

Kazakhstan

by Bhavna Dave

<i>Capital:</i>	Astana
<i>Population:</i>	15.0 million
<i>GDP/capita:</i>	US\$8,536
<i>Ethnic Groups:</i>	Kazakh/Qazaq (53.4%), Russian (30.0%), Ukrainian (3.7%), Uzbek (2.5%), German (2.4%), Tatar (1.7%), Uygur (1.4%), other (4.0%)

The economic and social data on this page were taken from the following sources:

GDP/capita, Population: *Transition Report 2006: Finance in Transition* (London, UK: European Bank for Re-construction and Development, 2006).

Ethnic Groups: *CIA World Fact Book 2007* (Washington, D.C.: Central Intelligence Agency, 2007).

Nations in Transit Ratings and Averaged Scores

	1999	2001	2002	2003	2004	2005	2006	2007
Electoral Process	6.00	6.25	6.25	6.50	6.50	6.50	6.50	6.50
Civil Society	5.00	5.00	5.50	5.50	5.50	5.50	5.75	5.75
Independent Media	5.50	6.00	6.00	6.25	6.50	6.50	6.75	6.75
Governance*	5.00	5.00	5.75	6.25	6.25	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
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	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
Corruption	6.00	6.25	6.25	6.25	6.50	6.50	6.50	6.50
Democracy Score	5.50	5.71	5.96	6.17	6.25	6.29	6.39	6.39

* 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 of this report. The opinions expressed in this report are those of the author. 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

Beginning in 1989 under Soviet rule, President Nursultan Nazarbaev presided over a brief but relatively vibrant phase of media freedom, civic participation, and democratic activism throughout the early 1990s. However, since the adoption of a new Constitution giving unchecked powers to the presidency in 1995, Nazarbaev has built a strong and personalized presidential regime, claiming credit for the economic success delivered by its rich oil and mineral resource base. He has facilitated considerable social and ethnic stability through a mix of top-down control and the promotion of economic well-being at the cost of political freedoms. The Europe-oriented authoritarian-patrimonial regime of Nazarbaev has allowed an inner circle of close family, friends, and business associates to exert formal and informal influence over vital economic resources and political positions, offering rapid career mobility to technocratic elites and top-level government bureaucrats.

An active international public relations campaign launched by the government did not help Kazakhstan to obtain the Organization for Security and Cooperation in Europe (OSCE) rotating chair for 2009. None of the presidential or parliamentary elections held in Kazakhstan so far have been recognized as “free and fair” or meeting international standards. The 2005 election enhanced Nazarbaev’s mandate to 91 percent from 79 percent in 1999, leading his critics to warn that the incumbent is determined to contest in the next election to win by an even wider margin.

National Democratic Governance. After securing 91 percent of the vote in the December 2005 elections, President Nazarbaev, together with members of the government, diplomats abroad, regime-controlled media, and the entire propaganda apparatus, reinvigorated the campaign to obtain the rotating OSCE chair for 2009 by acclaiming Kazakhstan’s success in promoting economic growth, social stability, and orderly conduct of multiparty and multi-candidate elections. The benefits of Kazakhstan’s rapidly growing economy are monopolized by the narrow circle of kin, clients, and supporters of the regime as well as a limited stratum of government officials, technocrats, and entrepreneurs. *Owing to the virtual impossibility for a political party or individual to acquire a major office without joining pro-regime parties or pledging personal loyalty to the regime and the reality that government critics of the opposition remain excluded from formal political processes and institutions, Kazakhstan’s rating in national democratic governance remains at 6.75.*

Electoral Process. The largest pro-regime party, Otan, further strengthened its hold when two smaller parties, Asar (founded by the president’s eldest daughter, Dariga Nazarbaeva) and the Civil Party of Kazakhstan, merged with Otan to create

a more “consolidated” party system. These three parties along with nominally independent pro-regime deputies already control the Parliament, which has no genuinely independent members. The moderate Ak Zhol led by Alikhan Baimenov holds the sole opposition seat in the Parliament, and no deputies have offered a constructive engagement with the government. Two other opposition parties, Alga and Nagy (“Real”), as well as Ak Zhol, have faced continuing difficulties in obtaining registration. *Owing to the fact that the government has continued to deny legal status to two major opposition parties and to harass its members while enlarging the pro-regime party Otan to make it even more difficult for the existing opposition to offer any electoral contest, Kazakhstan’s rating for electoral process remains at 6.50.*

Civil Society. The Nazarbaev regime has continued to use its economic power, political control, and electoral mandate to pressure nongovernmental organizations (NGOs) to “cooperate” to establish a pliant civil society. The government has stepped up financial aid through social contracts and procurements to NGOs engaged in social and infrastructure development and also made efforts to disburse such aid through government-organized NGOs. NGOs engaged in advocacy for civil rights and political reforms remain dependent on foreign donors and find their activities under continuing surveillance through financial audits and other forms of control. *Despite minor legal and technical improvements, symbolic gestures to promote civic harmony, and the rhetoric of supporting civil society, the government has stepped up the monitoring of civil rights groups, the opposition, religious associations, and youth groups. So Kazakhstan’s rating for civil society remains at 5.75.*

Independent Media. Kazakhstan’s media are privately owned but controlled almost entirely by major financial groups affiliated with key members of the regime and the major pro-regime political parties. Further amendments to an already restrictive Law on the Media make it impossible for banned news outlets to reregister or for banned journalists to be absorbed by existing media channels. The government continues to block Internet access to opposition Web sites and imposes limits on the registration of Internet domain names. Members of the regime sponsor Internet sites that wage disinformation campaigns to discredit the opposition and critics of government and to publish periodic “blacklists” of such individuals. *Though amendments to the Law on the Media have further undermined the modicum of independent media that exists in the country, Kazakhstan has been forced to offer a measured response to the widespread international attention and negative publicity it has received owing to its handling of the satirical film Borat. In the absence of further legislative measures to restrict media freedom, Kazakhstan’s independent media rating remains at 6.75.*

Local Democratic Governance. In Kazakhstan’s unitary administrative framework, the central government exerts top-down control over regional and local levels, with the president exercising authority to appoint all heads (*akims*) of regions and districts. Nazarbaev has refused to consider demands for the election

of *akims*. A limited and highly managed “experiment” of electing *akims* took place in four districts, but the government failed to hold further elections in 2006 as earlier promised. Local authorities have no budgetary autonomy or electoral accountability, which hampers the development of institutions that cater to local citizens. During 2006 local authorities failed to protect basic civic rights of the poor in the outskirts of Almaty, or assist them with legalizing their properties in accordance with the law, and subsequently bulldozed their settlements. *Owing to the lack of accountability in local governance structures, Kazakhstan’s rating in 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. The judiciary has continued to protect the interests of the state and its functionaries rather than those of individuals, minorities, and the weaker strata of society. This was proved again by the trial in an Almaty court on the murders of a prominent opposition leader, Altynbek Sarsenbaev, his bodyguard, and his driver. The convict, who was a senior official of the National Security Service and Ministry of Interior Affairs, initially named his former bosses—head of the National Security Service Nurtai Dutbaev (who then resigned) and Speaker of the Senate Nurtai Abykaev—as having ordered the killing, but later retracted his testimony. The top officials were never called to the trial. *Notable improvement in wages and professional training for judges were offset by a continuing poor record in handling cases related to civil liberties and human rights, the failure to conduct an impartial inquiry in the Sarsenbaev murder trial, and numerous procedural violations in the trial. Kazakhstan’s rating for judicial framework and independence remains at 6.25.*

Corruption. Since the use of public office for personal gain is particularly endemic in an oil-rich, patronage-based, personality-focused regime such as Kazakhstan, it is hard to document the extent of corruption in the absence of independent media and access to credible information. The president regularly launches anticorruption programs and appoints anticorruption bodies that comprise members of the financial police who report to the president. Top figures within the regime and the government enjoy a virtual immunity from such inquiries unless they engage in political or economic activities that challenge the president. The government has invested some effort in developing civic awareness about corruption and also increased salaries of public sector employees as long-term solutions to tackle the problem of corruption. *Improved governance and economic conditions may have helped to control corruption at the lower and middle levels of bureaucracy, but the absence of an independent judiciary and media mean that it is impossible to bring to light corruption at the top echelons of the ruling elite. Therefore Kazakhstan’s corruption rating remains at 6.50.*

Outlook for 2007. Although it is unlikely to get the rotating OSCE chair for 2009—the decision is postponed until mid-2007—Kazakhstan is likely to intensify

its publicity campaigns by touting its economic achievements, the goal of joining the “50 Most Competitive Economies of the World” by 2008, and social and political “stability” in order to obtain the position for 2011. Its “stability” is a result of widespread civic disengagement and apathy promoted by the regime through its control over opposition, civil society, and media on the one hand and the promise of economic prosperity and stability on the other. However, social discontent with profound inequities of wealth distribution is gradually surfacing and is likely to come to the fore.

The merger of pro-regime parties into Otan suggests trends toward the emergence of a single party system with the opposition completely unable to contest. The year 2007 is likely to see movements toward changing the present political or electoral system to provide for the option of reelecting the president.

MAIN REPORT

National Democratic Governance

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

The regime of President Nursultan Nazarbaev has cultivated a vision of Kazakhstan as a prosperous and stable country on a path to achieving the economic success of Kuwait and the social harmony, political progressiveness, and economic development found in Western societies. Kazakhstan's economic growth, over 8 percent since 1998, is fueled largely by increasing oil exports and high global oil prices. Oil revenues accounted for at least two-thirds of the country's budgetary revenues in 2006, increasing its per-capita gross domestic product (GDP) to US\$5,100, up from US\$3,620 in 2005.¹

In reality, the country's political system hinges largely on a patrimonial disbursement of power, privileges, and preferences to a small group of kin clients and cronies and a top-down management of economic and political interests. Nazarbaev, who has held the top office since 1989 under Soviet rule, secured another seven-year term in December 2005 by winning 91 percent of the vote, surpassing his previous success of 79 percent in 1999.

Almost all major challengers to Nazarbaev have been eliminated over the past seven years through trials in absentia (ex-premier Akezhan Kazhegeldin, who managed to leave the country in 1997), imprisonment for alleged abuse of office (Mukhtar Ablyazov and Galymzhan Zhakiyanov, though both were released and their financial assets and support base dismantled), and murder (Altynbek Sarsenbaev, leader of the Ak Zhol party, in February 2006). In November 2005, another prominent opposition leader, Zamanbek Nurkadilov, was found dead in his house. The case was described as a suicide by the police, a verdict his family and friends challenge. Nurkadilov had claimed that he had access to "compromising materials" on financial misdeeds by the president that he would expose prior to the presidential elections.

Kazakhstan's rich resource base and speedy, nontransparent privatization of key industries in the 1990s created powerful financial groups consisting of close kin and associates of the president who wield control over crucial economic resources and political positions. These financial interests have monopolized political power by creating or sponsoring political parties that control the Parliament; they have also captured the country's media market and pushed out independent media channels. Some of the more prominent groups are controlled by the president's eldest daughter, Dariga Nazarbaeva, and her husband, Rakhat Aliev, currently the deputy foreign minister. Oil and financial networks are controlled

by the second son-in-law, Timur Kulibaev. And numerous mining and industrial interests are controlled by the “Eurasia Group,” headed by Azat Peruashev, a parliamentary deputy, together with Aleksandr Mashkevich and Patokh Shodiev, ex-Soviet citizens with foreign passports.

The Nazarbaeva-Aliev group exerts control over much of the national media, which are privately owned but not politically independent. Nazarbaeva headed the state news agency Khabar from 1996 to 2003 and resigned the position to form her political party, Asar, for the 2004 parliamentary elections. Aliev controls sections of the National Security Service and earlier headed the agency’s Almaty branch. Kulibaev heads the reconstituted KazEnergy, which was established in 2005 by the government as a consultative body to promote the development of Kazakhstan’s oil and gas sectors. In addition, Kulibaev exerts control over major pipelines along with banking and financial groups, prominently Kazkommertsbank, the largest commercial bank in the country. Peruashev, chairman of the Civil Party of Kazakhstan, represents the political wing of the Eurasia Group, which is estimated to account for about 20 percent of Kazakhstan’s GDP.²

Apart from the key financial interests connected with Nazarbaev through personal ties, oil-fueled prosperity has brought in unprecedented benefits and career mobility for a small stratum consisting of key government officials, entrepreneurs connected with the regime, and young, Western-trained professionals and technocrats. Loyalty to the regime and overall disengagement from politics is the price they are expected to pay for career mobility. The system places innumerable obstacles to genuinely independent economic, political, and social groups, preventing them from organizing and playing a legitimate role in the formal institutions of governance.

Kazakhstan has carefully cultivated its image as an “oasis of stability” in the region by referring to the absence of ethnic or religious conflict in the multiethnic state. Ethnic Kazakhs form 55 percent of the population, and their share continues to rise as the population of Slavs and other Russian-speaking groups, currently about 36 percent, declines. Non-Kazakhs remain underrepresented in all organs of the government and administration. However, any non-Kazakh holding a crucial position in the government or administration is no indicator of the influence of that group, as these individuals do not represent their ethnic constituencies but are instead plugged into the patronage networks within the regime.

The Majilis—the 67-member lower house of the Parliament—is fully controlled by pro-regime parties and independent deputies loyal to the regime. The Senate is composed of 39 deputies, 7 appointed by the president and 32 selected through indirect elections by the 14 oblast or regional assemblies; the capital, Astana; and the former capital, Almaty. Senators serve six-year terms, with half of those elected facing the ballot every three years. The president appoints the prime minister, his cabinet, and virtually all top political and administrative figures. Daniyal Akhmetov, the current premier, has held office since June 2003. Headed by the prime minister, the government enacts and implements all policies but has little independent power to formulate policy or initiate legislation.

Kazakhstan's military and national security services remain firmly under the control of the president, who nominates the latter's heads and key members. The conviction of two former members of the National Security Service in the murder of opposition leader Altynbek Sarsenbaev, his bodyguard, and his driver in February 2006 has raised many questions about the rival factions led by top figures within the regime, including the president.

The main accused, former chief of staff of the Kazakhstani Senate Erzhan Utembaev, initially named his bosses, Nurtai Abykaev (Speaker of the Senate) and Nurtai Dutbaev (chairman of the National Security Service), as having ordered the killings, but he subsequently recanted, most likely from duress. Even before the trial had begun, Nazarbaev mentioned that the accused had written to him personally, confessing that he had killed Sarsenbaev in a personal vendetta.³

During much of the mid-1990s, the National Security Service was headed by Abykaev, a relative and confidant of Nazarbaev. Since 2001, Abykaev has held the post of Chairman of the Senate, which is next in line to succeed the president should he die in office, leave, or be incapacitated.

Erzhan Utembaev and a number of other convicts belonged to the elite guard antiterrorist unit Arystan in the National Security Service and are seen as loyal to Rakhat Aliev, who was responsible for their training. Growing criticism within the regime about Aliev's rapid political rise led in 2002 to his "exile" as ambassador to the OSCE, an appointment that ended in 2005 when he was named deputy foreign minister.

Electoral Process

1999	2001	2002	2003	2004	2005	2006	2007
6.00	6.25	6.25	6.50	6.50	6.50	6.50	6.50

In the last presidential election held in December 2005, Nazarbaev won over 91 percent of the vote, and the opposition candidate, Zharmakhan Tuyakbai, came in second with only 6.6 percent. The election was recognized as not satisfying "international standards for democratic elections" by the OSCE/Office for Democratic Institutions and Human Rights (ODIHR), consistent with all previous OSCE assessments of elections held in Kazakhstan.

The Constitution imposes a two-term limit on the president. Having been re-elected in 1999 and 2005, Nazarbaev has reached the constitutional limit, though his term in office can be extended by holding a referendum (an option he used in 1995) or by amending the Constitution. Critics of the present system noted that "Mr. 91 Percent" (Nazarbaev's sardonic accolade) is gearing up to become "Mr. 100 Percent" in the next election. Indeed, soon after mustering the landslide support, Nazarbaev declared that the 9 percent of people who did not vote for him had felt excluded from the remarkable progress made by Kazakhstan. He promised to

deliver the benefits of Kazakhstan's rising economic prosperity to "the disgruntled 9 percent" to attain their support.⁴

The largest and most prominent political party is Otan, which proclaims Nazarbaev as its leader, though the president symbolically remains above political parties. Otan, together with Asar and the Civil Party of Kazakhstan, obtained over two-thirds of the seats in the Majilis in the 2004 elections, with the remaining third going to "self-nominated" but regime-affiliated candidates. Numerous other minor parties loyal to the regime (for instance, the Democratic Party of Kazakhstan, Agrarian Party, Rukhaniyet ["Spirituality"], Aul ["Nomadic Migratory Camp"], and Communist People's Party of Kazakhstan) provide an illusion of political pluralism but target the opposition for criticism.

Since Nazarbaev secured another seven-year term in December 2005, the trend has been toward the further coalescence of various pro-regime parties to create a more consolidated political party system. Asar, the party founded by Dariga Nazarbaeva in 2003, merged with the largest party, Otan, in July 2006, and the Civil Party of Kazakhstan followed suit a few months later. With the merger, Otan's membership is estimated to increase to about one million, which suggests that roughly one out of eight adults belongs to the party of the regime. Nazarbaev stated that "fewer but stronger" parties are necessary to "defend the interests of the population," declaring that he expected more parties to merge with Otan in the future.⁵

Numerous opposition political parties, coalitions, and independent leaders have emerged in Kazakhstan over the past decade to offer an alternative to the existing regime. Prominent among these is the Democratic Choice of Kazakhstan (DCK)—formed in 2001 by ex-members of the government, Mukhtar Ablyazov and Galymzhan Zhakiyanov—which galvanized support and prompted several younger members of the Nazarbaev regime to join. Soon after, Ablyazov and Zhakiyanov were imprisoned on politically motivated charges of misuse of office.

Next, Ak Zhol emerged on the scene, acquiring many DCK members, though it veered between forming a moderate or "constructive" opposition force (as pressured by the regime) and taking an outright oppositional stance. It won only one seat in the 2004 Majilis elections, which led the party leadership to renounce that seat, declare the elections fraudulent, assert its opposition to the regime, and form a common forum with other opposition parties, such as the Communist Party of Kazakhstan and the rump DCK.

Ak Zhol split in 2005 with a breakaway faction headed by Altynbek Sarsenbaev, Bulat Abilov (a leading entrepreneur), and Oraz Zhandosov (former economic adviser to Nazarbaev) who formed a new party called Nagyz ("Real") Ak Zhol; a more moderate faction under the leadership of Alikhan Baimenov retains the original name of Ak Zhol. Baimenov entered the presidential election in December 2005 instead of supporting the common candidate Zharmakhan Tuyakbai, chosen by the opposition coalition, For a Just Kazakhstan. Baimenov won only 1.6 percent of the votes but otherwise has continued to fill the single parliamentary seat won by Ak Zhol in the 2004 elections by promising to cooperate with the government.

Kazakhstan's Law on Elections remains a major legal impediment to open and fair electoral contest. The government has not adopted any of the substantive recommendations made by the OSCE in its final report on the 2004 parliamentary elections concerning improvements to the Law on Elections and the legislative base for elections. Political parties need 50,000 signatures to register with the Ministry of Justice, an increasing challenge as the regime seeks to channel political participation through the various "authorized" (pro-regime) parties. Furthermore, the amended Law on Political Parties prevents a new party from acting as the legal inheritor of a banned organization.

Since the DCK was banned in 2005 as an "extremist" organization, its successor, Alga Kazakhstan ("Forward Kazakhstan"), has been unable to obtain registration with the Ministry of Justice. The defeated opposition candidate in the presidential elections, Zharmakhan Tuyakbai, is attempting to create a new Social Democratic Party to promote social equity and wealth redistribution, but it is unclear if it will be able to muster enough support to withstand the pro-regime party Otan. Nagyz Ak Zhol has been the most direct target of the government crackdown in 2006. Soon after the murder of Sarsenbaev in February, a string of politically motivated criminal and corruption charges were filed against Bulat Abilov, the party's second in charge. One conviction led to a three-year suspended sentence, which disqualifies Abilov from traveling abroad or contesting in elections.

Civil Society

1999	2001	2002	2003	2004	2005	2006	2007
5.00	5.00	5.50	5.50	5.50	5.50	5.75	5.75

While using its growing economic power and control over formal political institutions to marginalize the opposition and independent media, the government has also moved to co-opt civil society and the nongovernmental sphere. The National Commission on Democratization and Civil Society, appointed by the president, holds periodic meetings with pro-regime parties and quasi-governmental NGOs, urging opposition parties and independent NGOs to engage in a "constructive cooperation" with the government. It serves as a mechanism for co-opting independent civil society activists and moderate opposition figures and delegitimizing those who resist such pressures for partnership.

Still, the sustained advocacy campaigns by the Confederation of Nongovernmental Organizations of Kazakhstan and other domestic and international civil rights groups paid off in 2005, when the Constitutional Court of Kazakhstan turned down a bill proposing restrictive measures on NGO financing and civil activities. The government also reduced the registration fee for all legal entities, including NGOs, from US\$146 to US\$57 in 2006.

The Constitution prohibits state financing of public associations (Section 5.2). Since neither "state financing" nor "public association" is clarified in the Constitu-

tion, the legal basis for NGO service contracts and procurements is ambiguous. An active campaign by local NGOs, with technical assistance from the International Center for Not-for-Profit Law, led to the adoption of the Law on State Social Contracts in 2005. This provides for a new legal framework allowing the state to finance NGOs by issuing state social contracts, though these effectively take the form of state procurement contracts.⁶ Since adopting the law, US\$3.5 million was distributed through state social contracts in 2005, US\$4 million in 2006, and by 2010 that amount is to be increased to US\$8 million.

While this may denote recognition by the government of the need to enter into partnerships with NGOs for an efficient provision of social services, the government's main incentive is to curtail the influence of foreign donors in shaping the agenda of NGOs, "outbid" the more independent NGOs, and channel funds for procurement through quasi-governmental or government-organized NGOs (GONGOs).

The bulk of financial support to NGOs, particularly in the civil and political rights spheres, comes from key foreign donors such as the U.S. Agency for International Development (USAID) for public health and electoral reforms in particular, the Counterpart Consortium (social issues), and the Eurasia Foundation and Soros Foundation (education and civil rights). However, funding from foreign donors is decreasing, and the economic boom in Kazakhstan has lured younger citizens to work in the more lucrative private sector.

Of the 4,000 registered NGOs in the country as of 2005, many exist only on paper, and others are quasi-governmental groups propped up to compete with independent NGOs for grants. Only about 800 are active, and fewer than 150 are able to make a positive impact. The NGO sustainability index for Eurasia published by USAID in 2005 showed a slight improvement in the overall environment for NGOs in Kazakhstan, though the score remained at 4.1, as it was in 2004 (on a scale of 1 to 10, a higher score represents lower sustainability).⁷

Zhargas, an NGO participating in a USAID initiative, secured private corporate financing worth US\$1 million in 2005 with Kazkommertsbank, the nation's largest private commercial bank.⁸ While corporate sector financing continues, this funding decreased to US\$600,000 in 2006. The dependence of private businesses on government patronage pressures them to fund GONGOs or to invest in social or community development projects. However, there are reports of private businesses covertly funding civil rights advocacy campaigns and independent media channels.

Less than 10 percent of NGOs are engaged in civil liberties, human rights, and minority protection issues. Since the Tulip revolution in Kyrgyzstan and especially in the run-up to the presidential election in December 2005, human rights NGOs have been targets of considerable negative publicity in the national media as well as popular and official prejudice. Nazarbaev has warned NGOs obtaining foreign funding that they will be "closely watched." Thirty-two human rights and international NGOs were subjected to inspection by the prosecutor general on the demand of a parliamentarian.⁹ The Ministry of Education has stepped up funding

to the Youth Congress, a GONGO, to lobby support for the regime among youth. The government has continued to closely monitor the activities and finances of NGOs promoting civil liberties and democratization.

The Federation of Trade Unions, containing vestiges of state-sponsored unions from the Soviet era, remains the largest trade union association. Two other independent associations, the Confederation of Free Trade Unions of Kazakhstan and the Confederation of Labor, claim to represent a significant number of workers but have not played an effective role in representing workers' interests.

Following the deaths of 23 miners in a gas explosion in a Mittal Steel subsidiary in Temirtau in 2004, labor unrest and demands for increased wages and compensation have been regularly put down by the government and the official trade unions. Mittal Steel, which enjoys government protection, owns the giant Karmetkombinat with several other coal mines in the Karaganda region and contributes 2–3 percent of Kazakhstan's GDP.¹⁰ When another explosion killed 32 people in September 2006 and brought considerable international media coverage, Nazarbaeva opportunistically shifted the blame to Mittal Steel, giving a go-ahead to the official trade unions to organize a strike for higher wages.¹¹

The Constitution bans the formation of any political party or association that is seen as inciting social, racial, national, religious, class, or tribal enmity. There is no independently verifiable evidence of extremist networks—whether on religious, political, or other grounds—operating within Kazakhstan or enjoying visible support. Kazakhstan's controversial Law on Extremism and amendments to its strict antiterrorism legislation passed in 2005 impose heavy penalties for “extremist and terrorist activities,” including “terrorist financing.”

Yerlan Karin, a leading political analyst, notes that since 2001, Kazakhstan has increased at least fivefold the money allocated to the security services under the guise of combating terrorism. In actuality, a sizable portion of this has been used for surveillance of the opposition and regime critics, including preparing cases that implicate them in criminal acts and financial misdeeds.¹² The increase in spending and surveillance began with the formation of the opposition DCK, which predates September 11, 2001.

Nazarbaev has used the rhetoric of religious goodwill and built a new Catholic Church (to welcome Pope John Paul II in 2001), a synagogue, a Russian Orthodox Church, and an enormous mosque in the new capital, Astana. The latest and most ostentatious monument to Kazakhstan's tolerance is the multimillion-dollar Pyramid of Peace and Reconciliation in Astana. While Kazakhstan's constitution and Nazarbaev's numerous pronouncements emphasize religious tolerance, in September 2006, without warning, local authorities of the Karasai region in Almaty oblast razed 13 houses on a 118-acre farm belonging to members of the local Krishna Consciousness Society.¹³ The Hare Krishna devotees had applied for legalization of their property in accordance with the government program on amnesty but were refused permission without any valid reason amid rumors that a member of the president's family planned to acquire the plot to develop a commercial center.¹⁴

Independent Media

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

According to Reporters Without Borders' Worldwide Press Freedom Index, Kazakhstan ranked 128 out of 168 countries (behind Tajikistan and Kyrgyzstan, though ahead of Uzbekistan and Turkmenistan) in 2006.¹⁵ The working conditions for independent media deteriorated further in 2006 after additional limits on media were introduced into the country's already draconian Law on the Media. The amendments were passed in June 2006 despite criticism by local and international press and human rights organizations, the OSCE, and the international Committee to Protect Journalists.¹⁶

The decline in Kazakhstan's media independence since the late 1990s has coincided with its economic upturn. Leading financial groups and business interests entrenched in the regime own an overwhelming proportion of the country's media channels and newspapers, which offer some criticism of the government but without touching the president, members of his family, or close associates within the regime.

Extensive formal and informal control is exerted over the country's media by Khabar, the state news agency set up in 1996 with Dariga Nazarbaeva at its head. The state owns 50 percent plus one share in this privatized media holding company, while the remaining shares are in private hands, widely seen as owned by Nazarbaeva, Aliev, and groups connected with them. The couple also holds numerous shares in several privatized newspaper and media channels and owns another subsidiary, Alma Media, which has four television channels, several radio stations, and a number of newspapers. The opposition leader Altynbek Sarsenbaev (who held the position of minister of culture, information, and public accord¹⁷ in 2004 before resigning over differences with the government) had consistently referred to Khabar as a monopoly of Nazarbaeva and her family. Sarsenbaev presented evidence stating how the family had acquired the majority shares, for which he was taken to court and fined 1 million tenge (about US\$71,000) in 2005.¹⁸

The amendments to the Law on the Media broaden the grounds on which the government can deny registration to news outlets, closing loopholes that had allowed banned publications to resurface under new names. News outlets that make even the slightest administrative change, such as in staff or mailing address, are required to seek reregistration. Media outlets cannot use the same name, in full or in part, of an outlet previously closed by a court order, and the law now bars editors of previously banned media outlets from working in similar positions at other publications.¹⁹

These amendments effectively ended the game of hide-and-seek between Kazakh authorities and opposition newspapers in the last few years. *Dat*, an opposition newspaper edited by Ermurat Bapi, had managed to reincarnate itself as *SolDat* for a few years after being banned by the authorities, then appearing as *Zhuma*

Times–Data Nedeli in 2005 before it was banned again. Similarly, the newspaper *Respublika*, published previously under the name *Assandi Times*, was closed down again in 2005 by the Ministry of Culture and Information. Since early 2006, it is published only on the Internet, where government officials frequently attempt to block access to its Web site.

Nazarbaeva, who now heads the Congress of Journalists of Kazakhstan while remaining a parliamentarian representing Otan (since it merged with her pro-regime party, Asar, in July 2006), criticized the proposed amendments as undemocratic. She demanded the resignation of Ermukhamet Ertysbaev, the minister of culture and information, who in turn suggested the government establish full control over Khabar. The public acrimony between Nazarbaeva and Ertysbaev has not resulted in any serious policy debate or changes: Khabar's status remains unchanged, Ertysbaev retains his ministerial post, and Nazarbaeva signed the amendments to the Law on the Media in July 2006.

In addition to the above amendments, the 2005 Law on National Security and the criminal code of Kazakhstan already contain severe limits on independent media. Article 318 of the criminal code penalizes a person who “insults the honor and dignity of the president” and is routinely used against independent journalists. Apart from legal and financial channels, the government uses a range of tactics and reprisals against critical media channels. These include denying or revoking registration, exerting pressure on private printing companies to terminate existing printing contracts, suspending electricity, arson, confiscating print runs, buying all copies of opposition-supported newspapers at kiosks, and initiating libel suits. A further tactic is the use of the Internet to spread sensational news and rumors that attack and discredit the opposition, public figures, and independent media.

Komproamat.kz, a Web site controlled by Rakhat Aliev and his associates in the National Security Service, regularly posts “blacklists” containing incriminating materials on independent journalists, opponents of Aliev, and critics of the regime, and occasionally on other members of the regime, as well as periodic warnings about terrorist plots in the country. The Web site published numerous posts alleging a “Sufi conspiracy” in which Galym Dosken (head of the Kazakhstan Television and Radio Broadcasting Corporation), Almaty's mayor, Imangali Tasmagambetov, and one of the city's deputy mayors, Galym Bokash, appeared on the blacklist as radical proponents of Sufism.²⁰

References to Tasmagambetov were dropped, whereas the other two were made to resign. Dosken had approved the screening of materials on Ahmed Yassavi (a fourteenth-century Sufi saint whose mausoleum is in Turkestan in south Kazakhstan) on the state channel Kazakhstan-1. Bokash had allowed the registration of several Sufi societies to promote the teachings of Yassavi. Sufism is a mystic tradition within Islam that seeks union with Allah through love and devotion and has no radical political agenda. About 100 employees of the Kazakhstan Television and Radio Broadcasting Corporation resigned in protest after the arbitrary firing of Dosken, which Ermukhamet Ertysbaev described as a periodic act of shuffling personnel.²¹

Reporters working for prominent international organizations such as the Institute for War & Peace Reporting, Radio Free Europe/Radio Liberty, and Internews, as well as the local media watchdog group Adil Soz Freedom of Speech Defense Fund (Internews and Adil Soz are funded in part by the USAID), have been subject to continuing monitoring by law enforcement officials since the Tulip revolution in Kyrgyzstan. Independent journalists and staff of frequently banned opposition newspapers have resorted to publishing articles on the Internet, where they also face obstacles. Kazakh law requires all Internet domain names to be registered in Kazakhstan (.kz), stating that non-Kazakh domains can be denied registration.

According to estimates by the *CIA World Factbook*, Kazakhstan had about 400,000 Internet users in 2005. The cost of Internet access is a major deterrent: One hour of daytime use costs about US\$2, four times what it would cost in the United States or in neighboring Kyrgyzstan and at least double the cost of access in Russia.²² The state-owned Kazakhtelekom and its six subsidiaries are the monopoly Internet service providers, which regularly block access to opposition Web sites, limit the bandwidth, and hamper access even via proxy servers. KUB, a Web site run by Rachid Nougmanov (a Kazakh filmmaker and human rights activist based in France), and other popular Internet sites that publish materials by the opposition are registered outside of Kazakhstan.

The 2006 release of British comedian Sacha Baron Cohen's popular satirical film *Borat: Cultural Learnings of America for Make Benefit the Glorious Nation of Kazakhstan* led Kazakhstani authorities to wage an intense international PR campaign, reportedly spending millions of dollars to promote a positive image of the country and also to strengthen their case for obtaining the rotating OSCE chair for 2009. Supplements acclaiming Kazakhstan's economic achievements appeared in various international newspapers (such as *The New York Times* and the *International Herald Tribune*) as well as on commercial television channels. Though the film is still banned in Kazakhstan, the government has changed its tactics and has sought to convert the negative publicity to its advantage by inviting Cohen to visit "the real Kazakhstan."

Local Democratic Governance

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

In Kazakhstan's unitary administrative framework, the central government exerts top-down control over regional and local levels. The Constitution does not provide for elections of oblast, regional, or local administrative heads (*akims*), nor does it spell out their powers. According to Article 87, all *akims* are part of the unified system of executive power, appointed by the president and government, and may, regardless of the level they occupy, be dismissed from office 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 *maslibats*, whose members are elected indirectly for five-year terms via electors, serve as the only outlet for civic participation. The established procedure for electing electors, left over from the Soviet era, is informal and feeds on patronage. Ironically, these “elected” members are accountable to the appointed *akims*. *Maslibats* serve primarily as rubber-stamp bodies to approve acts by local executives. The 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.²³ Each oblast *maslibat*, and those of Almaty and Astana, nominates two members to the Senate.

Neither Nazarbaev nor any prominent member of the government has indicated a willingness to introduce local elections or establish a proper legislative base for the rights of local and regional bodies. Galymzhan Zhakiyanov, a popular former *akim* of Pavlodar from 1997 to 2001 and founder of the opposition DCK, has been the most prominent advocate for direct elections of *akims* and greater autonomy for oblasts. Since his release from jail in early 2006, Zhakiyanov has continued to lobby for regional autonomy as an opposition activist.²⁴

A presidential decree in 2004 promised direct elections of *akims* at the district and village levels from August 2005 to the end of 2007, including four districts in August 2005 as an “experiment” and “step toward democratization.” The incumbents were “elected” in the four districts, but there have been no further elections or any official evaluation of the “experiment.” Even if direct elections were introduced, they are unlikely to have a democratizing effect because 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 lack of financial autonomy of local bodies is another serious limitation. The central government determines taxation rates and budgetary regulations. Although the regional governments own over 80 percent of all state enterprises, the law limits local government control over local tax rates, including tax on property and vehicles. The central government has allowed an informal (though de facto) decentralization to oil-rich oblasts that have attracted the most foreign investment. The *akims* have managed to exert a greater control over budgetary matters mainly by extracting significant contributions from foreign investors to various “social and welfare projects” and thus informally negotiating revenue-sharing rates with the central government. But this arrangement appears to be based largely on the personal standing of the *akim* and has no institutional repercussions. The oblast *akims* have shown no inclination to share powers or revenues with the lower-level city and village governments.²⁵

Local budgets are allowed to keep all fines from occurrences of environmental pollution but must transfer other revenues to their higher authorities. Oblasts are not allowed to keep their surplus budget, which is turned over to needier oblasts.

The present system leaves both donor and recipient oblasts dissatisfied over the existing system of deduction from local budgets and subvention from the national budget.²⁶

The absence of budgetary autonomy or electoral accountability has hampered the development of institutions that cater to local citizens. Furthermore, the central government has continued to channel massive resources toward the development of the new capital, Astana, as well as the former capital, Almaty, which are declared special economic zones. Official data show that US\$18 billion from the state budget has been invested in the development of Astana so far: About US\$1.5 billion from the state budget is allotted for 2007, and the figure for 2006 was US\$2 billion, though the actual amount invested is estimated to be considerably higher. There is widespread discontent that the spiraling growth of these two cities and the oil town Atyrau on the Caspian Sea has further deprived other regions of a share in budgetary revenues.

The government's decree on the "legalization of property" has produced numerous disputes between ordinary citizens and local authorities on its actual interpretation and implementation. The move is geared to enable citizens to legalize private houses and dachas built over the past years when a proper legal framework for property ownership did not exist. The government has assigned responsibility for elaborating legalization instructions to the Tax Committee of the Ministry of Finance, which will then pass the instructions to *akims* and authorized bodies, including territorial tax committees.

While this decree has allowed members of the elite to legalize houses and dachas built in posh parts of Almaty without proper authorization, poor residents have faced obstacles from local authorities in legalizing their dwellings. About 400 squatter families residing in the Bakai and Shanyrak settlements on the outskirts of Almaty found their houses bulldozed and have been fighting to get their claims recognized. They have blamed local authorities for failing to provide proper information, documentation, and assistance in filing applications for legalization. Local civil rights groups blame the city administration for illegally clearing the slums in order to acquire the land for developing large commercial complexes, and the standoff between the poor squatters and city authorities continues.²⁷

Judicial Framework and Independence

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

Kazakhstan's strong executive system based on presidential patronage recognizes the principle of separation of powers. However, the judiciary together with the legislative branch has remained loyal to the executive headed by the president. The judiciary has served to protect the interests of the state and its functionaries rather than those of individuals, minorities, and the weaker strata of society.

Kazakhstan's Constitution makes formal mention of the judiciary's independence without providing any mechanisms for safeguarding it. The Constitution spells out an elaborate procedure for appointing judges in which the president proposes nominees for the Supreme Court who are approved by the Senate. These nominees are recommended by the Supreme Judicial Council, which comprises the chair of the Constitutional Council, the chair of the Supreme Court, the prosecutor general, the minister of justice, senators, judges, and other people appointed by the president. The president may remove judges, except members of the Supreme Court, on the recommendation of the minister of justice.

Kazakhstan has continued to raise the professionalism and remuneration of its judges. Supreme Court judges receive a higher remuneration package than government ministers. Their salaries are continually revised as part of the government's commitment to raise the salaries of public servants to match those in the private sector.

All judges are required to attend the Judicial Academy set up with assistance from the OSCE/ODIHR in 2004. The American Bar Association/Central European and Eurasian Law Initiative and USAID have been aiding judicial reforms since 1993, focusing particularly on training in judicial ethics and human rights. The two main associations of independent lawyers are the Association of Lawyers of Kazakhstan and the Legal Development of Kazakhstan. The Judicial Assistance Project funded by USAID emphasizes a continuing education program and brings new judicial training coordinators from each oblast for training in Astana and Almaty. This project has also advocated the use of video technology in court proceedings to enhance transparency and accountability.²⁸

Although it has shown a marked professionalism in adjudicating civil and criminal cases, Kazakhstan's judiciary has a checkered history in handling cases related to civil liberties, political freedom, independent media, and human rights-related issues. It has shown a near total servility to the regime and has convicted all major political or public figures brought to trial on politically motivated charges. These instances include the trial in absentia of ex-premier Akezhan Kazhegeldin in 2000, opposition leaders Mukhtar Ablyazov and Galymzhan Zhakiyanov in 2003, and journalist Sergei Duvanov in 2003. Convictions in the above-mentioned cases have been passed without credible evidence or proper procedures.

The latest in a string of trials lacking credibility was the case of the murders of opposition leader Altynbek Sarsenbaev, his bodyguard, and his driver. In October 2006, an Almaty court convicted 10 defendants of these murders. Erzhan Utembaev, former chief of staff of the Kazakhstani Senate, was accused of contracting the murder and sentenced to 20 years in prison, and Rustam Ibragimov, the supposed killer and a former employee of the Ministry of Interior Affairs, was sentenced to death. As Kazakhstan has had a moratorium on the death penalty since 2004, the convict will get life imprisonment, although courts are still allowed to issue the death penalty. Eight other defendants, all linked to Kazakhstan's security and interior forces, received prison sentences ranging from 3 to 20 years.

Utembaev confessed to contracting Ibragimov (who reportedly received US\$60,000 for the job) to murder Sarsenbaev in revenge for a newspaper article

making unflattering revelations about him. In his earlier testimony, Ibragimov implicated several high-level officials in the National Security Service, including Nurtai Dutbaev, as well as Chairman of the Senate Nurtai Abykaev, but he later retracted the initial testimony. Dutbaev and Abykaev were not called to give evidence in court. The trial took place in Taldykorgan, about a three-hour drive from Almaty. Relatives of the victims and opposition leaders maintained that the trial's remote location was designed to limit public scrutiny of the proceedings.²⁹ The case is now being reviewed by the Supreme Court following appeals by the convicts.

In accordance with a bill passed in 2005, Kazakhstan will introduce jury trials in January 2007 for criminal cases. A USAID project has offered training to 20 judges from each oblast to study such trials in Russia.³⁰ Kazakhstan has adopted the continental, or Franco-German, model (different from the classic, or Anglo-Saxon, model), in which a presiding judge reviews the case along with the jurors and joins them in the final decision-making process. It is believed that jury trials will help reduce graft and corruption and enhance the independence and impartiality of courts. It remains doubtful whether jury trials can attain this objective amid the low public trust in the judiciary and its poor track record of passing independent verdicts.

Kazakhstan has a National Human Rights Commission headed by the ombudsman, a presidential appointee. Bolat Baikadamov has held the position since its creation in 2002. The ombudsman has been granted further powers by the Parliament, including the right to participate in the court review of cases. Being an appointee of the president who is supposed to remain loyal to the government, the ombudsman lacks an impartial image or the support and trust of civil society activists.

Corruption

1999	2001	2002	2003	2004	2005	2006	2007
6.00	6.25	6.25	6.25	6.50	6.50	6.50	6.50

The Agency on Combating Economic Crime and Corruption, headed by Rustem Ibraimov, operates directly under the president. In 2006, it launched the next phase of the State Program for Combating Corruption Through 2010. Nazarbaev has also announced the creation of a financial intelligence unit to counter money laundering and tax evasion. The latter brought to light several cases of misappropriation of public funds. The ex-chairman of Valyut-Tranzit Bank was arrested for appropriating US\$1.2 million; ex-officials of the liquidated Nauryz Bank were brought to trial for appropriating US\$4 million.³¹

The Ministry of Economy and Budget Planning is implementing broader anticorruption measures, such as raising the salaries of public officials to levels comparable with those of Kazakhstan's largest private companies, reducing the layers of government officials by half, and providing additional incentives for career growth

and more efficient work. Some of these measures were scheduled to come into effect by January 2007. The most widespread form of corruption in Kazakhstan is administrative, including routine extortions and shadow control of businesses by officials, which is believed to have led to inflation. One estimate states that goods and services cost almost 50 percent more owing to such corruption.³²

Kazakhstan's enormous oil and mineral resource base and lack of democratic oversight have created a fertile environment for the nontransparent accumulation of wealth by top elites and core members of the regime. This is especially difficult to document since Kazakhstan became a sovereign state in 1991. These individuals and business groups have by now fully legalized their assets; but more importantly, no independent records or mechanisms exist to prove wrongdoing. Fully documenting the extent of disbursement of favors, spoils, and positions at the top levels is almost impossible in a patronage-based, personalistic regime in which independent media, access to credible information, and democratic accountability are absent.

Almost all anticorruption inquiries target low- and middle-level officials, prominent political or public figures, or entrepreneurs who enter into a confrontation with key members of the regime. The Agency on Combating Economic Crime and Corruption charged Ak Zhol leader Bulat Abilov for the fraudulent appropriation of stocks worth US\$2.1 million some 10 years ago through his business venture Butya Capital. Abilov has already been convicted of various "administrative offenses," which disqualifies him from running for public office.

The "Kazakhgate" trial in the United States was stalled during 2006 but is expected to resume in early 2007. James Giffen, the main accused and a former consultant to Nazarbaev, is charged in a U.S. federal court with funneling up to US\$84 million in illicit payments to Nazarbaev and other senior members of the Kazakh government in exchange for lucrative concessions to Western oil companies. Giffen was indicted under the U.S. Foreign Corrupt Practices Act, which prohibits U.S. citizens from bribing foreign officials for business advantage. Even if Giffen is convicted, the prospect that the case may undermine Nazarbaev is practically nonexistent.

According to Transparency International's 2006 Corruption Perceptions Index, Kazakhstan ranked 111 out of 163 countries observed. Its ranking and score of 2.6 was better than that of resource-rich Russia (127 at 2.5), Azerbaijan (130 at 2.4), and the rest of the Central Asian states. However, these differences are marginal since any score of 5.0 or below, and especially one below 3.0, 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.

It is not always easy to define what is corruption or misuse of office for private gain. The salaries of leading figures in oil and gas, banking, and telecommunications have seen an astronomical increase in Kazakhstan. In September 2006, Nazarbaev fired Khairat Karibzhanov, chairman of the state-owned Kazakh-telekom, after it was revealed that Karibzhanov was receiving a monthly salary of US\$365,000 and an annual bonus of over US\$2 million.³³ Nazarbaev threatened

to publish the names of all other overpaid public sector managers “unless they return the money themselves,” but no further firings have taken place. Karibzhanov reportedly returned his bonus, and no further action was taken against him. It is not clear how long he had been receiving that salary and if other public sector managers are drawing comparable salaries.

Kazakhstan established the National Oil Fund in 2001 to protect the economy from price volatility and to aid in the transparent management of oil revenues. While its revenues have grown to US\$12 billion in 2006 owing to high oil prices and rising exports, vital issues of transparency, management, and redistribution of oil fund revenues have not been addressed. 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. Though Kazakhstan joined the Extractive Industries Transparency Initiative in October 2005,³⁴ it has yet to make a mandatory disclosure of oil revenues received by the treasury from each of the 51 legal entities operating in the oil and gas industries (and any new ones that may be formed) or to involve independent NGOs in overseeing how oil revenues are managed.

There have been some positive efforts to enhance awareness about corruption at the grassroots level, particularly as a result of an initiative by Transparency Kazakhstan, the local branch of Transparency International, and the Interlegal Foundation for Political and Legal Research. Called Combating Corruption Through Civic Education, this project involved a partnership with members of Kazakhstan’s Constitutional Council and Supreme Court. The absence of an independent judicial system makes it impossible for ordinary citizens or independent NGOs to file corruption charges against any high-ranking state official. The prosecutor general, appointed by the president and not accountable to the government, handles inquiries into official corruption, in conjunction with the Ministries of Justice and Internal Affairs.

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