

## **Kazakhstan<sup>1</sup>**

**IHF FOCUS: elections; freedom of expression; freedom of the media; freedom of association; peaceful assembly; judicial system; detainees' rights; torture, ill-treatment and misconduct by police; religious intolerance; death penalty; rights of the mentally ill and disabled**

The human rights situation in Kazakhstan deteriorated in 2002 as the authorities stepped up their repressive measures against opposition forces. The Democratic Choice of Kazakhstan, an opposition movement that was formed at the end of 2001, was subjected to strong pressure and two of its key figures were imprisoned on politically motivated charges.

Most media outlets in the country were controlled by the presidential family or financial groups associated with it, opposition media was increasingly marginalized and journalists reporting critically about the presidential administration faced mounting harassment. In a case that received much international attention, the prominent journalist Sergey Duvanov was charged with rape and convicted in a scam trial.

A new law on political parties, which was signed by the president in July, severely undermined political pluralism in the country since it required all political parties to have at least 50,000 members in order to register with the authorities. This requirement also applied to political parties that already were registered when the law entered into force. At the same time, pseudo-NGOs, which were established under the guise of strengthening civil society but in reality backed up the regime, proliferated.

As in previous years, law enforcement officials routinely carried out arbitrary and unlawful detentions and used torture to force criminal suspects to confess to the crimes they were charged with. The perpetrators of torture were rarely brought to justice and if they were prosecuted they normally received lenient sentences.

Under the pretext of fighting terrorism and religious extremism, the government continued to crack down on independent Muslims and to restrict the activities of other minority religious communities. They did so *inter alia* by obstructing their registration and by bringing administrative cases against them.

Under a new law, prosecutors were granted wide powers that previously had been exercised solely by courts. The death penalty remained in use, but the president proposed that a discussion about its abolishment be initiated. Prisoners were sometimes forcibly hospitalized for mental treatment.

As of the end of the year, a draft law aimed at bringing the electoral law in line with international standards was still pending in the parliament. The right to peaceful assembly remained restricted.

In September the office of an ombudsperson was introduced by a presidential decree. However, the ombudsperson's mandate was limited and no guarantees for the office's independence were laid down.

In a positive development, two children's rights laws were adopted during the summer months and in December the ILO Convention Concerning the Prohibition and Immediate Action for Elimination of the Worst Forms of Child Labor was ratified.

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<sup>1</sup> Unless otherwise noted, based on the *Annual Report 2002* of the Almaty Helsinki Committee.

## **Elections**

Following the 1999 presidential and parliamentary elections in Kazakhstan, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) made 17 recommendations to bring the Kazakh electoral law in line with international standards. ODIHR and the Kazakh government subsequently drafted a new electoral law on the basis of these recommendations. The draft was submitted to the parliament in early 2002, but at the end of the year it was yet to be considered.

On December 28, by-elections to the *mazhilis* (the lower chamber of the parliament) were organized in three one-mandate electoral districts in the country. These elections were monitored by independent observers, including by Globe, a Kazakh network of independent observers, and by the Almaty Helsinki Committee.

The observers reported numerous violations of international standards of fair elections and of the national electoral law. These violations included unreliable electoral lists (sometimes lists included citizens who had left the country or who had died, while citizens eligible to vote were not included), multiple voting, alleged cases of ballot stuffing (*inter alia* indicated by huge discrepancies between the number of voters and the number of votes that were registered in polling stations), and measures aimed at preventing observers from fulfilling their monitoring task (some observers were denied access to polling stations, while others were intimidated).

Following the elections several candidates filed suits against the authorities, arguing that the elections had violated the country's electoral law. However, none of these suits were satisfied. Likewise, no measures were taken in response to the numerous complaints that were filed with the Central Electoral Committee and the local committees subordinated to it.

## **Freedom of Expression**

At the end of 2001, a number of senior officials and businessmen established a new political movement, called the Democratic Choice of Kazakhstan (DCK). This movement demanded a change of policy and rapid democratic reforms in the country. In particular, it called for measures to strengthen the parliament and local representative bodies, for decentralization of power, for popular election of the heads of regional and local administrations (*akims*), for reforms of the judicial system, and for the abolishment of restrictions on freedom of expression and the media.

The establishment of DCK was preceded by an ugly media campaign. On the one hand, anonymous internet sites published materials compromising President Nazarbaev and his family. The authorities attributed these materials to the opposition, including DCK. On the other hand, the private media concern owned by former Minister of Economy Mukhtar Ablyazov, who was one of the founding members of DCK, accused Rakhat Aliyev, the president's son-in-law and recently appointed deputy chairman of the National Security Committee (NSC), of plotting a coup. DCK also demanded that Aliyev and Prime Minister Kasymzhomart Tokayev resign because of their failure to implement reforms initiated by President Nazarbaev.

The crisis ended with Aliyev and Tokayev leaving their positions. However, while President Nazarbaev publicly supported the ideas presented by DCK, he also dismissed a number of ministers and high-ranking officials who had joined the movement's ranks. A new government was formed under Imangaly Tasmagambetov, who was a firm supporter of the president.

Shortly after its foundation, DCK split into two factions. Its more conservative members, including many who had previously been government ministers, established a new, officially reform-oriented party called Ak Zhol (“Bright Path”). Ak Zhol was registered by the Ministry of Justice in March and pledged loyalty to the authorities. The more independent-minded of the DCK members continued to work under the old banner. Led by Mukhtar Ablyazov and the former head of the administration of the Pavlodar oblast, Galymzhan Zhakiyanov, the independent DCK openly demanded that President Niyazov resign and established contacts with exiled opposition leaders. The authorities responded with repression, including imprisonment of the two leaders.

- Mukhtar Ablyazov was arrested in March on charges of “economic crimes,” while Galyman Zhakiyanov was arrested the following month on charges of corruption during his tenure as *oblast* governor. On July 18, Ablyazov was fined €3,5 million and sentenced to six years in prison. Because he is a former minister, he was tried by the Supreme Court and therefore had no possibility to appeal the verdict. On August 2, the Pavlodar City Court fined Zhakiyanov €13,000 and gave him a seven-year prison sentence. This verdict was upheld on appeal. Serious violations of international fair trial standards characterized both trials, including the right to a proper defense and forcing witnesses to perjure themselves. Moreover, none of the evidence presented in either trial supported the verdicts handed down.<sup>2</sup>

During the year, harassment of journalists who were critical of the president and those close to him also increased and assumed previously unseen features. As in previous years, printing presses were confiscated and journalists and editors faced libel suits or were physically attacked. In addition, in some cases, the facilities of independent media outlets were shot at or set on fire.

- Sergey Duvanov, an outspoken critic of the government and chief editor of a magazine published by the International Bureau of Human Rights, was subjected to a wave of harassment during the year. In July, Duvanov was charged with defaming President Nazarbaev in a May article discussing financial transactions undertaken by the president. The following month he was attacked and seriously injured by unknown assailants, who reportedly told him, “you know why we are doing this” and, “next time we will make you a cripple.” At the time of the attack, Duvanov was due to travel to Warsaw and speak about human rights problems in Kazakhstan at the OSCE Human Dimension meeting. Moreover, in October, the day before he was to go to the United States to launch a report on human rights and democracy in Kazakhstan, he was arrested on charges of raping an under-age girl. The trial, which was opened in December, was marred by gross irregularities and no proof of guilt was presented. In early 2003, he was sentenced to three and a half years in prison.<sup>3</sup>
- Leila Baiseitova disappeared on May 23, which was shortly after her mother, Lira, published an article about the president’s Swiss bank accounts in *Soldat*. About a month after Leila’s disappearance, Lira Baiseitova was informed by police that her daughter had been arrested on charges of drug possession and brought to a hospital in a coma. On June 21, police reported that Leila had committed suicide. However, according to credible information, her body bore traces of torture and sexual abuse. The local prosecutor reportedly opened an investigation into the case, but it was

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<sup>2</sup> See IHF, “Kazakh Convictions of Opposition Figures Part of Larger Wave Of Repression – Will the Community of Democratic States React?,” August 8, 2002.

<sup>3</sup> Information from Almaty Helsinki Committee to the IHF; Reporters without Borders, “Kazakhstan: Opposition Journalist Accused of Rape is Jailed for Three and a Half Years,” January 28, 2003; and International Press Institute, *World Press Freedom 2002*, at [www.freemedia.at/wpfr/world.html](http://www.freemedia.at/wpfr/world.html)

closed in July because of the alleged lack of evidence showing that Leila Baiseitova had not committed suicide.<sup>4</sup>

### **Freedom of the Media**

According to official statistics, there were about 1,000 private newspapers and over 350 private magazines in the country. At least one non-governmental weekly newspaper was published in each large city of the country, and in Almaty there were over ten. However, all major dailies were owned by the state.

As of the beginning of 2002, there were a total of 45 broadcasting companies in the country. Eleven of these were based in Almaty. The only two companies that broadcasted nation-wide (a total of five television and radio channels) were government-controlled. The authorities also controlled practically all television and radio transmission companies.

Moreover, an overwhelming majority of all private media outlets were owned either by members of the presidential family or by financial groups close to this family. Most of the remaining private media outlets were in the hands of financial groups and competed with the pro-presidential ones. In 2000 the pro-presidential media and the opposition media engaged in an “information war,” characterized by mutual attacks. As noted above, this campaign grew increasingly ugly at the end of 2001 following the establishment of DCK, given that one of its founding members, Mukhtar Ablyazov, was also a leader of the opposition media. In response, the president demanded that all private media outlets adopt a code of conduct and threatened to take repressive measures against private media should the “media war” continue. However, throughout 2002 the campaign continued to escalate, to the increasing detriment of the opposition media.

### **Freedom of Association**

The Kazakh Constitution recognized the right to freedom of association. However, the Constitution and several other laws imposed restrictions on this right that were inconsistent with international standards.

The Constitution, for example, prohibited associations whose activities were aimed at “instigating class discord” or whose activities could “disrupt inter-ethnic accord.” The Criminal Code criminalized the establishment or participation in the activities of a religion-based political party; the establishment of a political party or a trade union funded by foreign states, foreign citizens, or foreign or international organizations; and the establishment of an association considered to promote “racial, national, clan, social, class or religious intolerance or exclusiveness.” The law “On National Security” defined “unauthorized meetings, rallies, demonstrations, marches, illegal pickets, and strikes” as a threat to national security.

Moreover, in 2002, a number of laws were amended so as to further restrict freedom of association. In February, a new law combating terrorism was passed. This law introduced harsher penalties for a number of crimes, including “propaganda for terrorism” carried out by the head of a public association, which following the amendment was punishable with three to eight years in prison. This amendment gave rise to concern because terrorism was very broadly and ambiguously defined in the country’s legislation. The law “On Fighting Terrorism” defined a terrorist offense as: an unlawful activity aimed at “undermining public security,” “harassing the public,” “negatively affecting decision-making by state bodies of

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<sup>4</sup> Ibid.

Kazakhstan, foreign states or international organizations,” or “putting an end to the activities of public figures.” Threats to commit such acts were also considered terrorist offenses.

In June, a new law on political parties was approved by the parliament. Pursuant to this law, those wishing to establish a political party must gather at least 1,000 people from at least two thirds of all the country’s regions for the constituent congress. In order to register with the authorities a party must have at least 50,000 members, including at least 700 people from each of the regions in the country. In comparison, only 3,000 members were required under the old law. The new law also makes the procedure for registering a party more complicated, and makes it possible for courts to liquidate political parties that have not participated in two subsequent elections.

The new law was severely criticized by opposition parties as well as by human rights defenders, who believed that the law represented an undemocratic attempt by President Nazarbaev to decimate opposition to his regime. As a result of the criticism, the president requested the Constitutional Council to consider whether the law was in compliance with the Constitution. As the Constitutional Council ruled that the law was constitutional, it was signed by the president and took effect in July. The provisions of the new law also applied to those 19 political parties that already were registered with the authorities. These were required to re-register by March 2003. As of the end of 2002, only three political parties had managed to prove that they had the required number of members and to re-register in accordance with the new provisions.

During the year the government also adopted a so-called concept of state support of NGOs, which formed the basis for a corresponding state program. Within the framework of this program the government initiated a package of new draft laws. According to the Almaty Helsinki Committee, the purpose of the program and the draft laws was to make state support of local NGOs dependant on their “usefulness” and to streamline the activities of foreign NGOs, including donor foundations, operating in the country.

Persons close to the government and former high-ranking government officials actively engaged in establishing pseudo-NGOs and foundations. For instance, in December 2001, the president’s daughter Dariga Nazarbaeva founded an association called, “Public Protection,” which was officially aimed at promoting democratic reforms. Throughout 2002, this association was given vast media coverage, including by the national television channel Khabar, which was managed by Dariga Nazarbaeva herself. Another pseudo-NGO, which was founded by former Deputy Minister of Labor and Social Protection Valentina Suvryukova, claimed to “conduct a dialogue” with the government on behalf of all NGOs in the country and took part in the development of state concepts and draft laws. Yet a third pseudo-NGO, established by the former chairman of the Supreme Court and former General Prosecutor Maksut Narikbaev, was invited to represent the country’s civil society in a government taskforce that was launched at the end of 2002 to develop a concept of national legal policy.

According to the Almaty Helsinki Committee, the special services continued to openly spy on the activities of NGOs and their leaders. Officers from a special Ministry of Interior department regularly attended meetings organized by opposition parties and NGOs and recorded them for the official purpose of “preventing crimes from being plotted.” Officers from this department also typically acted as witnesses in falsified administrative and criminal cases that were initiated against political opponent and NGO activists.

## Peaceful Assembly

During the year, the authorities unduly infringed upon the right to peaceful assembly on numerous occasions.

- In March, the city court of Pavlodar ordered Communist Party activist Zoya Kozhanova and DCK activist Gennady Bondarenko to pay KZT 194,000 (about €1,300) each for participating in “an unsanctioned meeting,” which was a meeting with an MP. Moreover, in July, Kozhanova, a teacher at a public school, was dismissed from her place of work.

## Judicial System

In July, the parliament adopted a law that significantly extended the powers of prosecutors by granting them some powers previously restricted to courts. Prosecutors were *inter alia* allowed: the right to order banks to provide account information about criminal suspects, the ability to sanction wire-tapping, the right to enter offices and residential facilities without a warrant, and the power to arrest criminal suspects. The law specifically provided that a prosecutor could continue to exercise these powers even if those targeted filed a complaint with a court. The new law was fiercely criticized by the judiciary and by human rights activists for violating the Constitution and international standards. However, the Constitutional Council concluded that the law was constitutional and it took effect on August 9.

## Detainees’ Rights

According to official information that was published in 2002, in recent years, about 450,000 people have annually been subject to administrative detention. The detentions have often been carried out in an arbitrary or unlawful manner. The general prosecutor estimated that a quarter of all preventive arrests were in violation of the law.

In 2002, as in previous years, law enforcement authorities frequently arrested citizens without filling out arrest protocols. It was also not uncommon that detainees were held beyond the maximum time stipulated by law. In most cases such arrests were made by officials from the Ministry of Interior, by the NSC, or by the tax police. Also, foreign citizens, journalists, and persons enjoying legal immunity were arbitrarily arrested and detained.

- In June, a tax police investigator summoned Nikolay Usatov, a deputy of the Karaganda *oblast maslikhat* (a local representative body), for interrogation. Following the interrogation Usatov was arrested on criminal charges. However, the Karaganda *oblast* Prosecutor’s Office found the charges unsubstantiated and Usatov was released. While Kazakh law established special procedures for arresting, detaining, and bringing charges against deputies of popularly elected bodies, they were not respected in this case.
- In Almaty, some 7, 000 people were detained in the context of a campaign aimed at increasing “law and order” because they lacked identification documents. Under Kazakh law, the lack of identification documents was not a reason for arrest.

### **Torture, Ill-Treatment and Misconduct by Police**

Kazakhstan ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1998. However, as of the end of 2002, the provisions of this convention were yet to be effectively incorporated into Kazakh law. While the Kazakh Constitution prohibited the use of torture, the concept of torture was not defined anywhere in Kazakh law. Torture was not criminalized under the Criminal Code and there was no legal requirement that all cases of alleged torture be promptly investigated or that courts must reject evidence obtained under coercion.

As of the end of 2002, Kazakhstan had not made any declaration under CAT article 21 to enable the UN Committee against Torture to examine written communications submitted by other states regarding Kazakhstan's implementation of the convention. Nor had it given the committee permission to, under CAT article 22, consider complaints from individuals who claim they had been subjected to torture by Kazakh authorities. There was also no effective domestic mechanism to monitor the practices of law enforcement authorities.

Torture and other forms of cruel and degrading treatment remained a widespread practice in pre-trial detention facilities as well as in penitentiary institutions. Among the torture methods used were: beatings, sexual violence, suffocation with a respirator or a plastic bag, hand-cuffing to hot radiators, exposure to cold water outdoors at below zero temperatures, denial of food, denial of lavatory use, and threats that relatives and friends would be subjected to violence or be criminally prosecuted. Several cases of death in custody due to torture were reported during the year.

Torture was often used to coerce criminal suspects to confess to the crimes they were charged with. At the same time, courts usually failed to take into account torture allegations and often used confessions and other evidence obtained under duress as the basis for convictions. The victims of police abuse included political opposition members as well as ordinary citizens falsely accused of crimes.

- In January, the mother of 18-year-old Valery Kurchenkov, accused of murder, complained to the Akmola *oblast* prosecutor: "They put a plastic bag on his head and held it there until he lost consciousness ...they took off his trousers and one of the policemen brought a bottle and said that he would rape him with it... He spent the first night in that room handcuffed to the radiator... They threatened him that if he did not confess to having committed that murder, they would search his home and 'find' drugs and cartridges and imprison his father." As a result of the pressure, and in the absence of his lawyer, Kurchenkov agreed to sign a statement pledging himself guilty to the murder.
- In April, officers from the Auezov police department in Almaty arrested Vladimir Lobakov on suspicions of assault. Following the arrest, the police officers allegedly subjected Lobakov to torture in order to coerce him to confess to the crime he was accused of. According to Lobakov: "They started kicking me in the groin, [and] beat me on the head, back, kidneys, but I did not want to confess the crime which I had not committed. Then the policemen handcuffed me to the radiator and said that they would rape me with a truncheon. That is how they forced me to sign the confession they had dictated."
- Four days after Vladislav Shishov was arrested in his home in Pavlodar he died in police custody. According to the police, who reportedly did not present any arrest warrant when they arrested him, he behaved violently in the police car during transportation to custody and injured himself seriously. However, a forensic

examination of Sishov's body showed that he died due to a ruptured liver, lung injury, broken ribs, subarachnoid hemorrhage and a number of other injuries, which raised suspicions as to the police explanation of his injuries.

When investigations into torture allegations were initiated they were normally inadequate and frequently resulted in the conclusion that no violation of the law had taken place. According to information from the general prosecutor, criminal cases were opened against 18 law enforcement officials who were suspected of torture during the first half of 2002. During the same time human rights NGOs registered hundreds of complaints of torture that were never investigated. Those law enforcement officials who were tried for torture typically received a sentence of "not guilty" or were only sentenced to short prison terms.

- In the Baidibek district in the South Kazakhstani *oblast*, three policemen were charged with abusing five detainees for the purpose of coercing them to confess to various crimes, including theft of cattle and computers. The five victims were arbitrarily detained and all needed hospital treatment as a result of the torture they were subjected to. The three policemen were sentenced to three years of probation and were prohibited to work as police officers for two years.

Hazing remained a serious problem in the army. In Almaty and Astana alone the Committees of Soldiers' Mothers received about 300 requests for help from hazing victims during the year. According to estimates, one fourth of all deaths in the army were related to hazing. The military authorities typically conducted only formal investigations into such deaths and falsified facts.

- On January 8, Denis Azarov, a 22-year-old student at the Almaty higher military school, died in a military hospital. His mother was told that he had died of hepatitis. However, forensic experts who examined his body concluded that he died due to cranial-brain trauma, a hematoma, and a brain injury.

## **Religious Intolerance**

According to the Constitution, Kazakhstan was a secular state, in which the state and church were separate. The Constitution also guaranteed its citizens freedom of religion, with the reservation that the exercise of this right must not prevent citizens from respecting "their obligations toward the state."

Sunite Islam and Christian Orthodoxy (as taught by the Russian Orthodox Church) were the major religions, with ethnic Kazakhs primarily professing the former, and ethnic Russians the latter. There were no fully reliable statistics as to the number of religious communities in the country. However, the Ministry of Culture, Information and Public Accord reported that 2,700 religious associations were registered with the authorities as of early 2002. Most of these associations represented Islam (1,519), the Russian Orthodox Church (210), the Evangelic Lutheran Church (110), and the Roman Catholic Church (90); the remaining associations operated in the name of a total of 30 different confessions. A 1999 reference book, *Religions of Kazakhstan*, again listed around 6,000 religious communities representing 49 confessions.

There was also research indicating that the number of religious communities and churches has increased rapidly since the 1990s. This trend was primarily attributed to the fact that restrictions on religious pluralism have eased and not to a growing level of "religiousness" within the population.



According to the Almaty Helsinki Committee, the authorities violated the constitutional principle of a secular state by publicly supporting Sunnite Islam and the Russian Orthodox Church. Moreover, referring to the need to combat religious extremism, the authorities continued to repress so-called non-traditional religious communities as well as independent Muslims.

#### *Non-Muslim Minority Communities*

In January 2002, the parliament adopted a new Law on Religion in spite of vocal protests from minority religious communities, religious experts, and international human rights organizations. The new law introduced a number of highly problematic provisions that, if implemented, would have facilitated increasing repression of minority religious communities.<sup>5</sup> However, on April 4, the Constitutional Council ruled that the law was unconstitutional and unenforceable. In spite of this, numerous violations against non-traditional religious communities were reported throughout the year.

By law, religious communities were not required to register with the authorities. However, local authorities often treated unregistered communities as illegal and initiated administrative cases against them. In flagrant disrespect of the rule of law, courts imposed fines on such communities and suspended their activities.

Moreover, the authorities sometimes refused to register religious communities on arbitrary grounds and ordered communities that already were registered to remove “unlawful” provisions from their constituent documents and to thereafter re-register.

In apparent violation of the law, local authorities also often demanded that minority religious communities obtain a special permit for conducting religious meetings and dissolved meetings that were organized by communities that did not have such a permit. The leaders of religious communities lacking a permit were typically brought to court and given administrative penalties. Likewise, many local authorities demanded that non-traditional religious communities obtain a license in order to provide training to church leaders, although this was not required by law.

Police and security services frequently conducted illegal searches of the premises of religious communities, even during sermons. In the context of such searches, religious literature and cult objects were confiscated and religious leaders were interrogated and detained.

Moreover, the law “On Freedom of Confessions and Religious Associations” guaranteed everyone the right to obtain, use, publish, and disseminate religious literature and other religious materials. However, prosecutors, police, and the NSC commonly viewed it as a crime to possess materials that were distributed by religious minorities, in particular if they were published abroad, and took repressive measures against those who were found to have such materials.

Kazakh law did not regulate the activities of missionaries, but there were cases when law enforcement authorities ordered foreign missionaries to stop their proselytizing activities, brought them to court, and deported them from the country. There were also cases when authorities arbitrarily prohibited foreigners from conducting religious ceremonies together with Kazakh citizens, arguing that such ceremonies amounted to “illegal missionary activities.”

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<sup>5</sup> For more information see IHF, *Human Rights in the OSCE Region: the Balkans, the Caucasus, Europe, Central Asia and North America, Report 2002 (Events of 2001)*, at [www.ihf-hr.org/viewbinary/viewdocument.php?doc\\_id=171](http://www.ihf-hr.org/viewbinary/viewdocument.php?doc_id=171)

Sometimes authorities regarded it as a violation of the law that children participated in religious meetings or that schools accepted donations from religious communities. The Ministry of Education, for instance, ordered its local branches not to allow such “violations” to take place.

Enjoying their dominant position, the leaders of the Sunnite Islam community and the Russian Orthodox Church tacitly supported the campaign against minority religions. The authorities also used the media as a tool to spread propaganda denigrating minority religions.

### *Muslims Communities*

As in 2001, the authorities also harassed Muslims under the pretext of fighting terrorism and religious extremism. According to Human Rights Watch, more than 20 members of Hizb-ut-Tahrir were arrested in late 2001 and 2002. Those who were Uzbek citizens were extradited to Uzbekistan, where they faced lengthy prison sentences. Others were fined or sentenced to up to four years in prison.<sup>6</sup>

### **Death Penalty**

The Criminal Code set forth the death penalty as punishment for 19 crimes committed during times of peace, including genocide, high treason, various types of murder, and attempt on the life of the president or a person administering justice or conducting a preliminary investigation. The death penalty was foreseen as punishment for an additional seven crimes committed during times of war.

The death penalty was not applicable to the following people: women, men over the age of 64, and boys under the age of 18. By way of pardon, the death penalty could be commuted into lifetime imprisonment or 25 years of imprisonment. Such decisions were made by the president on recommendation from a special committee charged with considering requests for pardon. This committee met once a month, and accepted recommendations by simple majority.

Unlike other criminal verdicts, death sentences that had been imposed by local courts could only be appealed to one instance -- the Supreme Court. An appeal to the Supreme Court had to be filed within seven days from the day the verdict was issued.

In a trend consistent since 1999, the number of death sentences that were imposed decreased from the previous year. According to available information, the number of such sentences was 63 in 1999, 40 in 2000, 39 in 2001, and 18 in 2002. The number of executions has decreased correspondingly: from 40 in 1999, to 22 in 2000, to 15 in 2001. As of this writing, no official data was available regarding the number of executions in 2002. However, the Almaty Helsinki Committee knew of at least four executions that were carried out during the year.

In an April address to the nation, President Nazarbaev suggested that a discussion be held in the country about the possibility of introducing a moratorium on the death penalty and possibly fully abolishing it in the future. Non-governmental actors carried out a large-scale campaign aimed at increasing public support for the abolishment of the death penalty.

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<sup>6</sup> *Human Rights Watch World Report 2003*, at [www.hrw.org/wr2k3/europe8.html](http://www.hrw.org/wr2k3/europe8.html)

## **Rights of the Mentally Ill or Disabled**

As of the end of 2002, about 300,000 people were hospitalized for mental problems in the country. The number of psychiatric clinics was not sufficient to accommodate so many, and the existing clinics did not have enough resources to provide adequate training to their staff members or to buy necessary equipment.

The 1997 law “On Psychiatric Aid and Legal Safeguards for the Observation of Human Rights in Rendering Psychiatric Aid” was not effectively implemented, and those hospitalized for mental problems were not treated in a manner respectful of their human dignity. All mental clinics remained closed to the public and to the media.

In some cases, prisoners who did not have any mental problems were subjected to forced treatment at psychiatric clinics. According to the Almaty Helsinki Committee, in practice, any head of a penitentiary institution could, at his/her own discretion, enforce such treatment upon a prisoner considered to behave “inadequately.” It was not necessary to request medical advice.

In violation of the right to privacy, various official institutions required that citizens present medical certificates as to the state of their mental health before they were hired.

- During the year, the Supreme Court rescinded a July 2000 decision by the Manghistau Oblast Court, which sanctioned forced mental treatment of A. Pyastolov. The Manghistau Oblast Court had ordered that Pyastalov be forcibly hospitalized after he expressed dissatisfaction with the court’s verdict in a civil case. Pystalaov’s reaction was depicted as contempt of court, which was punishable as a criminal offense. The Supreme Court remitted the case to the Manghistu Oblast Court for reconsideration. As of the end of the year, this court was yet to issue a new decision on the case.