

Kazakhstan

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Capital: Astana
Population: 15.4 million
GNI/capita: US\$8,700

The social data above was taken from the European Bank for Reconstruction and Development's *Transition Report 2007: People in Transition*, and the economic data from the World Bank's *World Development Indicators 2008*.

Nations in Transit Ratings and Averaged Scores

	1999	2001	2002	2003	2004	2005	2006	2007	2008
Electoral Process	6.00	6.25	6.25	6.50	6.50	6.50	6.50	6.50	6.75
Civil Society	5.00	5.00	5.50	5.50	5.50	5.50	5.75	5.75	5.50
Independent Media	5.50	6.00	6.00	6.25	6.50	6.50	6.75	6.75	6.75
Governance*	5.00	5.00	5.75	6.25	6.25	n/a	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	6.50	6.75	6.75	6.75
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	6.25	6.25	6.25	6.25
Judicial Framework and Independence	5.50	5.75	6.00	6.25	6.25	6.25	6.25	6.25	6.25
Corruption	6.00	6.25	6.25	6.25	6.50	6.50	6.50	6.50	6.50
Democracy Score	5.50	5.71	5.96	6.17	6.25	6.29	6.39	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(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Kazakhstan's rich natural resources, rising oil exports, and small population base have turned it into the most prosperous and stable state in Central Asia. Having held the top office since 1989 under Soviet rule, President Nursultan Nazarbaev has continued to build a strong and personalized presidential regime by adopting a new Constitution in 1995 that granted unchecked powers to the presidency. In 2007, Nazarbaev indicated his desire to become president for life after the Parliament removed a two-term limit on the first president. His party, Nur Otan, obtained all 98 seats in the August parliamentary elections to the Mazhilis, the lower house.

Maintaining firm control over the country's key resources and using patronage to disburse power and privileges to family, friends, and clients, President Nazarbaev has allowed much economic freedom to the country's budding entrepreneurs and offered rapid career mobility to the growing class of skilled professionals, technocrats, and top bureaucrats. He has allowed an inner circle of close family and business associates to exert formal and informal influence over vital economic resources and political office. Although his skilled management of revenues from Kazakhstan's oil and mineral base, promotion of economic reforms, and top-down political and ethnic control have ensured significant material well-being and social stability, these have also led to a considerable undermining of democratic process, civic activism, and media independence. This concentration of wealth and power in a narrow social stratum of elites has marginalized a significant number of citizens.

Kazakhstan obtained the Organization for Security and Cooperation in Europe (OSCE) rotating chair for 2010 (a year later than it had bid for) despite its failure to hold free and fair parliamentary elections in 2007. This decision was a result of its successful diplomatic lobbying and pledge to play a constructive role in reconciling the differences between Russia and other OSCE member states, old and new.

National Democratic Governance. A package of constitutional amendments, swiftly passed by a pliant Parliament before announcing elections two years ahead of schedule, removed the two-term limit on the first president. Nazarbaev has continued to eliminate all challenges to his leadership, whether from independent actors, ruling elites, or even within his own family. This includes the removal of all legal barriers to establishing a life presidency and the lack of mechanisms to allow independent deputies or those belonging to parties other than the ruling Nur Otan to partake in the formal political process and institutions of representation. Although Kazakhstan's economy continues to grow, the benefits of its rising prosperity are monopolized by the narrow circle of kin, clients, and powerful financial groups

and a limited stratum of government officials, technocrats, and entrepreneurs. *Kazakhstan's rating in national democratic governance remains at 6.75.*

Electoral Process. Despite the realization that gaining the chairmanship of the OSCE depended heavily on Kazakhstan holding genuinely competitive, free, and fair elections, the 2007 Mazhilis polls resulted in Nur Otan, headed by the president, capturing all seats in the Parliament. By requiring all candidates to be party members, setting a high 7 percent electoral threshold for political parties, and allowing no provision for independent candidates to contest, the Nazarbaev leadership effectively legalized the exclusion of non-regime parties and individuals from the political process. *Owing to amendments to electoral procedures and the legislative framework that have erected a one-party system, Kazakhstan's rating for electoral process deteriorates from 6.50 to 6.75.*

Civil Society. Kazakhstan has used its rising economic revenues, political control, electoral mandate, and 2007 success in attaining the OSCE chair for 2010 to portray itself as a promoter of civil society and the nongovernmental sector. By removing limits that prevented the state from funding nongovernmental organizations (NGOs), the government stepped up financial aid to NGOs engaged in social and infrastructure development. The government disbursed such aid through government-organized NGOs (GONGOs) in order to establish a pliant civil society. The Ministries of Justice and the Interior, together with the National Security Service, have intensified monitoring of ethnic groups, religious congregations, the opposition, and independent NGOs engaged in civil rights advocacy. *Owing to the government's efforts to involve civil society in various development projects and improved transparency regarding its functioning (to secure the OSCE chair), Kazakhstan's rating for civil society improves from 5.75 to 5.50.*

Independent Media. Kazakhstan's privately owned media are in fact almost entirely under the control of major financial groups affiliated with key members of the ruling elite. The existing Media Law and other provisions within the criminal code and National Security Law criminalize criticisms of leading government figures and render a small number of independent media outlets noncompetitive. The media coverage of the August 2007 parliamentary elections remained biased in favor of the ruling Nur Otan as the opposition received considerable negative publicity. The government sought to censor the media and Internet following the release of transcripts of taped conversations among state officials about campaign financing, posted on opposition Web sites. *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 maintaining full control over the appointment of all heads (*akims*) of regions and districts. Nazarbaev has refused to consider demands for the

election of *akims*. The local administrative authorities are also facing increasing pressure from ordinary citizens and civic rights groups over property legalization, which is seen as more favorable to state officials than to ordinary citizens. *Although the constitutional amendments in 2007 granted a greater voice to local legislators in the appointment and removal of akims, the dominance of Nur Otan at all levels of governance makes such measures ineffective. Therefore, Kazakhstan's rating for local democratic governance remains at 6.25.*

Judicial Framework and Independence. Under the country's strong executive system based on presidential patronage, the judiciary, like the legislative branch, has remained loyal to the regime. 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. In 2007, the judiciary responded once again to the command from above by conducting an *in absentia* trial of the president's now deposed son-in-law, Rakhat Aliev, and his associates, sentencing them to 20-year jail terms. The Austrian authorities have refused to extradite them by averring that they will not receive a fair trial in Kazakhstan. *Despite continuing improvement in wages and professional training for judges and the introduction of jury trials, the judiciary's record in handling cases related to civil liberties and human rights remains poor. Kazakhstan's judicial framework and independence rating remains at 6.25.*

Corruption. All inquiries into official corruption are handled by the prosecutor general, appointed by the president and working in conjunction with the Ministries of Justice and the Interior as well as the National Security Service. The president regularly launches anticorruption programs and appoints anticorruption bodies and members of the financial police, who report to the president. The government has invested some effort in developing civic awareness about corruption and has increased the salaries of public sector employees as long-term solutions to corruption. *While improved governance, salary increases, and more effective monitoring of corruption by government bodies may have helped at lower and middle levels of bureaucracy, the continuing absence of an independent media and judicial system makes it impossible to launch an impartial inquiry into cases of corruption at top levels and deters ordinary citizens or independent public bodies from filing corruption charges against high-ranking state officials. Therefore, Kazakhstan's corruption rating remains at 6.50.*

Outlook for 2008. Having maintained almost 10 percent economic growth since 2000, Kazakhstan aspires to become the fifth-largest exporter of oil by 2015 and emerge as the "Kuwait of the region." Kazakhstan revised its economic growth projections from 9 percent to about 5 percent in 2008 owing to the delay in starting commercial oil production in the Kashagan oil field, which has also made the government lower its projected oil export target by some 20 percent.¹ The promise of rising prosperity, which has allowed Nazarbaev to muster considerable popular support and legitimacy, will be harder to deliver in 2008, when Kazakhstan begins

to repay substantial foreign loans. Inflation, currently at 18 percent, is likely to soar as prices of essential commodities and real estate continue to increase. An economic setback could spur the generally pro-government lower strata of the population to demand greater material and social security, shaking up Kazakhstan's "stable" political system.

As Kazakhstan prepares to play a more visible role within the OSCE after acquiring its rotating chair for the year 2010, its ruling elites also seek a more prominent role in Europe on the basis of the country's growing strategic and economic partnership with the European Union. The government is likely to face more domestic and international pressure to liberalize its restrictive Media Law and amend electoral provisions to allow inclusion of other political parties in the Parliament.

MAIN REPORT

National Democratic Governance

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

After attaining the chairmanship of the Organization for Security and Cooperation in Europe (OSCE) for 2010, Kazakhstan made a new pledge at the OSCE meeting in Madrid in November 2007 to maintain the unity of the 45-member organization, to protect its election-monitoring mandate, to build democracy and civil society, and to carry out reform of the legislation on media, elections, and political parties in conformance with OSCE recommendations. Pursuing these objectives within a legal framework that has pushed political competition out of the legislative process is a challenge that both Kazakhstan and the OSCE will continue to tackle.

Kazakhstan may become the “Kuwait of the region,” but its leaders have yet to demonstrate a genuine commitment to establishing a democratic polity that respects human rights, civil liberties, tolerance, and the development of civil society.² International organizations such as Human Rights Watch and International Helsinki Federation for Human Rights, as well as independent media and civil society activists, have deemed Kazakhstan unfit to assume the leadership of the OSCE and pointed to the failure of the government to abide by the OSCE procedures at home since it made the bid to head the organization. Despite its poor democratic and human rights credentials and the failure to hold free and fair parliamentary elections in August 2007 (ruling Nur Otan won 100 percent of the seats), Kazakhstan still succeeded in attaining the rotating OSCE chairmanship for 2010, a year later than what it had expected.

This “success” was the result of hectic diplomatic lobbying by the Kazakhstani government and its tactful balancing between Russia and Western European states. In an organization where decisions are made by consensus, the initial opposition by the United States and United Kingdom to Kazakhstan’s bid on the basis of its poor human rights record and weak democratic institutions led to the postponement of the decision on the 2009 chairmanship until late 2007. The United States withdrew its objections in Madrid after Kazakhstan distanced itself from Russia’s criticism of the election observation missions headed by the Warsaw-based Office of Democratic Institutions and Human Rights (ODIHR) and the proposal to place the ODIHR under the direct supervision of the OSCE Permanent Council.

While maintaining a pro-Western orientation and coveting international acclaim for Kazakhstan’s economic success and stability, President Nursultan Nazarbaev has continued to eliminate all major challengers to his leadership by using or sanctioning a repertoire of undemocratic tactics reminiscent of Soviet-era practices. The latest

rival to be eliminated was the president's eldest son-in-law, Rakhat Aliev. Ironically, as deputy foreign minister and then as Kazakhstan's ambassador to Austria, Aliev had played an active role in lobbying support for Kazakhstan's OSCE chairmanship bid. In a dramatic move in June 2007, Kazakhstani authorities charged Aliev and a number of his associates with forming an "organized criminal group" engaged in money laundering, extortion, and kidnapping. In 2007, Kazakhstani courts tried Aliev *in absentia* and numerous co-defendants, sentencing them to 20 years in prison, after Austrian authorities refused to extradite Aliev on the grounds that he was unlikely to receive a fair trial in Kazakhstan.

The case against Aliev also ended the domestic and international speculation that his wife, Dariga Nazarbaeva, aided by her husband's growing economic and political influence, was consolidating her position as the most likely successor to her father. Nazarbaeva, who became a parliamentary deputy in 2004, was not on the list of candidates nominated by Nur Otan in the 2007 Mazhilis elections. Her party, Asar, founded in 2004, merged with the largest party, Otan, two years later. Two other pro-regime parties, Civic Party of Kazakhstan and Agrarian Party of Kazakhstan, also merged with Nur Otan in 2007. The constitutional clause that the president is to be above party politics was amended in 2007, clearing the way for Nazarbaev to assume party leadership. Otan thus renamed itself Nur Otan in early 2007 and elected Nazarbaev as its leader.

A number of major financial groups closely associated with the president have coalesced on the broad-based platform of Nur Otan, which now controls the Parliament. These groups exert indirect influence over legislative organs at both central and regional levels and also control the network of prominent privatized media channels. Their financial success and political influence depend on a demonstration of loyalty to the president.

The Aliev-Nazarbaeva group, which owned numerous businesses and shares in leading banks, media channels, and other privatized sectors, received a drastic setback following the arrest warrant against Aliev. Nazarbaeva's control over the national media is challenged by other powerful figures and financial interests within elite circles.

Timur Kulibaev, head of KazEnergy and the president's second son-in-law, wields control over major oil and pipeline businesses as well as major banking and financial groups, notably Kazkommertsbank, the largest commercial bank in the country. In what may be an important signal to domestic and international observers that Nazarbaev is not preparing to hand over power within the family, in September 2007 Kulibaev was removed from the presidency of the newly-formed holding company Samruk, which manages the top energy companies of Kazakhstan. However, there is no evidence of a decline in his economic influence.

The president appoints the prime minister, who heads the government and bears responsibility for enacting and implementing all policies but has little independent power to formulate policies or initiate legislation. Karim Masimov, a technocrat proficient in Chinese, Arabic, Turkish, and English, and of mixed Kazakh-Uighur

lineage, at 39 became the youngest person to hold the office, replacing Prime Minister Daniyal Akhmetov in early 2007.

The May 2007 amendments empower Parliament to nominate two-thirds of the members of the Constitutional Council, Central Election Committee, and Audit Committee. The president exerts a firm control over military and security services and nominates their heads and key members. The role of the security services has acquired greater public attention since the conviction of former security officers in the murder of opposition leader Altynbek Sarsenbaev in February 2006.

The Nazarbaev leadership has delivered considerable material well-being and security to Kazakhstan's citizens, and it argues that only prolonged social stability and economic growth can provide a basis for building democracy.

Electoral Process

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

Although Kazakhstan has regularly held multicandidate parliamentary and presidential elections, none of these have been recognized as free and fair by observers of the OSCE/ODIHR, the most prominent international election-monitoring body.

The Senate (upper house of Parliament) is composed of 47 deputies. Of these, 32 are selected through indirect elections by 14 oblast (regional) assemblies, and assemblies from Astana (the capital) and Almaty (the former capital). The May 2007 amendments increased the number of Senate deputies appointed by the president from 7 to 15. Senators serve six-year terms, with half of the elected senators facing elections every three years. After winning the December 2005 presidential elections, Nazarbaev began a rapid process of bringing major pro-regime political parties under the umbrella of his Nur Otan party.

Elections to the Mazhilis (lower house of Parliament) were held in August 2007, two years ahead of schedule, after the Constitution was amended to allow all seats to be elected by party list on a proportional basis. The ruling party, Nur Otan, captured all 98 seats, as no other party was able to cross the 7 percent electoral threshold. These elections were not deemed free and fair, though it was understood that Kazakhstan's bid for the OSCE chairmanship depended heavily on it.

The OSCE/ODIHR preliminary report on the elections criticized "a combination of restrictive legal provisions" that hindered the development of "a pluralistic political party system" and decreased "accountability of elected representatives to voters" in Kazakhstan, while pointing to some "progress" in moving "forward in its evolution toward a democratic country."³

The package of constitutional amendments in May 2007 removed clauses limiting the first president of Kazakhstan to no more than two terms, leaving little

doubt that the 67-year-old Nazarbaev is planning to remain president for life. Apart from reducing the presidential term from seven to five years, the amendments increased the number of seats in the Mazhilis from 67 to 107, of which 98 are elected by party list on a proportional basis and 9 are selected from the Assembly of the Peoples of Kazakhstan (APK).

Nur Otan obtained 88.5 percent of the votes, whereas six other parties—Ak Zhol, Aul, Democratic Party of Kazakhstan, Party of Patriots, Rukhaniyet, and the opposition Social Democratic Party supported by Nagyz Ak Zhol—failed to cross the 7 percent electoral threshold. The Social Democratic Party, with a paltry 4.6 percent, came second; Ak Zhol was third with 3.2 percent; Aul and the Party of Patriots obtained 1.58 percent and 0.75 percent, respectively. The Communist Party of Kazakhstan boycotted the elections.

A survey by the Center for Social and Political Research (TSiPR) reported that 10.3 percent of respondents supported the Social Democratic Party and only 63.6 percent supported Nur Otan, which casts doubt on official figures that show Nur Otan's dominance and the failure of the opposition to cross the 7 percent threshold. According to the Central Election Committee, the election turnout was 65 percent. Turnout was high in most rural areas and small towns, but only 22.5 percent in Almaty and 40.5 percent in Astana. The TSiPR survey suggests that turnout was only 16.5 percent in Almaty, which also questions the legitimacy of the elections. In the absence of a level playing field, the pro-government forces have been able to use administrative and media resources to deny opposition parties representation in the Parliament.

Taskyn Rakhimbekov, head of the National Network of Independent Observers, reported vote-counting violations in nine regions. The Social Democratic Party claims that it won the seats in Almaty and has filed hundreds of election-related lawsuits with the Office of the Prosecutor General and the Central Election Committee.⁴

Independent analysts and critics of the ruling establishment see the rise of Nur Otan as a “resurrection of the Communist Party of Kazakhstan.” Like the old Communist Party, Nur Otan is becoming the all-encompassing party that has pushed out all other parties from the political arena. It has exploited its incumbency and control over the administrative resources and propaganda channels to appeal to state officials, media, prominent businesses, public figures, and university and school administrators. Nazarbaev and key figures within the ruling authorities claim that a one-party system is perfectly conducive to providing stability and aiding democratization.

Although Kazakhstan has liberalized the procedures for registering political parties and contesting elections, the opposition parties Atameken and Alga have not been allowed to register. Kazakhstan has not adopted any of the substantive recommendations made by the OSCE/ODIHR in its final report on the 2004 parliamentary elections concerning improvements to the Law on Elections.

As a result of the May 2007 amendments, elections in Kazakhstan are increasingly less democratic. The requirement that all candidates be elected

according to a party list on a proportional basis has eliminated elections by single-mandate vote. Such a system privileges loyalty to the party over accountability to the electorate. Second, in requiring candidates to be members of parties, citizens are denied the right to seek election as individuals or as independent nominees. Third, the 7 percent threshold is too high in a country where the ruling party already controlled all but one seat in the previous Mazhilis elected in 2004. Finally, the provision to reserve nine seats for ethnic minorities to be elected by the APK fails to provide for a democratic method of representing ethnic minorities. The APK is an appointed body under the chairmanship of the president that has no legislative power or popular mandate.

Civil Society

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

After bringing the Parliament, political parties, and regional and local governments under its control and driving the opposition out of the formal political process, the Nazarbaev government is now focused on co-opting independent nongovernmental organizations (NGOs) and other civil society groups in support of its agenda.

The National Commission on Democratization and Civil Society appointed by the president holds periodic meetings with pro-regime parties and quasi-governmental NGOs as it urges all parties and NGOs to engage in “constructive cooperation” with the government. Nazarbaev has emphasized the need to establish an “efficient cooperation between state bodies and NGOs to lay a firm foundation for the development of civil society” in Kazakhstan.

The head of the presidential human rights commission and a parliamentary deputy, Sagynbek Tursunov, pledged to adopt a five-year national plan of action on “protecting human rights on the basis of OSCE recommendations.”⁵ In making such a pledge, the government presented itself as a staunch champion of democracy, human rights, and civil society while treating the opposition, genuinely independent NGOs, and civil society groups as either causing disruption in the pursuit of these aims or simply incapable of devising effective policies.

According to the president’s official Web site (www.akorda.kz), there are about 5,000 registered NGOs in Kazakhstan. Most of these are quasi-governmental, propped up to compete with independent NGOs in obtaining grants. Only about 1,000 are active, and only about 150 of these are able to make a positive impact. Official figures, which exaggerate the activities and contribution of the nongovernmental sector, mention that about 200,000 people are involved in the NGO sector, of whom about 40,000 are full-time employees; in addition, about 1 million are volunteers and about 2 million receive various services. The largest proportion of NGOs are environmental (15 percent), followed by children and

youth (13.6 percent), women's rights (13.3 percent), health and medical (13.1 percent), and education (12.5 percent). NGOs active in civil rights issues have a smaller share, about 7.6 percent.⁶

The United States Agency for International Development (USAID) has been the largest single-country donor, providing over US\$500 million in programs to develop Kazakhstan's economic sector, health care system, and democratic institutions. In 2007, it invested about US\$15 million, with half going toward the development of the economy, whereas 17 percent was allocated to human development and about 34 percent to democratic governance.⁷

The NGO sustainability index for Eurasia released by USAID in May 2007 showed a marked improvement in the financial viability of NGOs in Kazakhstan, their public image, and the legal environment but also noted relatively poor infrastructural capacity and advocacy. Kazakhstan's score remained at 4.1 (on a scale of 1 to 10, a higher score representing lower sustainability).⁸

Within the corporate sector, Kazkommertsbank, the country's largest bank, offers funds to aid NGOs and civil society. The dependence of the corporate sector and private businesses on government patronage pressures them to fund government-organized NGOs (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 so-called color revolutions in Georgia and Ukraine, and the opening ("Tulip Revolution") in Kyrgyzstan, human rights NGOs have become targets of considerable negative publicity by the national media. Nazarbaev has warned NGOs obtaining foreign funding that they will be "closely watched," an instruction followed diligently by the National Security Service and the prosecutor general.

Although Kazakhstan's political establishment takes credit for preserving "interethnic peace and reconciliation," it tightly regulates public expression of ethnic and religious claims by placing restrictions on the right to public assembly. Ethnic groups are encouraged to organize into "official" national-cultural centers, which are required to work closely with the APK, chaired by the president.

Ethnic Kazakhs form slightly less than 60 percent of the population. Their share is increasing as the share of Slavs and other Russian-speaking groups, currently about a third of the population, declines. Kazakhstan's political elite, government, and administrative structures do have a multiethnic profile; however, the fact that non-Kazakhs may hold positions in the government or administration is no indicator of influence, since these individuals do not truly represent their ethnic constituencies. Instead, a willingness and ability to operate within the regime-controlled patronage networks is crucial to acquiring a prominent public post.

Kazakhstan's self-acclaimed record of "ethnic harmony" began showing cracks during the year as local clashes in rural areas escalated into ethnic conflicts. Clashes between Kazakhs and Kurds in the village of Mayatas in south Kazakhstan forced

most local Kurds to flee the village as the local authorities failed to provide security and protection to the minorities.⁹

In the village of Malovodnoe in the Almaty oblast, a minor brawl between an ethnic Kazakh and a Chechen grew into a street fight involving 200 people from the two communities, with 5 dead and a large number of Chechens fleeing the village. The district court imposed severe prison sentences on 3 men convicted of hooliganism but spared local officials. In both cases, the complicity of local officials exacerbated social tension and brought the ethnic factor into focus.

Using the rhetoric of religious goodwill and tolerance, Nazarbaev has built a new Catholic Church, a synagogue, a Russian Orthodox Church, and a giant mosque in the new capital, Astana. The multimillion-dollar Pyramid of Peace and Reconciliation in Astana is the latest and most ostentatious monument to Kazakhstan's tolerance, but the reality on the ground is rather different. In September 2006, local authorities of Karasai region in the Almaty oblast razed 13 houses on a farm belonging to members of Kazakhstan's local Society for Krishna Consciousness (SKC). Local sources suggest that a member of the president's family had plans to acquire the plot to develop a commercial center.¹⁰ SKC members have sought mediation from the Almaty Helsinki Committee, OSCE, and other international organizations. Ninel Fokina of the Almaty Helsinki Committee noted that while the state may show a greater tolerance for Sunni Islam and Orthodox Christianity, all other religious congregations are looked upon as undesirable and constituting a threat.¹¹

Like political parties, all NGOs, public associations, and religious bodies are required by law to register with the Ministry of Justice. The National Security Service monitors pro-opposition political parties and journalists, independent or foreign-funded NGOs, religious bodies, and missionaries. It has intensified surveillance over non-traditional religious practices and congregations, which include the Hare Krishna community, Jehovah's Witnesses, a number of Protestant and Catholic denominations, and Muslim groups not affiliated with the Spiritual Administration of Muslims of Kazakhstan.¹² The Ministries of Justice and the Interior, together with the National Security Service, have created special divisions to work with various religious denominations.

Some 30 suspected members of the banned Islamist group Hizb ut-Tahrir went on trial in Karaganda on charges of attempting to overthrow the government to create an Islamic caliphate, though the group has insisted it uses nonviolent means. Many members have reportedly cooperated with the authorities and pledged to renounce the group's ideology and abandon the party.¹³ It is hard to ascertain if such cooperation indeed occurred or whether the defendants were arrested without any substantive evidence and then released.

Independent Media

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

Most of the media in Kazakhstan are privately owned but not independent. The leading financial groups entrenched in the ruling circles own an overwhelming proportion of the country's mass media and seek to render the small number of independent media outlets noncompetitive. These business interests attempt to lure away talent from independent media channels through offers of greater material and personal security, and they portray pro-opposition media as lacking in responsibility and professionalism. Although media outlets may compete intensely with one another, they do not engage in genuinely investigative work and do not criticize the president, his close family, or other top figures within the regime.

By exerting firm control over the country's resource base and legal framework, the Nazarbaev regime has enacted favorable laws and adopted numerous other informal mechanisms of wielding control over the national media. The restrictive Media Law of 2005 and subsequent amendments in 2006 impose further limits on the modicum of independent media in the country. If in the past various banned media had resurfaced under new names, the 2006 amendments—criticized by local and international press and human rights organizations, the OSCE, and the international Committee to Protect Journalists—closed those loopholes and allow the government to deny registration to news outlets.¹⁴

Other legal provisions, such as the Law on National Security passed in 2005 and the criminal code of Kazakhstan, already contain severe limits on the independence of media. Article 318 of the criminal code penalizes a person who “insults the honor and dignity of the president” and is used routinely to prosecute independent journalists by bringing charges of defamation. Influential members of the government have successfully won libel suits against pro-opposition media. Kazakhstan's highly restrictive Media Law and compliant judicial system fully protect top members of the government as they render independent and pro-opposition media highly vulnerable.

Further amendments to the law have sought to criminalize any public criticism of Kazakhstani officials as slander. By urging for measures to make journalists responsible for spreading discrediting information, the Ministries of the Interior and Culture and Information are seeking to further strengthen the clauses protecting government officials from public inquiry or criticism. While censorship is banned by the Constitution, Kazakhstani authorities continue to monitor all media and Internet activities and have erected numerous legal and informal mechanisms protecting against any threat that a truly independent media might pose.¹⁵ Article 164 of the criminal code banning public calls for social hatred was invoked several times to restrict election campaigns.

Competition among leading financial groups for control of the media market became more intense after the ouster of Aliev and the political marginalization of Nazarbaeva. Nazarbaeva founded the privatized but state-controlled news agency Khabar in 1996, serving initially as its director and then as a board member. Kazakhstan's minister of culture and information, Ermukhamet Ertysbaev, has reiterated plans to nationalize the Khabar television channel by suggesting that the state may buy back all privately held shares. However, he has come under sustained criticism for his unrelenting attacks on independent media.

According to the 2007 Worldwide Press Freedom Index of the international media watchdog Reporters Without Borders, Kazakhstan ranked 131 out of 167 countries (behind Tajikistan and Kyrgyzstan, though ahead of Uzbekistan and Turkmenistan).¹⁶

Reporters Without Borders and the OSCE/ODIHR expressed concern at the biased media coverage of the August 2007 parliamentary elections and noted numerous cases of pressure, self-censorship, violations of electoral legislation, and bias in favor of the ruling party.¹⁷ Although the government for the first time provided broadcasting of debates with all parties represented on the public TV Kazakhstan 1 and Khabar, the broadcasts credited Nur Otan with achieving the country's high degree of economic success and stability and portrayed the opposition as bent on causing social upheaval through misguided calls for reforms and change. The Social Democratic Party, the leading opposition party, received very little coverage on the public TV stations.

In 2007, an Internet scandal involved the sensational posting of recorded conversations purportedly among top government figures discussing illicit campaign-financing methods on pro-opposition Web sites (www.kub.kz and www.inkar.kz, an internet radio outlet). The tapes contain a voice purported to be Nazarbaev's, instructing an aide to induce some of the country's most influential entrepreneurs to make large-scale "donations" to Nur Otan.¹⁸ A third site (www.geo.kz) published the transcripts. The government reacted by imposing de facto censorship over the Internet. Two of the sites changed names (www.kub.info and www.inkar.info), and all three have been unavailable to users inside Kazakhstan by normal means, though they can be accessed through proxy servers.

The opposition newspapers *Svoboda Slova*, *Vzglyad*, *Taszhargan*, and *Respublika*, which also published articles on the leaked transcripts, underwent numerous inspections ranging from tax and audit to fire and safety, and were unable to secure a printing house for their next issues. Vyacheslav Abramov of the Coalition for Torture Prevention in Central Asia noted that the media crackdown was unprecedented in its intensity and scale and extended to more media outlets than similar actions in the past.¹⁹

According to estimates by the *CIA World Factbook*, Kazakhstan had about 1.24 million Internet users in 2006.²⁰ As Kazakhstan's urban middle class and student population increasingly turn to the Internet to obtain news, the Kazakhstani authorities have made various efforts to control the spread of information on the Internet. Kazakhstan's law requires all Internet domain names

to be registered in Kazakhstan (.kz), mentioning that non-Kazakh domains may be denied registration.

The state-owned Kazakhtelecom and its six subsidiaries are the monopoly Internet service providers, which regularly block access to opposition Web sites and apply technical controls. Kub and other popular Internet sites publishing materials by the opposition, are registered outside of Kazakhstan.

Bloggers publishing items critical of the government have been charged under clauses protecting the president's "honor and dignity." Nurlan Alimbekov, a philosophy teacher in south Kazakhstan, has been subjected to psychiatric examination since his arrest for allegedly inciting "interethnic hatred" in various e-mail correspondences. His defenders claim that he is being persecuted for having posted materials on the Internet site www.centrasia.ru, which offers widespread coverage to the views of independent and opposition journalists.²¹

Local Democratic Governance

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

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

In theory, local legislative councils, or *maslihats*, whose members are elected for a five-year term, serve as the only outlet for civic participation; in practice, they are accountable to the appointed *akims*. *Maslihats* serve primarily as rubber-stamp bodies to approve acts by local executives. This top-down control allows patronage and personal influence to define the powers of the incumbent. It is estimated that about 44 percent of Kazakhstan's rural population lack any say in local affairs.²² Each oblast *maslihat*, and those of Almaty and Astana, nominate two members each to the Senate.

In August 2007, *maslihat* elections were held in 3,334 constituencies: 550 in oblasts, Astana, and Almaty; 625 in cities; and 2,159 in regions. These were held simultaneously with the parliamentary elections. Not only did this create some confusion among voters who took part in two different polls on the same day, but it resulted in the local elections being overshadowed by the parliamentary ones.

At the regional level, *akims* are appointed on the approval of *maslihats*. Under the constitutional amendments adopted in May 2007, regional and city *maslihats*

now have the right of refusal when the president nominates an *akim* of a province or city. The number of no-confidence votes required to oust a sitting *akim* has been reduced from two-thirds to one-fifth of *maslibat* members. Given the nominal role assigned to *maslibats* in regions and the patronage exerted by *akims*, it is unlikely that *maslibats* play any significant part in defining the composition of local government.

As Nazarbaev remains opposed to holding direct elections for local and regional *akims* and granting local autonomy, discussion on the subject is virtually moot. Galymzhan Zhakiyanov, founder of the opposition Democratic Choice of Kazakhstan and a popular former *akim* of Pavlodar jailed for alleged misuse of office, has been the most prominent advocate of direct elections of *akims* and greater autonomy for oblasts.

Even if direct elections were introduced under the current framework, they are unlikely to have a democratizing effect as long as a single party dominates the entire political landscape. In addition, the incumbent *akims* and their patrons, together with members of the Central Election Committee and the District Election Committee, wield enormous influence in the nomination of candidates.

The lack of financial autonomy for local bodies is another serious limitation. The central government determines taxation rates and budgetary regulations. Although regional governments own over 80 percent of all state enterprises, the law limits local governments' control over the rates for local taxes, including property and vehicle taxes. Local governments are allowed to keep all fines for environmental pollution but are required to transfer other revenues to their higher authorities. Oblasts are not allowed to keep their surplus budgets, which are forfeited to needier ones.

The *akims* in oil-rich oblasts, which have attracted the most foreign investment, exert a greater control over budgetary matters mainly by extracting significant contributions from investors to various "social and welfare projects" and thus informally negotiating revenue-sharing rates with the central government. But this arrangement 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.²³

The government's measures to promote "legalization of property," which in theory enables citizens to legalize private houses and *dachas* built in past years when a proper legal framework for ownership did not exist, have produced numerous disputes between citizens and local authorities on their actual interpretation and implementation. The inhabitants of the Shanyryk and Bakay shantytowns in Almaty continued their civic and legal action against the local *akimat* (council) decision to demolish their "illegal" settlements in 2006. More than 100 houses were torn down, but the residents have yet to receive any compensation, and the standoff between the poor squatters and the city administration continues.

Settlement dwellers and local civil rights groups blame the city administration for illegally clearing the slums to acquire the land for large commercial complexes. Aron Atabek, a religious activist and a longtime critic of the government, set up a group called the Land and Dwelling Committee, dedicated to promoting the

rights of the homeless, and led protests in Shanyrak and Bakay in 2006. He was sentenced to 18 years in prison in October 2007 for disrupting law and order, allegedly triggering the death of a policeman during the protests.

Civil rights activists point out that while the local administration has allowed members of the elite to legalize houses and *dachas* built in posh parts of Almaty without obtaining proper authorization, poor residents have faced obstacles from local authorities in legalizing their dwellings. Almaty's *akim*, Imangali Tasmagambetov, offered up to US\$4 billion in compensation to some 2,000 owners of luxury homes on the mountain slopes of Almaty, which are within an area now defined as a conservation zone and will be demolished to prevent further environmental damage.²⁴

Judicial Framework and Independence

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

Kazakhstan's strong executive system based on presidential patronage recognizes the separation of the three branches of power. Yet in practice, both the judiciary and the legislature remain loyal to the executive headed by the president. The judiciary seeks 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 independence of the judiciary 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 then 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 others appointed by the president. The president may remove judges, except members of the Supreme Court, on the recommendation of the minister of justice.

In order to combat deeply entrenched corruption within the judicial system, Kazakhstan has continued to invest efforts and resources in improving the training of judges and increasing their remuneration. Supreme Court judges receive higher salaries than government ministers. The two main associations of independent lawyers are the Association of Lawyers of Kazakhstan and the Legal Development of Kazakhstan.

All judges are required to attend the Judicial Academy, set up with help from the OSCE/ODIHR in 2004. Having advocated the introduction of jury trials, the OSCE academy is working to reform the criminal justice system and penitentiary legislation. Among the major proposals currently under discussion is the transfer of powers of arrest from the prosecutor's office to the judiciary.²⁵

Kazakhstan began holding jury trials in April 2007. The jury of 11 is selected by a computer program from a list of eligible persons, with several exceptions (such as public servants, police officers, military personnel, lawyers, persons, criminal history, those who know the accused personally, and those who are under 25 years old). Kazakhstan has adopted the continental, or Franco-German, model in which the presiding judge reviews the case along with jurors and joins them in the final decision-making process.

If conducted properly, jury trials can play a vital role in reducing graft and corruption, reduce the waiting period for cases, and help to establish judicial independence, transparency, and accountability in a system where citizens tend to distrust the courts. So far, no jury selection mechanism exists to balance language, gender, and ethnic criteria, and the number of criminal cases involving juries is still limited.

Kazakhstan has a National Human Rights Commission headed by the ombudsman, who has the right to participate in court review of cases but is officially barred from any “interference with the work of either the police or the judicial system.” As a presidential appointee, the ombudsman lacks an impartial image or the support of civil society and human rights activists.

While Kazakhstan’s criminal justice system is undergoing important reforms, the judiciary continues a checkered record in handling cases related to civil liberties, political freedom, independent media, and human rights issues. It has convicted all major political or public figures brought to trial on politically motivated charges (the trial *in absentia* of ex-premier Akezhan Kazhegeldin in 2000, opposition leaders Ablyazov and Zhakiyanov and journalist Sergei Duvanov in 2003) without credible evidence or proper procedures.

In December 2006, the Supreme Court upheld the verdict of a regional court that found former security officer Rustam Ibragimov guilty of killing opposition leader Altynbek Sarsenbaev and two of his aides and resulted in a death sentence. It also sentenced Ibragimov’s nine co-defendants to prison terms of 3 to 20 years. Since Kazakhstan has now abolished the death penalty, Ibragimov is likely to serve a life sentence. The trial *in absentia* of Aliev and his associates brought the role of the judiciary under scrutiny once again.

Corruption

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

According to the 2007 Corruption Perceptions Index (CPI) published by Transparency International, Kazakhstan’s score of 2.1 put it on a par with Azerbaijan, Belarus, Kyrgyzstan, and Tajikistan, though behind Russia. In the 2006 edition of the CPI, Kazakhstan’s score of 2.6 was better than that of resource-rich Russia,

Azerbaijan, and the rest of the Central Asian states. Nonetheless, these differences are marginal, since any score of 5.0 or below indicates a serious corruption problem. The index defines corruption as the abuse of public office for private gain and measures the degree to which corruption is perceived to exist among a country's public officials and politicians.

The National Security Service and Office of the Prosecutor General intensified efforts in 2007 to expose a vast array of corrupt practices and arrested officials at various levels of the administration. It claimed to have “uncovered” 657 cases of corruption in 2007, in which 469 officials faced “administrative and disciplinary charges.” That figure includes 95 local government officials, 2 judges, 2 court administrators, and 5 prosecutors. The corruption cases resulted in administrative punishment of 102 officials and criminal convictions of another 128. Its year-end report also noted significant success in curtailing the activities of “organized criminal groups” engaged in illegal transnational trade and claimed that its special operations had also foiled a major smuggling operation of “luxury cars stolen from European states and Russia.”²⁶ It also uncovered a case of embezzlement involving the alleged misuse of 142 million tenge (over US\$1 million) within the Defense Ministry's main intelligence directorate.

Top officials in the National Security Service and the Office of the Prosecutor General are appointed by the government and remain under the control of the president, which makes it impossible for them to function as independent bodies. Charges of corruption and misuse of office tend to be leveled against highly placed government figures only after these individuals enter into a personal or political rivalry with ruling elites or attempt to challenge Nazarbaev's authority.

The focal point of anticorruption inquiries in 2007 was the various financial scandals afflicting Nurbank, the country's fourth-largest bank, and Rakhmat Aliev, the president's son-in-law. The authorities charged Aliev and his associates with the “disappearance” of about 11 billion tenge (US\$90 million) from the bank, among other criminal activities. Aliev had been a highly controversial figure who alienated top political elites and rival financial groups by using his family connections to rapidly accumulate wealth and political influence. A group of entrepreneurs—including former opposition leader Mukhtar Ablyazov, now chairman of TuranAlem bank, and Grigory Marchenko, former head of the National Bank—urged the president to take action against Aliev and his associates, who they claimed were terrorizing and victimizing various businesses.

Aliev has claimed that the government illegally seized his assets worth US\$300 million. Kazakhstan's Financial Oversight Agency authorized the transfer of 36 percent of Aliev's shares in Nurbank to Dariga Nazarbaeva and the couple's son, Nuraly, aged 23, who is chairman of Nurbank. With the Nazarbaev family remaining in charge of the bank's assets, prospects of an independent and impartial investigation are remote. As a regime insider, Aliev may also prove critical in the “Kazakhgate” trial, in which the American businessman James Giffen is accused of passing US\$80 million from U.S. oil companies to Nazarbaev and top officials in exchange for lucrative oil contracts in Kazakhstan. The trial has been marred by repeated delays but is set to reopen in early 2008.

The Kazakhstani government has joined various international anticorruption initiatives. These include the Anticorruption Initiative for Asia and the Pacific, launched by the Asian Development Bank and Organization for Economic Cooperation and Development, which also advocates working closely with NGOs and civil society groups.²⁷

Kazakhstan established the National Oil Fund in 2001 to protect the economy from volatility in oil prices and to aid transparent management of oil revenues. While these grew to almost US\$20 billion in 2007,²⁸ vital issues of transparency, management, and redistribution of 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.

Kazakhstan has joined the Extractive Industries Transparency Initiative. However, it has yet to make a mandatory disclosure of oil revenues received by the treasury from leading oil companies or to involve independent NGOs in overseeing how oil revenues are managed. Kazakhstan Revenue Watch and others have criticized the government for insufficient backing of the initiative.

Combating Corruption Through Civic Education, a joint initiative of Transparency Kazakhstan, the local branch of Transparency International, and the Interlegal Foundation for Political and Legal Research, has had positive results in enhancing awareness about corruption at the grassroots level. The absence of an independent judicial system makes it impossible for ordinary citizens or independent NGOs to file corruption charges against high-ranking state officials. 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 the Interior.

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