

**IHF FOCUS: Freedom of expression; freedom of association; peaceful assembly; legal reforms; the judicial system; independence of the judiciary; fair trial; torture, ill-treatment and misconduct of law enforcement officials; detainees' rights; conditions in prisons; the death penalty; religious intolerance; freedom of movement.**

The human rights situation in Kazakhstan deteriorated throughout 2000 and became alarming.

The political system did not provide for stable political development and reliable guarantees and mechanisms for the protection of human rights and freedoms.

Although Kazakhstan had ratified most international human rights standards and recognized the Universal Declaration of Human Rights in its declaration for state sovereignty in 1990, it still failed to access the ICCPR, a fact that stripped individuals living in that country from using the international complaint mechanism. Neither had Kazakhstan ratified the UN Covenant on Economic, Social and Cultural Rights.

Kazakh authorities did not fulfil the country's commitments assumed as a member State of the UN and the OSCE. Any criticism of their human rights policies was perceived as "interference with the internal affairs of the State under the pretext of human rights protection." They called the U.S. State Department human rights report's Kazakhstan chapter "biased," and stated that the OSCE Council of Ministers' criticism to the proposed amendments to the Law on the Mass Media was "lacking objectivity and impartiality." Authorities were also irritated by meetings of the opposition, journalists and human rights activists with high-level foreign visitors such as the U.S. Secretary of State Madeleine Albright and the OSCE Chair Benita Ferrero-Waldner.

In July the summit of the Shanghai Five adopted a declaration reaffirming their adherence to the principle of respect for human rights laid down in the UN Human Rights Declaration but stated that in their application "it is necessary to take into consideration the historically rooted peculiarities of each State" (Article 6).

Political developments in 2000 were largely characterized by further expansion of the power of authorities and strengthening the virtually unlimited power of President Nursultan Nazarbaev whose decisions and decrees in practice took precedence over the provisions of the Constitution and other legislation. The same applied to governmental bylaws.

The judiciary was not separated from the executive branch, and the system of checks and balances was weak. There were no democratic public institutions and no mechanisms of human rights protection on the local level (Ombudsman, Constitutional Court, the right to file petitions, parliamentary inquiries, referenda upon public initiative, etc.). The judicial system was unable to protect the human rights of individuals. Moreover, the idea of national dialogue and co-operation between those in power the civil society has not been supported.

In 2000 the Parliament sought the President's approval in order to amend the Constitution with the aim of granting the Parliament the authority to monitor the execution of the state budget and the enforcement of laws, the right to approve nominations of the members of Government, to participate in the work of governmental bodies which drafted laws, and to interpret laws, but the proposal was rejected.

On the eve of the 60<sup>th</sup> birthday of President Nazarbaev, the Parliament adopted a new constitutional Law "On the First President" that granted to the President life-long privileges following expiry of his term of office, including, for example, the right to appeal to the nation, state agencies and governmental officials with initiatives concerning key issues of social development; give speeches before the Parliament and at governmental sessions on major national issues; head the Assembly of

Peoples of Kazakhstan; be a member of the Constitutional Council and of the Security Council; make recommendations to the acting President on personnel policy, imposition of the state of emergency and declaration of war; and to have an office in the residence of the acting President with its administration paid from the state budget.

The new constitutional Law "On the Judicial System and Status of the Judges," adopted at the end of December, virtually transferred courts under full presidential control.

The military and security forces were strengthened under the pretext of struggling with corruption, terrorism and religious extremism. The Law "On National Security" was amended, defining its goal as the protection of life, health and welfare of the citizens of Kazakhstan. As sources of danger the Law mentioned the establishment of associations, NGOs, and political parties that do not share the official ideology.

In the conditions of a severe economic crisis and production decline, the social, economic and cultural rights and freedoms were massively violated, including the right to work, the acceptable conditions of work and satisfactory labour remuneration, as well as the right to education, health care, and social security.

### **Freedom of Expression**

The Constitution guarantees freedom of expression, speech, and the press as well as the right to receive and impart information, unless prohibited by law.

The year was characterized by further attacks of the Government on the freedom of speech and mass media. The State strengthened its control over electronic and printed media, using legislative, political, economic, judicial and other forms of pressure. In February President Nazarbaev stated that the mass media had violated the law, instigated inter-ethnic discord, insulted human dignity, violated the constitutional order, and resorted to defamation; he demanded that the media should be pun-

ished. The Committee to Protect Journalists mentioned Nazarbaev as one of the world's ten worst enemies of the press.

The 1999 Law "On the Mass Media" discriminated against mass media as compared to other legal entities and individuals; it gave the State additional powers to monitor them and interfere in their activities. The mass media had to register with State authorities and journalists had to get accreditation to work legally.

Foreigners or foreign companies were allowed to own only 20 percent of any media outlet.

The 1999 Law on "On State Secrets" prohibited the public and journalists from receiving and imparting information on the quantity of troops and their maintenance expenses, conditions in civil defence, the security of nuclear objects, the itemized republican budget expenses, the health and private life of the President and his family, etc. The 1998 Law "On National Security" prohibited broadcasting information that "undermines national security."

Articles 318, 319 and 320 of the Criminal Code prohibited "public insult or other encroachment upon the honour and dignity of officials." Targeting President, members of Parliament or governmental official could be punished with imprisonment.

The May 2000 law on combating crime restricted collection and dissemination of information and expanded the meaning of "state secrets" to cover also departmental official secrets which were not published and internal departmental documents marked "for office use only": in practice, all official statistical data were classified "for office use only" and were thus inaccessible. The new wording of Article 172 of the Criminal Code also expanded the list of crimes related to publishing information and toughened the penalties carried by such crimes.

On 31 May A. Nassiyev, head of the Information Systems Department of the Ministry of Transport and Communications, stated the official government policy on the

Internet development in Kazakhstan. This policy envisages free access to obtaining licences under the principle of free competition; obligatory location of operators, management and financial centres in the territory of Kazakhstan; exclusion of any other communication channels via foreign satellites; obligatory informing of the state communication company Kazakhtelecom about routing of traffic via intercity and international telephone lines when using public communication networks; granting the Ministry of Transport and Communications the right to regulate the Internet address space and maintenance of the web-sites registry.

In September-October access to Eurasia website through the communication lines owned by state-controlled JSCs Kazakhtelecom and Nursat was blocked .

In a 22 September interview with the weekly *Delovaya Nedelya* Prime Minister Kasymzhomart Tokayev promised Government support to the independent mass media. However, in the following month the Government proposed more restrictive amendments to the existing Law on Mass Media, including considering web-sites as media outlets and placing them under distribution restriction; limiting the re-broadcasting of the television and radio programmes of foreign media to 20 percent of the overall air-time ; prohibiting the operation of foreign media outlets that "violated the Constitution and other laws"; and holding the owners, editors-in-chief or editors of mass media liable for distribution of false information irrespective of its source.

#### Harassment of Journalists

The 1998 Article 155 of the Criminal Code on criminal responsibility for "obstructing legal professional activities of a journalist" has never been used in criminal court practice. At the same time, however, independent mass media has faced prosecution on the charges of "insulting the dignity and honour" of certain officials, state and other institutions and other forms of harassment.

In July the Head of the State Legal Department of the Presidential Administration Kairat Mamy announced that criminal proceedings were initiated against the mass media for "violating the law." In July General Prosecutor Yuriy Khitrin said that officers of the Prosecutor's Office had checked 148 press releases and revealed that "40 contained distorted information." He told the press that reference to information published in the Internet does not release them from the responsibility under the law to publish accurate information.

◆ On 3 August the Prosecutor General stated that the Almaty Prosecutor's Office had initiated a case against the editorial boards of the newspapers *SolDat* and *Kazakhskaya Pravda* for publications "instigating inter-ethnic discord."

◆ Local authorities selectively restricted the sites for television shooting, prevented such shootings by force, broke equipment and beat up journalists. Such incidents took place in Semipalatinsk (TV crew of TVK-6 channel), Shymkent (Otyrar TV), Petropavlovsk (municipal TV), Almaty (KTK and Yuzhnaya Stolitsa) and other towns.

◆ Twenty-four charges for the total amount exceeding U.S.\$ 2 million were brought against the newspaper *Nachnem s Ponedelnika*. In September 1999 the Almalin District Court in Almaty upheld the legality of a case initiated by the managers of the Kazakh literary Pen-club against the newspaper after the paper had criticized the financial activities of the club. The Court ordered the paper to pay 20 million tenge (approximately U.S.\$ 140,000) in moral damages inflicted on the plaintiffs. Earlier, the same court had ruled that the same newspaper pay 6 million tenge (U.S.\$ 40,000) to the Union of the Judges of Kazakhstan for the publication of an article about the activities of the Supreme Court and other courts. A criminal case was initiated against the founder and owner of the newspaper, R. Esergepov, "for flagrant non-compliance with court decisions" because

the newspaper did not have the funds to pay the fines. As a result, on 25 May 2000, authorities carried out an inventory and confiscated Esergepov's whole property. The newspaper was closed by a court decision.

◆ At the beginning of the year the newspaper *NVS-Pressa* published an official National Security Committee (KNB) press-release containing information on a criminal case against a group of Russian citizens arrested in the city of Ust-Kamenogorsk on charges of "plotting a *coup d'etat*." The newspaper was charged with "propaganda for the overthrowing the constitutional regime in the Republic of Kazakhstan", and a criminal case was initiated against the editor-in-chief for "supporting separatists."

### Freedom of Association

The 1995 Constitution recognizes freedom of association and peaceful assembly but it contains restrictions inconsistent with the relevant international standards. For example, the State is not allowed to support financially public associations; foreign legal entities and individuals, foreign States and international organizations cannot not finance the activities of political parties and trade unions; and heads of religious associations can be appointed by foreign religious centres solely with the approval of authorized state agencies. The Constitution prohibits organizations that incite "class and clan discord" – a formulation on the basis of which many organizations can be arbitrarily closed down.

Freedom of association was frequently arbitrarily restricted. The State used all possible means to step up the pressure on "unruly" NGOs. NGOs were not allowed to carry out activities without undergoing state registration. "Disloyal" NGOs and their leaders were harassed. Also economic pressure was used against most active NGOs and tax authorities conducted massive financial inspections at the offices of NGOs receiving foreign funds for their activities.

Special services continued to openly spy on NGOs and their leaders. The public relations' subdivision of the Ministry of the Interior was specially designed for surveillance of opposition parties and NGOs. Officers of this subdivision attended public and closed NGO meetings and video- and audio-taped them for the purpose of "preventing offences."

Military staff, the staff of the national security bodies, employees of law-enforcement bodies and judges were not allowed to support any political party.

### Peaceful Assembly

According to Article 32 of the Constitution, individuals have the right to peaceful assembly. However, the 1995 Presidential Decree No. 2116 restricted this right considerably in the name of the interests of national security, public order, protection of health, and the protection of other people's rights and freedoms. Any actions that may disrupt inter-ethnic accord (Article 39) were prohibited. Authorities had broad powers to ban any public assembly under the pretext that it "violated constitutional provisions, laws and bylaws" or the administration deemed it to be the "incitement of class exclusivity." They could also change the time or venue of an event.

Article 9 not only established the organizers' responsibility for violation of the rules of conducting the organized event, but also made them liable for any additional expenses related to its conduct, including those for public order maintenance.

Article 10 granted the local authorities the right "to additionally regulate the procedure for conducting rallies, meetings, demonstrations, marches, and pickets, taking local conditions into account" which left room for arbitrary restriction of the right to peaceful assembly. As a result, massive restrictions of the right to the freedom of peaceful assembly continued in 2000 and participants in unsanctioned meetings of pensioners who demand observance of their social rights faced administrative sanctions (fines, arrests).

◆ In July the General Prosecutor and the Supreme Court approved the court decision handed down in judicial proceedings against political activist A. Gabdullin which had lasted for more than six months. The case was filed by the officer of the Ministry of Interior, Major Lednev. Gabdullin was accused of "impeding a police officer in the performance of his official duties." Gabdullin was fined for denying entry to Lednev to a closed meeting of the local oppositional party RPPK – an act allowed by law. In response to an inquiry about the legality of such actions, the General Prosecution answered that "the law does not restrict the Ministry of the Interior in the exercise of its authority to ensure public order".

### Legal Reforms

According to the 1995 Constitution, the legislative basis for safeguarding human rights and freedoms was to have been fully reformed by 30 August 1997. However, by the end of 2000, the number of laws which had not been brought in conformity with the Constitution had not reduced. On 15 June the Constitutional Council stated that "...the failure to bring the effective laws in conformity with the Constitution does not mean their automatic cancellation. They preserve their legal force in the part not contradicting the Constitution."

Much of the legal basis comprised the 1995 presidential decrees having the force of constitutional laws. Article 53.4 of the Constitution vested the President with the right to issue common laws only if the Parliament by two third's majority delegated him the power to do so for the period of up to one year. The Parliament did not give the President such authorities in 2000, but just as in the previous years the legislation was to considerable extent reformed by the President rather than the Parliament.

In 2000, the Parliament was to adopt 92 bills. The majority of them were not adopted, including important draft laws on human rights dealing, for example, with the death penalty, censorship, freedom of

movement, non-profit organizations, charity, the judicial system and prosecution, agencies under the Ministry of Interior, the local administration, self-government etc.

### Judicial System

The reform of the judicial system, scheduled to be completed by 31 August 1997, had not been carried out although a number of laws had been adopted to that end.

The Committee for Judicial Administration was set up under the Supreme Court. This body was to provide organizational and logistic support to courts, the function that was earlier performed by the Ministry of Justice.

The Supreme Court plenum and presidium and the *oblast* (administrative district) court presidiums were abolished and supervisory court boards were set up. Instead of plenums, courts held plenary sessions which had no right to administer justice. Also the military board of the Supreme Court was abolished.

The economic and civil court boards were merged.

The judges for district and *oblast* courts were selected on a competitive basis by the Qualifying Board of Justice and the Supreme Judiciary Council. The persons who passed the qualification exam were to undergo mandatory internship. The requirements for judges were toughened and the right of initiating disciplinary proceedings against judges was moved from the Ministry of Justice to the Supreme Court chairman and to chairs of *oblast* courts. The judges enjoyed higher status and better social security than in previous years.

By law, provisions of ratified international human rights standards were to be applied directly unless they required the adoption of special laws of the application.

### Independence of Judiciary

On 25 December the Constitutional Law "On the Judicial System and the Status of the Judges" was adopted. Its official goal was to guarantee the "separation of powers

and interaction between the branches of state power under the principle of checks and balances." The result was, however, the contrary: the Law vested the President with additional powers over the judiciary. He was given the right to, for example, appoint and dismiss judges and the chairman of the Supreme Judiciary Council and its members as well as the chairman of the Qualification Board of Justice; approve the regulations and procedures for the boards deciding on disciplinary procedures and qualifications of judges; determine the number of district and *oblast* courts, their establishment, reorganization and abolishment; decide on the total number of judges of all courts; approve the number of clerks in the office of the Supreme Court and in the registries of local courts; suspend the authorities of the Supreme Court chairman; and give his consent to criminal or administrative prosecution of judges.

### **Fair Trial**

The judicial system of Kazakhstan was still characterized by the drawbacks inherent in the former Soviet system whose major function was the protection of state interests.

The Constitution was not directly applied – the judges mainly saw it as a political declaration. If the Constitution and other laws were in contradiction – which was often the case – the judges abided by normal laws even if they were outdated or only decrees with the force of law.

The prosecution's arguments were accepted uncritically, and the hearings were in most cases based on the defendant's "confessions" that had been extracted under coercion. Protests of the defence about illegal methods of investigation were usually ignored. Cases were frequently returned for further investigation and there were no jury trials. Bribery was widespread even among the higher judges. Some 70 percent of court decisions were not executed and there was no other avenue of complaint than initiating criminal proceedings.

There was no proper place for advo-

cates in the judicial system. They were often denied access to the accused and were not allowed to meet the investigating officers. Their offices were illegally searched by the tax police and other authorities and they were often unlawfully required to produce their passports. Many of them were illegally arrested and held detained.

President Nazarbaev admitted that the judicial system of Kazakhstan was controlled by the Government. What is more, he initiated a new law on the judiciary and the courts in order to put it from the Government's control under his own control.

### **Torture, Ill-Treatment and Misconduct by Law Enforcement Officials**

In July 1998 Kazakhstan ratified the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, no positive changes took place: torture and other cruel treatment by law enforcement officials was a widespread practice also in 2000.

Within just the seven first months of 2000, 3,658 law enforcement officials were disciplined and 68 criminal cases were initiated against them, mainly for using physical violence. Over 20 employees of the Ministry of Interior were convicted.

◆ In April an Astana court sentenced two officers of the Sary-Arka Department of the Interior to four years in prison for the abuse of power and overstepping their authority, resulting in a detainee's death. However, the court let them off immediately.

◆ In July K. Sabdenov, a tax police officer and son of a well-known scientist and an MP was brought to the road police station in the town of Kokshetau. He was heavily beaten and thrown into the street. K. Sabdenov died in hospital of his injuries.

◆ Also in July an officer of the KNB, Nurkeyev beat up a well-known film director Dmitry Piskunov in Almaty. Officially KNB explained that Piskunov "unreasonably prevented Nurkeyev from driving into a parking lot."

◆ The slightly drunken detainee B. Bekov died in hospital after being brought there from the Turksib district police department. A post-mortem showed that he had died of numerous blows by a blunt object into the stomach. The city prosecutor learned about the incident in the press and started criminal proceedings 11 days after the crime was committed.

Reports were received about the use of suffocation with a respirator or a plastic bag, hand-cuffing to hot radiators, pouring cold water onto people outdoors at freezing temperatures, beating up, sexual violence, and threats of violence towards relatives and friends. Representatives of the opposition and participants in unsanctioned demonstrations and pickets were often subjected to cruel treatment or torture.

### **Detainees Rights**

Illegal arrests and detention were commonplace. The General Prosecutor estimated that 25 percent of those arraigned were arrested without a valid reason. Bodies of the Ministry of Interior, KNB, and the tax police were responsible for the majority of unlawful detentions. People were held without any authority and many ended up in detention facilities as an administrative punishment.

Deputy Prosecutor of Karaganda, S. Alter confirmed the illegal detention of suspects by the regional departments of the Ministry of Interior: individuals were detained for three days without a prosecutor's warrant, and if a warrant was denied, the suspect was taken to court where he was sentenced to 15 days' administrative arrest for insulting police officers. In some cases prosecutors were denied access to the police department for checking the legality of detention.

◆ K. Zhumabekov was kept in detention for 11 months in a case framed by officers of the Sary Arka department of the Interior Ministry in Astana.

◆ In July the Almati police illegally arrested Anatoly Ginsburg, one of the best-known

barristers in Kazakhstan. Ginsburg represented a person accused of being involved in an assassination of a prominent governmental official. He was placed in preliminary detention. The prosecution alleged that Ginsburg was involved in the disappearance of a criminal case file in the Ministry of Interior in 1994 and that he was suspected of "offering legal advice to a criminal gang." Anatoly Ginsburg was subjected to psychological pressure for three days and held in a cell he had to share with convicted criminals. His lawyer was not allowed to see him. As the prosecution did not find sufficient reasons to issue an arrest warrant, Ginsburg was released after he had signed a paper promising not to leave the area. No charges were brought against him

In 2000, as in the previous years, the Almaty police conducted campaigns for "reinforcing public order" and checked the passport and visas of migrants. Thousands of individuals were detained for hours during the campaigns.

### III-Treatment in the Army

The number of reported criminal acts committed by members of the armed forces under the Ministry of Defence increased by about 10 percent. The official statistics on casualties were classified; the only source of information were the press and public organizations dealing with the soldiers' rights.

Committees of Soldiers' Mothers in Almaty and Astana received up to 300 complaints annually. The military investigations into cases of death lasted for years and some families never received replies.

Living and medical conditions in the army did not comply with legal norms. Soldiers were given a daily food ration worth less than one U.S. dollar. Typically, the army barracks had no heating, hot water and bed linen.

### **Conditions in Prisons**

Kazakhstan was one of the countries with the largest per capita prison popula-

tion in 2000 (over 800 per 100,000 inhabitants). The conditions in penitentiaries (ITU) and pre-trial detention facilities under the Ministry of Interior amounted to torture, cruel or inhuman treatment or punishment.

To protest against cruel treatment on the part of prison personnel, inmates practiced mass self-mutilation.

- ◆ At the beginning of the year, 15 inmates suffering from tuberculosis complained to the General Prosecutor and went on hunger strike to protest against inhuman conditions at ITU No. 33. All 15 were punished. In protest, the inmates cut their veins, and one of them died. In that facility, visits by relatives were prohibited, and no telephone calls were allowed under various pretexts. The inmates were held in barracks where they were allowed to take a bath only once a month. Marching drills for 2-3 hours a day were obligatory in all weathers for those who were not engaged in work.

- ◆ In the town of Arkalyk, 44 inmates of a penitentiary institution cut their abdomens in protest at bad treatment.

- ◆ At a reform school in Almaty, 57 minors cut up their abdomens and veins in protest at cruel treatment on the part of the school personnel.

### Death Penalty

No law on the death penalty had been adopted in Kazakhstan. The Criminal Code carried a death penalty for 18 crimes in peacetime, including 12 forms of murder (Article 96); genocide (Article 160); use of hired military force (Article 162); high treason (Article 165); attempted murder of a public figure or a statesman (Article 176); diversion (Article 171); and attempted murder of a person administering justice or preliminary criminal investigation (Article 340).

In time of war or during a military conflict, the law provided for the death penalty for resisting a senior officer and so preventing him from performing his official duties

(Article 368); violence against a senior officer (Article 369); desertion (Article 373); evasion of military service by self-mutilation or other means (Article 374); breaking the rules of performing the sentry-duty (Article 375); abuse of power, exceeding one's powers, or the authorities' inactivity (Article 380); surrendering war-waging facilities to the enemy (Article 383).

Women, men of 65 or older and persons who were under 18 when committing the crime could not be sentenced to death. The death penalty could be replaced with life or a 25-year imprisonment through pardon by the President at the proposal of the pardoning commission.

Only the Supreme Court could hand down a death penalty: therefore, those charged with capital crimes had less opportunities to appeal their sentence than those accused of less serious offences. A death sentence could be appealed within seven days after a copy of the sentence had been handed to the convict.

Kazakhstan continued to violate the ECOSOS Resolution 1989/64 through not disclosing statistics on the death penalty. It was estimated that 40-60 people were sentenced to death annually.

- ◆ In an unprecedented case in the judicial practice of Kazakhstan, three people were sentenced to death in different proceedings for murdering one man.

### Religious Intolerance

Kazakhstan has traditionally been a multi-ethnic and multi-confessional country that has demonstrated religious tolerance. However, in practice, the right to freedom of conscience was not duly protected and the principle of the State's non-interference in the affairs of religious communities was violated. The State openly protected the "major" religions – Islam and the Orthodox Church.

In 2000, the authorities conducted an aggressive campaign aimed at restraining the activities of the so called "non-tradition-



al" religions. The media was used to propagate the supremacy of Islam and the Orthodox Church, and to label other religions as "harmful" and "bad." After the events of 1999 in Uzbekistan and subsequent 1999 and 2000 intrusions of Uzbek guerillas into Kyrgyzstan, the campaign in Kazakh media reached the nature of a planned hysteria in the face of the threat of religious conflict and alleged religious extremism.

In 2000 pro-presidential political parties and NGOs (e.g. the party Otan and its youth movement, the International Fund Congress of Spiritual Accord, Assembly of the Peoples of Kazakhstan, Arabic-Turkish Centre) actively supported this campaign. A number of seminars were held that called people to give up tolerance because it was inconsistent with "the cultural-historic mentality of the ethnic Kazakhs and forcefully imposed by Western culture." President Nazarbaev said that the Kazakhs are Sunni Moslems by birth and must follow that route.

Senior governmental officials gave speeches in churches and mosques and the chief *mufti* and the Orthodox archbishop participated in state ceremonies. The Ministry of Culture, Information and Public Accord had a liaison department for relations with religious associations and it performed some of the functions of the former Soviet Council for the Affairs of the Church. It had subdivisions in all local bodies of the executive power.

In February President Nazarbaev issued a Decree "On Prevention and Elimination of Terrorism and Extremism" that led to inspection of the activities of all religious associations. The mass media published horrifying "facts" about illegal activities of religious associations.

The KNB and the Prosecutors' Offices targeted religious minority communities because they deemed them illegal - despite the fact that Kazakhstan does not require mandatory registration of religious associations. Foreign missionaries were attacked because they had not been able to

register with the migration police and obtain licenses for their activities. Many were charged because of possession of religious literature. Others were accused of carrying out religious rites with foreigners.

In addition, ministries and local authorities waged a struggle against "religious extremism." For example, the Ministry of Education issued a circular prescribing that schoolchildren should not be allowed to attend religious meetings; schools should not accept humanitarian or other assistance from religious associations; and school buildings should not be leased for activities of religious associations.

The Ministries of Justice and Culture, Information and Public Accord ordered registered religious associations "to eradicate from their founding documents the provisions contradicting the law" (referring to educational or religious activities) and "other activities not prohibited by law" and to have their associations re-registered.

*Akimats* (local administration) frequently refused to let premises for religious events, and courts imposed administrative penalties for holding "unsanctioned" religious meetings outside the places of worship.

A growing number of religious organizations were denied registration and by the end of 2000, registration of newly founded religious entities was suspended without any explanation.

#### Draft Law on Religions

In January 2000 the Parliament decided to draft a new law on the freedom of faith and religious associations. At the same time, at the initiative of the Office of the General Prosecutor, the Government started a revision of some legislative provisions on the freedom of conscience. In October Minister Sarsenbaev said at an international seminar that some technical amendments may be introduced in the Law "On Religion", but there were no plans to adopt a new law. By that time, the text of the new law drafted by the Spiritual Directorate of

the Moslems of Kazakhstan had already been submitted to the Government.

The draft law is in serious violation of international standards, it discriminates against religious minorities, contradicts the Kazakh Constitution and other legislation and is clearly targeted at eliminating minority religious communities. For example, it prohibits activities by religious associations without state registration; proselytism; missionary activities; private religious instruction; religious education in state schools; and ownership of places of worship by others than religious associations. It restricts the rights of a religious community to independently determine its organizational form, and to train, appoint or elect its leaders. It restricts the right to establish or maintain links between individuals and communities of fellow believers, to worship freely and to produce, purchase and use necessary religious objects and literature. It also allows state interference in the communities' financial affairs.

### **Freedom of Movement**

Article 21 of Constitution proclaimed the right of everyone to legitimately stay or reside freely in the country's territory, to freely move and choose one's place of residence, and also to go abroad and return without any obstacles. In practice, however, freedom of movement and the right to choose one's residence within the country were restricted due to the system of residence registration. There were also bureau-

cratic procedures for obtaining exit visas for Kazakh citizens and for foreigners to stay in the country. All foreigners (with some exceptions) were obliged to register with the police within three days of their arrival, excluding weekends and holidays.

◆ In February the Migration Police denied an exit visa to Gaziz Aldamzharov, chairman of the executive committee of the opposition party RPPK.

◆ In October plainclothes Migration Police officers came to Amirzhan Kosanov, one of the RPPK leaders, and demanded him to immediately turn in his international passport because authorities had decided to annul the exit visa he had already obtained. In response to A. Kosanov's inquiry as to the legality of such actions, the Migration Police referred to some "absolutely secret" letter from the Government prohibiting Kosanov from leaving Kazakhstan. Ermurat Bapi, editor-in-chief of the newspaper *SolDat* and member of the RPPK executive committee, experienced a similar incident.

The former Soviet residence registration system was virtually preserved with the ID card replacing the former internal passport. The place of permanent residence and registration was indicated in the ID card that had to be changed if one moved to another locality. Without a certificate of registration it was impossible to purchase or sale immovable property, get a job, register documents for getting a pension, receive social benefits, etc.

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### **Endnotes**

<sup>1</sup> Based on the Almaty Helsinki Committee, *Human Rights In Kazakhstan in 2000*.