be exacerbated by the influx of the rural unemployed to urban areas and put into question the regime's ability to deliver stability and well-being to its population.

As Kazakhstan joins the OSCE troika comprising its outgoing, current, and future chair, it has launched the state program Path to Europe, geared to enhance its strategic and technological partnership with Europe and to improve its institutional and legal base by using the positive experiences of the European Union. Having failed to adopt any legislation in 2008 for aiding the development of a multiparty system and amending its highly restrictive legislation on media and political parties, the government has pushed amendments requiring the Parliament to have a minimum of two parties and may order fresh elections in 2009.

## MAIN REPORT

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### National Democratic Governance

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

Kazakhstan's enormous oil and mineral wealth, small population, and well-developed economic infrastructure have turned it into the most prominent and prosperous state in Central Asia, enjoying considerable political and social stability. In the first half of 2008, however, the growth rate dropped to 5.4 percent, and a further slowdown is imminent as Kazakhstan faces the combined effects of global recession and a domestic credit crunch.

In October 2008, the government stepped in by offering US\$6 billion from foreign reserves to bail out its ailing banks, which had accumulated a backlog of at least US\$14 billion in bonds and loans following years of aggressive borrowing in anticipation of growing oil exports and sustained high oil prices. By the end of 2008, US\$10 billion from the national fund, a stabilization fund containing reserves of US\$27.6 billion from oil revenues, had already been allocated to support the banks and stabilize the economy.<sup>1</sup>

Kazakhstan's political system is a hybrid of Soviet-era institutions and practices overlaid with some formal and cosmetic elements of Western democratic systems and models of governance. Prominent among the reconstituted Soviet-era institutions and practices are the consolidation of a one-party system under Nur Otan, a party bearing the name of the president, who is its supreme leader; the mobilization and co-optation of youth through the youth wing Zhas Otan, which resembles the Soviet-era *Komsomol*; the steady removal by the Parliament of all constitutional provisions that limited the president's term in office; and the granting of special status to the "First President." The capture of formal institutions through a steady concentration of power and authority in the president and his close circle of kin, clients, and friends—who may or may not hold vital government posts but have amassed considerable wealth and influence and form a protective shell around him—has conferred enormous power of patronage upon Nazarbaev. Last but not least is the unabashed use of propaganda, including domestic and international PR campaigns to trumpet the achievements of Kazakhstan under Nazarbaev's enlightened leadership and to propose a distinct "Kazakhstani way to development" through Nazarbaev's personal role in steering the country toward "prosperity, peace, and stability."<sup>2</sup> This has culminated in the steady erection of a personality cult in which Nazarbaev's posters, speeches, and writings (including "creative works") are prominently displayed in all public spaces, state offices, and educational establishments. Nazarbaev is also referred to as the author of the Constitution and the national hymn and chief architect, designer, and planner of the capital, Astana.

The award to Kazakhstan of the 2010 chairmanship of the Organization for Security and Cooperation in Europe (OSCE) was a result of OSCE member states' efforts to avoid a split within the organization and recognition of

Kazakhstan's enormous hydrocarbon potential. The absence of political pluralism and competition in the country's legislative and institutional framework makes it extremely unlikely that Kazakhstan can offer a positive inducement to political liberalization and unleash democratic processes in preparation for assuming the OSCE chair. As 2008 came to a close, the Kazakhstani leadership had failed to undertake any credible measures toward fulfilling any of the pledges to democratic reforms and liberalization of the Laws on Political Parties, Elections, and the Media made by Foreign Minister Marat Tazhin in Madrid in November 2007. Notwithstanding tinkering with the existing laws and constitutional provisions, not a single amendment that demonstrates a genuine commitment to establishing a democratic polity, enshrining respect for human rights, civil liberties, and tolerance, and ensuring the development of civil society has been initiated or approved by the Parliament.

As President Nazarbaev continues to exert a firm control over the country's key resources and use patronage in disbursing power and privileges to his loyal kin and clients, he has not refrained from using sanctions against anyone, including family members, who has dared to challenge his authority or displayed political or economic ambitions that go beyond permissible limits. The latest such act was the abrupt sacking of his son-in-law Rakhmat Aliev as ambassador to Austria in summer 2007 and the ongoing efforts to secure his extradition to Kazakhstan for alleged criminal activities and corrupt practices. Although his daughter Dariga Nazarbaeva promptly divorced Aliev following his arrest, her own political career has virtually ended and her hold over the country's media (she headed the state media agency Khabar for several years) has disintegrated.

All major challengers to Nazarbaev's leadership have been eliminated through the use of a repertoire of coercive and covert practices that include criminal conviction and suspicious deaths. Apart from Aliev, the key opponents who have been eliminated are ex-premier Akezhan Kazhegeldin, who left the country in 1997 and was convicted in trials held in absentia; ex-minister Mukhtar Ablyazov and ex-*akim* Galymzhan Zhakiyanov, who were imprisoned for alleged abuse of office (though both are free now, their financial assets and support base have been dismantled); Altynbek Sarsenbaev, a prominent leader of the Ak Zhol party, who was killed together with his driver and bodyguard in February 2006, for which former officials of the Ministry of the Interior and National Security Service are implicated; and Zamanbek Nurkadilov, a prominent Nazarbaev ally-turned-opponent whose November 2005 "suicide" has been challenged by his family and friends.

The country's budding entrepreneurs enjoy considerable economic freedom and privileges as long as they publicly pledge to support the regime and the president. Similarly, skilled professionals, technocrats, and career politicians can gain rapid career mobility if they profess their loyalty to the president. The concentration of wealth and power in the top circle of bureaucrats and government officials, including those who hold positions as ministers, *akims*, and members of various offices in the presidential administration, has created a new class of supra-rich who enjoy unlimited privileges and immunity as long as they play by the unwritten but implicitly understood rules of the game.

Kazakhstan's enormous economic resources remain concentrated largely in the hands of major financial or business groups that are closely entwined with the present regime and exert profound political influence. They have coalesced on the broad-based platform of Nur Otan and control the Parliament, ministries, and key industries and have bought the major mass media outlets.

Among the most prominent financial groups are that of Timur Kulibaev, the president's second son-in-law, who is closely allied with Prime Minister Karim Masimov; the Eurasia group of Kazakhstan; and the Kazakhmys group, headed by Vladimir Kim, Kazakhstan's richest man. Kazakhstan officially had 8 billionaires and 12,000 millionaires in 2008,<sup>3</sup> though the actual number of supra-rich is likely to be higher.

The president has sweeping powers to appoint and dismiss the prime minister and dissolve the Parliament. The prime minister, who heads the government and bears responsibility for enacting and implementing all policies, has little independent power to formulate policies or initiate legislation. Karim Masimov, a technocrat proficient in English, Chinese, and Turkish, has held the office since early 2007 and is the youngest prime minister at age 39.

The president also appoints a third of the members of the Senate (upper chamber), nominates nine members from the Assembly of the Peoples of Kazakhstan (APK) to the Mazhilis (lower house), and chooses the chair and two members of the seven-member Central Election Commission.

The military and security services remain under firm control of the president, who nominates their heads and key members. The role of the Committee on National Security has acquired greater public attention since the conviction of some of its officers in the murder of opposition leader Altynbek Sarsenbaev in February 2006. The convicts belonged to the elite Arystan combat division trained by Rakhmat Aliev, who held a senior position within the Committee on National Security during the late 1990s. As blame for the murder is shifted on the president's former son-in-law, Aliev, the role of Nurtai Dutbaev, former

head of *Kazakhstan's* National Security Committee (KNB) during 2001–2006, who resigned soon after Aliev's arrest warrant was issued, remains obscure. Dutbaev resurfaced on the political scene as deputy head of KazAtomProm and as an adviser to the president on national security.

### Electoral Process

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

Parliamentary and presidential elections in Kazakhstan can technically be described as competitive in the sense of being a multiparty and multicandidate contest. However, the competition has never offered a level playing field to nonregime parties and candidates. Although Kazakhstan has held regular elections and, in its desire to put a stamp of legitimacy on these exercises, has actively solicited the presence of election-monitoring missions sponsored by the Organization for Security and Cooperation in Europe (OSCE)/Office for Democratic Institutions and Human Rights (ODIHR), no election thus far has been recognized by the OSCE/ODIHR as “free and fair,” complying with international standards. Commonwealth of Independent States and Shanghai Cooperation Organization election monitors were ever more present in the 2005 and 2007 elections, as were other “independent” Western observers that offered a favorable assessment of the elections.

The last parliamentary election held in August 2007 failed to meet a number of OSCE commitments, “in particular with regard to elements of the legal framework, and to the vote count and tabulation.”<sup>4</sup> The failure of Kazakhstan to hold a free and fair election, despite the knowledge that the success of its bid for the OSCE chairmanship depended heavily on holding such an election, already demonstrates tremendous resistance within the political establishment and the administrative machinery to an open, competitive democratic system. Moreover, contrary to the expectations that at least one opposition party would be allowed parliamentary representation to prove to the OSCE that the elections were free and fair, no other party was able to cross the 7 percent threshold. The ruling party Nur Otan captured all seats by obtaining 88.5 percent of the votes cast, whereas six other parties that contested the elections—Ak Zhol, Aul, the Democratic Party of Kazakhstan, the Party of Patriots, Rukhaniyet, and the opposition Social Democratic Party, supported by Nagyz Ak Zhol—failed to cross the 7 percent threshold. This suggests that the 7 percent barrier is too high and undermines the genuine support mustered by the opposition parties fighting against all odds.

Following amendments to the Constitution, the number of seats in the lower house was increased from 67 to 107 in 2007. Of these, 98 are elected from a party list on a proportional basis, and the president appoints the remaining 9 deputies representing the Assembly of the Peoples of Kazakhstan. The upper house of the Parliament is composed of 47 deputies. Of these, 32 are selected through indirect elections by the 14 oblast or regional assemblies; the capital, Astana; and the former capital, Almaty. The remaining 15 are appointed by the president. Senators serve six-year terms, with half of the elected senators facing elections every three years. Elections in 2008, which received little public attention, resulted in the election of Nur Otan members or those affiliated with it.

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

Nazarbaev and key figures within the regime claim that a one-party system is perfectly conducive to providing stability and aiding democratization. At the same time, seeking to demonstrate to the other OSCE-participating states that Kazakhstan is committed to establishing a two-party or multiparty system, the lower house passed a bill proposing that “at least” two political parties be represented in the Parliament, notwithstanding the 7 percent barrier.

Planting such a two-party system from above would inevitably mean the creation of the second party either in the form of a loyal, pro-regime opposition or as the second flank of support for the president, authorized to compete with Nur Otan. Even if a two-party or multiparty system surfaces in response to these changes, it is likely to be no less authoritarian than the current one-party system under the prevalent arrangement. The removal of the 7 percent barrier for political parties could contribute more effectively to the rise of a multiparty system if fair electoral contests were allowed.

The draft containing amendments to the Laws on Elections and Political Parties contains small improvements that are unlikely to lead to any democratic change unless they proceed in conjunction with a fundamental shift in top power structures. The proposal to lower the minimum number of

supporters necessary for party registration from 50,000 to 40,000 hardly ameliorates the present inhospitable conditions for the functioning of political parties. The minimum number of required supporters was 3,000 prior to the adoption of the 2002 Law on Political Parties, which at least allowed the various political parties an opportunity to contest the elections on a more level playing field and win seats in the Parliament.

The amendments to the Law on Elections in 2007 eliminated election by single-mandate vote by establishing that all candidates must be elected according to a party list on proportional basis. Such a system privileges loyalty to the party over accountability to one’s electorate. Also, since candidates are required to be members of parties, citizens are denied the right to seek election as individuals or as independent nominees. Furthermore, the 7 percent threshold is too high and is palpably aimed at undermining the emergence of other political parties in view of the fact that the ruling party controlled all but one seat in the previous lower house elected in 2004. Finally, the provision to reserve nine seats for members of ethnic minorities, who are to be elected by the Assembly of the Peoples of Kazakhstan, fails to provide for a democratic method of representing ethnic minorities. The Assembly of the Peoples of Kazakhstan is an appointed body that meets under the chairmanship of the president, who is its patron and benefactor. At the same time, ethnic minorities lack any mechanism of participating in the appointment of their representatives.

The real question is whether Kazakhstan can make any advance toward democratic governance under the leadership of Nazarbaev, who has erected various institutions such as a Constitution with unlimited presidential powers, his own loyal political party, and a Parliament based on proportional party representation that in fact eliminates rival political parties and independent candidates in order to extend and legitimize personal authority. As these institutions serve the present system personified by Nazarbaev, they impede the development of formal participatory institutions and a normal competitive democratic system.

Civil Society

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

Kazakhstan’s rising prosperity, relatively open political climate, absence of overt repression, and growing engagement with the OSCE may suggest that it offers a hospitable environment for the development of civil society. However, the enormous power of patronage wielded by the Nazarbaev presidency has

allowed the government to continually target nascent nongovernmental organizations (NGOs) and public associations for co-optation into its own agenda of aiding social and infrastructural development and “promoting democracy and civil society” rather than allowing them to develop an independent sphere.

By presenting itself as the strongest champion of democracy, the government continues to appoint various official bodies to work toward the advancement of civil society by engaging in a dialogue with political parties, NGOs, and civil society activists. Such measures are geared toward rewarding, funding, and empowering pro-government NGOs while portraying the opposition, independent NGOs, and civil society activists and bodies either as obstructing the pursuit of these aims or as simply incapable of devising effective policies. NGOs that resist the appeal to engage in a “constructive cooperation” with the government are portrayed as either irresponsible, serving outsider interests, or opposed to reforms and prosperity.

According to the official Web site of the president ([www.akorda.kz](http://www.akorda.kz)), there are about 5,000 registered NGOs in Kazakhstan, of which 1,709 are operating actively. Most of these are quasi-governmental, propped up to compete with independent NGOs in obtaining grants, and fewer than 200 are able to make a positive impact. Official figures, which exaggerate the activities and contribution of the nongovernmental sector, mention that about 200,000 people are involved in the NGO sector—roughly 40,000 full-time employees, up to 50,000 temporary employees, and over 100,000 volunteers. About 2 million people benefit from their various services. The largest proportion of NGOs is environmental (15 percent), followed by children and youth (13.6 percent), women’s rights (13.3 percent), health and medical (13.1 percent), education (12.5 percent), civil rights (7.6 percent), and social welfare (6.8 percent). NGOs active in civil liberties issues have a smaller share, about 7.6 percent.

A 2007 amendment authorizing the state to fund NGOs has allowed a number of NGOs to receive support from the government. However, the process of issuing contracts is less than transparent, and government officials reportedly demand kickbacks. The increase in state funding has heralded a decline in international donor aid. The U.S. Agency for International Development (USAID) has been the largest single-country donor organization in Kazakhstan, providing over US\$500 million in programs assisting the development of the country’s economic sector, health care system, and democratic institutions.

The dependence of the corporate sector and private businesses on government patronage pressures them to fund government-organized NGOs or to invest in

social or community development projects, though there are reports of private businesses covertly funding civil rights advocacy campaigns and independent media channels. The country's crumbling banking system and the growing financial crisis will reduce government funding of NGOs.

Less than 10 percent of NGOs are engaged in civil liberties, human rights, and minority protection issues. The Color Revolutions in Georgia and Ukraine, the Tulip Revolution in Kyrgyzstan, and the violence in Andijan in Uzbekistan have considerably enhanced surveillance by the National Security Service and the Office of the Prosecutor General of NGOs dedicated to civil liberties and democracy promotion and made them targets of considerable negative publicity on the national media.

Notwithstanding its acclamation of the continuing "interethnic peace and reconciliation," the government tightly regulates public expression of ethnic and religious claims by placing restrictions on the right to public assembly and encouraging ethnic groups to organize themselves into "official" national-cultural centers working closely with the Assembly of Peoples of Kazakhstan, chaired by the president.

Ethnic Kazakhs form over 60 percent of the population, while Slavs and other Russian-speaking groups make up about a third of the population but continue to decline. Kazakhstan's political elites, government, and administrative structures bear a multiethnic profile, a point repeatedly acclaimed by the government. However, the fact that a non-Kazakh may hold a crucial position in the government or administration does not mean these individuals represent their ethnic constituencies. Instead, the willingness and ability to operate within the regime-controlled patronage networks are crucial in acquiring a prominent public post.

Like political parties, all NGOs, public associations, and religious bodies are required by law to register with the Ministry of Justice. To propagate Kazakhstan's religious goodwill and tolerance, Nazarbaev erected the multimillion-dollar Pyramid of Peace and Reconciliation in Astana to boast the presence of a Catholic church, a synagogue, a Russian Orthodox church, and a giant mosque in the new capital. But in reality, Human Rights Watch characterizes the state's policies toward religions as one of "quiet repression."<sup>6</sup> For example, the Hare Krishna community (Society for Krishna Consciousness) is currently contesting a 2006 court order by the local authorities in 2006 authorizing the bulldozing of their homes, demolition of their temple, and relocation of their farm from the Karasai region in Almaty oblast to an alternative venue in a village in Almaty province. The Hare Krishna followers, whose case is represented by the Almaty Helsinki Group

and Kazakhstan's Bureau on Human Rights and Rule of Law, argue that the new site for the temple and the farm is a disposal dump, with no facilities for drinking water or irrigation. The head of the Religious Affairs Committee of the Ministry of Justice, Ardak Doszhan, warned the members of the society that their disagreement will result in a new court case that could lead to the demolition of the temple.

Despite widespread criticisms, both inside Kazakhstan and internationally, in November 2008 the Parliament passed a controversial Law on Religion ignoring OSCE recommendations. It places restrictions on freedom of thought, conscience, and belief by amending the existing 1992 Law on Religion and Religious Associations, the criminal code, the administrative code, and other laws.

The draft Law on Religion was originally submitted to the Parliament in January 2007 but was withdrawn a few months later owing to the upcoming decision on the OSCE chairmanship. It was introduced again in 2008, but the details of its content have not been released to the public. It requires all communities to reregister within 18 months of the law's entry into force. To register as a national association, a religious association must have operated in at least five provinces of Kazakhstan without any violation of the law.

The presidential decree of 2006 categorizes various minority religious groups as "sects" or "nontraditional" groups, a designation that portrays them as potentially subversive or extremist religious associations. Among these 20 minority religious groups are Jehovah's Witnesses, Hare Krishna devotees, and some independent Muslims (people whose Muslim affiliations, beliefs, and practices are at variance with those acceptable to the Religious Administration of Kazakhstan's Muslims).<sup>7</sup> Throughout 2008, media campaigns were mobilized to spread the fear of "nontraditional" religions and generate support for the new draft Law on Religion, which would seriously restrict the right to freedom of thought, conscience, and religion.

The Ministries of Justice and the Interior together with the National Security Service have created special divisions to work with various religious denominations. There is a stark disjunction between official pronouncements that celebrate Kazakhstan's multiethnic makeup, "internationalism," and religious tolerance and actual practice as the state authorities continue to monitor activities of groups whose cultural practices and religious beliefs do not adhere to the official notions of group identities.

While the security and intelligence services publicly portray themselves as combating threats of terrorism, extremism, drug trafficking, and other regional

and international security issues, vast resources of the KNB are diverted toward monitoring the activities of opposition groups, independent NGOs, media, religious bodies, and missionaries in the country.

### Independent Media

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

Most media in Kazakhstan are privately owned, nominally independent, but in reality regulated by the government and controlled by leading financial groups entrenched in the ruling circles. Although these media outlets may compete intensely with one another, they do not engage in investigative work and do not criticize the president, his close family, or other top figures within the regime. The few independent media outlets existing in the country have been rendered noncompetitive and, as a result, operate mainly on the internet.

In July 2008, the government announced the creation of a new company called Arna Media National Information Holding, “in order to provide favorable conditions for increasing competitiveness of the information space of the Republic of Kazakhstan.” Its partners include the Khabar agency, Kazakh Republic Television and Radio Corporation, Kazakh News Agency, Kazakhstan Telecommunications (KATELKO), and the newspapers *Kazakhstanskaya Pravda*, *Egemen Kazakhstan*, *Zhas Orken*, and *Kazakh Gazettery*.<sup>8</sup> This further portends to render small and independent media channels uncompetitive and thus unsustainable.

According to the 2007 Worldwide Press Freedom Index of the international media watchdog Reporters Without Borders, Kazakhstan ranked 131 out of 167 countries (behind Tajikistan and Kyrgyzstan, though ahead of Uzbekistan and Turkmenistan).<sup>9</sup> Reporters Without Borders and the OSCE/ODIHR expressed concern at the biased media coverage of the August 2007 parliamentary elections and noted numerous cases of pressure, self-censorship, electoral legislation violations, and relentless praise of the Nur Otan for its policies that have brought sustained economic success and stability.

Highly restrictive media laws and numerous unauthorized and informal mechanisms of wielding control over the national media have ensured their subordination to the government. The restrictive Media Law of 2005 and subsequent amendments in 2006 impose further limits on the modicum of independent media in the country. Article 318 of the criminal code penalizes a person who “insults the honor and dignity of the president” and is used routinely to prosecute independent journalists through charges of defamation.

Influential members of the government have successfully won libel suits against pro-opposition media. A compliant judicial system fully protects top members of the government as they render independent and pro-opposition media highly vulnerable.

The environment for journalists remains litigious and hazardous. Under present provisions, any public criticism of officials is criminalized as slander. Romin Madinov, a parliamentary deputy, recently demanded 300 million tenge (US\$2.5 million) from the independent newspaper *Tazhargan* in a defamation case wherein the paper published an article blaming the deputy for economic problems, including the rising price of bread; Madinov argued the article was insulting to his dignity and honor.<sup>10</sup> The court ruled “favorably” for the newspaper in that it was ordered to pay only 3 million tenge (US\$25,000).

The Ministry of Culture and Information, the OSCE, and the independent media watchdog Adil Soz have set up a working group to prepare proposals for amending the Media Law. Meanwhile, the lower house of Parliament passed a bill in December containing minor amendments such as dropping language that had put the sole burden in court on the journalist to prove the accuracy of the information he or she had reported. However, it did not amend the stringent defamation clauses or take steps to decriminalize libel, as demanded by the OSCE and independent media watchdogs.

The Office of the Prosecutor General has prohibited Rakhat Aliev from publishing compromising material (in 2007, his supporters posted transcripts of conversations purportedly among top government figures discussing illicit campaign financing methods on a number of pro-opposition Web sites) in the mass media and warned newspapers that they will be liable to prosecution if they violate this order. Independent media have questioned the legality and propriety of this intimidation. Bloggers publishing items critical of the government have been charged under clauses protecting the president’s “honor and dignity.” The opposition newspapers *Svoboda Slova*, *Vzglyad*, *Tazhargan*, and *Respublika* have also been subjected to numerous interventions ranging from tax audits to fire and safety inspections and encounter continual difficulties in finding printing houses.

By demanding a review of the laws regarding internet materials, the Office of the Prosecutor General has ordered the removal of commentaries on internet blogs, which violate the norms of the Constitution, by the moderator of the site, who is responsible for its content. Nazarbaev has called for adopting a new law that proscribes publishing slanderous rumors.

Adil Soz pointed to the unending warnings and threats issued by the Office of the Prosecutor General to the country’s mass media on top of numerous laws

describing the punishment meted out if violations take place. Web sites *Kazakhstan Today*, *Live Journal (Zhivoi Zhurnal)*, and *kub.kz* became inaccessible after publishing the transcripts released by Rakhat Aliev and were subsequently closed down. The state-owned Kazakhtelecom and its six subsidiaries have the monopoly on internet service provision and regularly block access to opposition Web sites and apply technical control. Kazakhtelecom has been criticized by Reporters Without Borders and other independent media watchdogs for this blockade. Additionally, by the end of 2008, about ten Web sites were being investigated by the authorities for allegedly inciting interethnic and religious hatred; prominent among these is *Russkie v Kazakhstane (Russians in Kazakhstan)*.

Internet use has not spread as fast as one would anticipate in a rapidly growing economy. About 55 percent of the country can access the internet from home.<sup>11</sup> As Kazakhstan's urban middle-class and student population increasingly turn to the internet to obtain news, the authorities have made various efforts to control the spread of information available.

Articles adulating Nazarbaev for the preservation of the socioeconomic stability, ethnic peace, and growing prosperity of Kazakhstan proliferate in the media. Virtually every page in the state-owned *Kazakhstanskaya Pravda* and *Egemen Kazakhstan* contains extracts from speeches by Nazarbaev. The state channels Khabar and Kazakhstan 1 continuously broadcast speeches from Nazarbaev and report his visits. In addition, 50 percent of the billboards in Astana contain photos, portraits, and posters of Nazarbaev or extracts from his various pronouncements.

#### Local Democratic Governance

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

Kazakhstan has a unitary administrative framework, with the central government exerting top-down control over regional and local bodies. The Constitution does not provide for elections of oblast (provincial), regional, or *akims* (local administrative) heads. All *akims* are part of the unified system of executive power, are appointed by the president and the government of the republic, and may, regardless of the level they occupy, be dismissed by the

president at his discretion. The *akims* at lower administrative levels (towns and villages) report to their superior administrative heads.

In theory, local legislative councils, or *maslihats*, whose members are elected for a five-year term, serve as the only outlet for civic participation; in practice, they are accountable to the appointed *akims*. *Maslihats* serve primarily as rubber-stamp bodies to approve acts by local executives. This top-down control allows patronage and personal influence to define the powers of the incumbent. It is estimated that about 44 percent of Kazakhstan's population residing in rural areas lack any say in local affairs.<sup>12</sup> Each oblast *maslihat*, and those of Almaty and Astana, nominate two members each to the Senate. The last *maslihat* elections were held concurrently with the parliamentary elections in August 2007 and attracted hardly any popular or media attention, as they were completely overshadowed by the latter.

At the regional level, *akims* are appointed on the approval of *maslihats*. Under the constitutional amendments adopted in May 2007, regional and city *maslihats* now have the right of refusal when the president nominates an *akim* of a province or city. The percentage of no-confidence votes required to oust a sitting *akim* has been reduced from two-thirds to one-fifth of *maslihat* members. Given the nominal role assigned to *maslihats* in regions and the patronage exerted by *akims*, it is unlikely that *maslihats* play any significant part in defining the composition of local government.

As Nazarbaev remains opposed to holding direct elections for local and regional *akims* and granting local autonomy, discussion on the subject is virtually moot. Galymzhan Zhakiyanov, founder of the opposition Democratic Choice of Kazakhstan and a popular former *akim* of Pavlodar jailed for alleged misuse of office, has been the most prominent advocate of direct elections of *akims* and greater autonomy for oblasts. If direct elections were introduced under the current framework, it is doubtful they would have a democratizing effect as long as a single party dominates the entire political landscape. In addition, the incumbent *akims* and their patrons, together with members of the Central Election Commission and the District Election Commission, wield enormous influence in the nomination of candidates.

The Parliament is debating a proposal to lower the minimum number of supporters required in each province (oblast) of Kazakhstan for a political party to register from 700 to 600. Such a proposal promises little change as long as Nur Otan retains firm control over local administration and a framework granting autonomy and the ability to elect regional *akims* is absent.

The lack of financial autonomy for local bodies is another serious limitation. The central government determines taxation rates and budgetary regulations. The oblasts are officially responsible for the provision of social services such as education, local law enforcement, medical assistance, social support, and so on. Local governments are allowed to keep all fines for environmental pollution but are required to transfer other revenues to their higher authorities. Oblasts are not allowed to keep their surplus budgets, which are forfeited to needier ones.

The extent to which an oblast administration can retain the collected tax payments in their budgets and not remit them to the center is influenced in part by the standing of the local *akim* and the oblast's revenue-generating capacity. The *akims* in oil-rich oblasts as well as Astana and Almaty, which have attracted the most foreign investment, exert a greater control over budgetary matters mainly by extracting significant contributions from investors to various "social and welfare projects" and thus informally negotiating revenue-sharing rates with the central government. But this arrangement is based largely on the personal standing of the *akim* and does not have further institutional repercussions. The oblast *akims* have shown no inclination to share powers or revenues with the lower-level city and village governments.

#### Judicial Framework and Independence

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

While Kazakhstan's Constitution recognizes the separation of the three branches of power and safeguards the independence of judiciary, in practice both the judiciary and the legislature remain loyal to the executive, headed by the president. The record of the judiciary over the past decade shows that it has continued to protect the interests of the state and its functionaries rather than those of individuals, minorities, and the weaker strata of society.

According to the Constitution, the president proposes nominees for the Supreme Court justices, who are then approved by the Senate. These nominees are recommended by the Supreme Judicial Council, which comprises the chair of the Constitutional Council and of the Supreme Court, the prosecutor general, the minister of justice, senators, judges, and others appointed by the president. The president may remove judges, except members of the Supreme Court, which he can do on the recommendation of the Supreme Judicial

Council. A constitutional amendment in 2007 and the respective legislation in 2008 have reinforced presidential control over appointments of judges.

A significant increase in funding allocated to the judiciary has led to a steady improvement in formal and professional training. In 2004, the Judicial Academy was set up with help from the OSCE/ODIHR to train current and future judges. However, the academy has not yet evolved in a modern manner, and the quality of training remains substandard. The Association of Lawyers of Kazakhstan and the Legal Development of Kazakhstan are the two main associations of independent lawyers. Kazakhstan currently has a surfeit of lawyers, as this profession is perceived to be among the most “prestigious.”

USAID helped launch a new judicial mentorship program under which senior judges serve as mentors to young protégés, guiding them in making difficult legal and moral decisions while gaining exposure to fresh ideas and new thinking. USAID has also financed projects introducing the latest video-recording technology in transcribing court proceedings.

Corruption is entrenched within the judicial system. A survey by the Association of Sociologists and Political Scientists noted that 22 percent of people in Kazakhstan tolerate corruption. It also noted that bribe taking was most rampant among judges, with an average bribe costing US\$2,092, the highest figure compared with bribes in four other spheres—property acquisition, housing, employment or promotion in the state sector, and military service.<sup>13</sup> There is a widespread belief that it is almost impossible to become a judge without giving bribes to various officials and court administrators.

The country’s courts often intervene to ban media outlets critical of the president or the political establishment. In February 2008, an Astana court ordered the closure of an independent newspaper, *Law and Justice*, by alleging that it had not followed proper registration procedures. The newspaper’s owner and editor, Tokbergen Abiev, claims that the real reason for closure was that it had begun reporting on cases of corruption within the judicial system.

Kazakhstan began holding jury trials in 2007 by adopting the continental, or Franco-German, model in which two professional judges along with nine jurors partake in the final decision-making process. If conducted properly, jury trials even in such limited form can play a vital role in reducing graft and corruption, decreasing the waiting period for cases, and help to establish judicial independence, transparency, and accountability in a system where citizens tend to distrust the courts. The jury of nine is selected by local authorities from a list of eligible persons, but no credible mechanisms exist to balance language, gender, and ethnic criteria. The number of criminal cases

involving juries is still limited and restricted to the death penalty and life imprisonment cases. A preliminary report on jury trial monitoring published by the OSCE/ODIHR in 2008 suggests that in spite of numerous shortcomings, the new model of proceedings positively impacted the administration of justice.

Having advocated the discussion on introduction of jury trials, the OSCE is also working to reform other aspects of the criminal justice system and penitentiary legislation. Among the major proposals currently under discussion is the introduction of judicial authorization of arrests. This reform makes a first step toward compliance of Kazakhstan with one of the central provisions of the International Covenant on Civil and Political Rights. If further improvements are made, this procedure can bring about a significant improvement in criminal law. But this is possible only if the Office of the Prosecutor General and the judiciary are fully independent of each other. The current number of approved sanctions for arrest by judges almost does not differ from the days when prosecutors were fully in control of this procedure. Around 99 of their requests for detention are still approved by judges in Kazakhstan. Such decisions often lack justification and are biased in favor of prosecution.

While Kazakhstan’s criminal justice system is undergoing important, albeit fragmentary, reforms, the judiciary has had a checkered record in handling cases related to civil liberties, political freedom, independent media, and human rights issues. It has convicted all major political or public figures brought to trial on politically motivated charges without credible evidence or proper procedures.

Kazakhstan has a National Human Rights Commission headed by the ombudsman, who has limited rights to monitor the observance of human rights and is officially barred from any “interference with the work of either the police or the judicial system.” As a presidential appointee, the ombudsman lacks an impartial image or the support of civil society and human rights activists. The current ombudsman, Askar Shakirov, previously served as chairman of the Finance Ministry’s Customs Committee and lacks experience or service dedicated to human rights issues.

Corruption

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

Corruption in Kazakhstan is embedded in the way in which the ruling elites appropriate, control, and distribute the key resources for personal gain by using their political office. Corruption is thus systemic and cannot be easily identified or proved. The lack of transparency and public debate on the privatization of major industries, enterprises, and state assets, on the issue of tenders, the finalization of major financial deals, and the acquisition of lucrative properties at home and abroad by key figures in the government, all point to the blurred lines between public office and personal use. Furthermore, there is neither public information nor open debate that can explain the ostentatious lifestyles and extent of wealth accumulation on the part of a significant group of state officials, civil servants, members of judiciary, and local heads.

Charges of corruption and misuse of office tend to be leveled against highly placed government figures only after these individuals enter into a personal or political rivalry with ruling elites or attempt to challenge Nazarbaev's authority.

Any open criticism of the president or regime, challenge to the presidential authority, or desire to change the nature of the present system are invariably responded to through the levying of corruption or criminal charges, including misuse of public office.

Top officials in the National Security Service and the Office of the Prosecutor General are appointed by the government and remain under the control of the president, which makes it impossible for them to function as independent bodies. The Ministry of the Interior, Committee on National Security, and financial police (*finpolitsia*, or derided as *finiki* in the independent media) are the major bodies designated with the task of combating corruption. In addition, the ruling party Nur Otan has set up an anticorruption forum that organizes Soviet-style public protests and popular mobilizations against corruption without identifying any specific goals or organizing a real debate. About 1,000 youth members of Zhas Otan (Young Otan) have held marches in protest against corruption wearing multicolored ties and face paint to resemble football cheerleaders.

In a highly publicized case brought by the financial police, Zhaksybek Kulekeev, former general manager of Kazakhstan Temir Zholy (Kazakhstan Railroad Company), was accused of accepting a US\$100,000 bribe for the illegal sale of a company car and helping relatives gain tenders on a number of deals. Given the enormous scale of corruption and kickbacks in the higher echelons of power, the amount that Kulekeev is accused of accepting as a bribe is minuscule. The independent media reported that no convincing evidence or

witnesses were available, implying he was obviously framed, and pointed to the serious cases of financial wrongdoings in which Serybai Kalmurzaev, who headed the financial police for four years until December 2008, is implicated.

Kalmurzaev's transfer to another post is allegedly linked to his ambiguous role in sheltering Rakhat Aliev in the Nurbank scandal (Aliev is accused of extortion and blackmail of fellow employees who were forced to sell their shares to him), though he subsequently facilitated a swift transfer of all assets held by Aliev to Dariga Nazarbaeva and their son, who became the chairman of Nurbank at age 24. His successor, General Kairat Kozhamzharov, is seen as too close to bring about any change.

The Kulekeev case was widely publicized to illustrate how Kazakhstani authorities combat corruption at top levels; nevertheless, numerous suspicious financial deals involving top officials remain unexamined. The acquisition of Lariba Bank, one of Kazakhstan's major banks, for US\$10 million by Kalmurzaev's young son, together with Nurbol Sultan, son of the minister of tourism, is one of several instances of suspicious dealings.

Serik Burkitbaev, former head of the Kazakhstan Institute of Oil and Gas, Kazmunaigaz, Kazinformtelekom, Kazakhtelekom, and the Ministry of Transport and Communication, is another key figure caught in a suspicious corruption inquiry. He is being investigated by the Committee on National Security for facilitating the release of transcripts of conversation between Nazarbaev and top figures, obtained by Aliev's supporters.

According to information provided to the *Sunday Times* (November 9, 2008) by Alnur Musaev, former chief of the Committee on National Security, and an Aliev associate wanted in Kazakhstan, a £50 million (US\$80 million) mansion, "Toprak," in London was purchased by an unknown Kazakh but is "secretly owned" by Nazarbaev. The *Sunday Times* (July 27, 2008) reported that a mansion put up for sale by Prince Andrew for £12 million (\$20 million) was bought for £15 million (US\$25 million) in a deal negotiated by Kenes Rakishev, the 29-year-old son-in-law of Imongali Tasmagambetov, former prime minister and current *akim* of Astana (who at the time was mayor of Almaty). Reports also suggest that Rakishev negotiated the deal either for Timur Kulibaev or for Nazarbaev himself.

According to the 2008 Corruption Perceptions Index published by Transparency International, Kazakhstan ranked 145th out of 180 countries with a score of 2.2, marginally better than the remaining four Central Asian states. A score of 5.0 or below indicates a serious corruption problem. The index defines corruption as the abuse of public office for private gain and

measures the degree to which corruption is perceived to exist among a country's public officials and politicians.

As a regime insider, Aliev has threatened to reveal vital information in the "Kazakhgate" trial, in which the American oil dealer James Giffen is accused of passing US\$80 million from U.S. oil companies to Nazarbaev and top officials in exchange for lucrative oil contracts in Kazakhstan. The investigations for the case have proceeded at a snail's pace amid reports that top figures from Kazakhstan have hired private security consultants to gather information pertaining to the trial.

Kazakhstan endorsed the Extractive Industries Transparency Initiative (EITI) in 2005 and has until March 9, 2010, to complete the validation process. This requires not only government initiative and participation of oil companies, but monitoring and oversight by NGOs and civil society. EITI reporting for oil, gas, and mining is voluntary, and the state is not required to disclose oil revenues received by the treasury from leading oil companies or to involve independent NGOs in overseeing how oil revenues are managed. As the government allocates more funding for public construction projects and bank bailouts, questions of efficient and transparent management arise. Currently, no institutions or structures exist to guarantee these. The Parliament has no authority to investigate an audit of oil funds or to determine how and under what conditions the funds are to be used.

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