

Kazakhstan

by Bhavna Dave

Capital: Astana
Population: 15.9 million
GNI/capita, PPP: US\$10,320

Source: The data above was provided by The World Bank, *World Development Indicators 2011*.

Nations in Transit Ratings and Averaged Scores

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Electoral Process	6.25	6.50	6.50	6.50	6.50	6.50	6.75	6.75	6.75	6.75
Civil Society	5.50	5.50	5.50	5.50	5.75	5.75	5.50	5.50	5.75	5.75
Independent Media Governance*	6.00	6.25	6.50	6.50	6.75	6.75	6.75	6.50	6.75	6.75
National Democratic Governance	5.75	6.25	6.25	n/a						
Local Democratic Governance	n/a	n/a	n/a	6.50	6.75	6.75	6.75	6.75	6.75	6.75
Judicial Framework and Independence	n/a	n/a	n/a	6.25	6.25	6.25	6.25	6.25	6.25	6.25
Corruption	6.00	6.25	6.25	6.25	6.25	6.25	6.25	6.00	6.25	6.25
Democracy Score	6.25	6.25	6.50	6.50	6.50	6.50	6.50	6.50	6.50	6.50
	5.96	6.17	6.25	6.29	6.39	6.39	6.39	6.32	6.43	6.43

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

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

EXECUTIVE SUMMARY

In 2010, Kazakhstan became the first former Soviet republic to assume the rotating one-year chair of the Organization for Security and Cooperation in Europe (OSCE). The decision to grant the OSCE chair to Kazakhstan was made in 2008, as part of a larger effort to engage new OSCE members more closely in defining and realizing the objectives of the organization. It was also a recognition of Kazakhstan's key economic position and an opportunity to encourage the country's democratization. Kazakhstan embraced the distinction of OSCE chairmanship with pomp and propaganda, but the leadership's preoccupation with image-building and PR far overshadowed the pledge it had made to promote democratic reforms, independent media, and civic institutions.

President Nursultan Nazarbayev, who turned 70 in July 2010, is a former Soviet politburo member who has held the country's top office since 1989. While steering Kazakhstan toward the OSCE chairmanship and delivering political stability and rising prosperity on the basis of the country's enormous resource wealth, he has built a strong and personalized presidential system, extending his patronage over the country's key political institutions, media outlets, judiciary, and the business sector. Nazarbayev has promoted economic modernization and prosperity, and an official discourse of inter-ethnic peace and stability. Meanwhile, he enjoys unchecked presidential powers, immunity from prosecution, freedom from term-limits, and a rubber-stamp Parliament composed entirely of his ruling Nur Otan party. The government's ceaseless propaganda campaigns portray President Nazarbayev as a guarantor of prosperity and stability, while discrediting any opposition or potential alternatives to his leadership.

National Democratic Governance. Bolstered by growing oil exports and prosperity over the past decade, Kazakhstan has used the rhetoric of reform and democratization to appease the West without demonstrating any commitment to these processes in practice. The parliament, monopolized by the ruling Nur Otan party, has proven incapable of initiating substantive amendments to limit the authoritarian system headed by President Nazarbayev. Instead, it has pushed out all independent parties and candidates and is working to formalize the president's lifetime status as "leader of the nation." *Owing to its continued failure to initiate genuine political reform and the use of the 2010 OSCE chairmanship for image-building, Kazakhstan's national democratic governance rating remains unchanged at 6.75.*

Electoral Process. Despite repeated pledges to the OSCE to reform its electoral laws, Kazakhstan has failed to pave the way for genuinely competitive and fair elections. The last presidential election, held in 2005 in a contest favoring the incumbent,

produced a 91 percent vote for President Nazarbayev, and the parliamentary election of 2007 resulted in the president's Nur Otan party capturing all seats in the lower house (*Mazhilis*). The requirement that all seats be filled through party-list proportional representation prevents independent candidates from contesting and entrenches party patronage, and the 7 percent electoral threshold hinders party formation and fair contestation. Conferring the legal title of "Leader of the Nation" upon President Nazarbayev, the Parliament passed a law to hold a referendum to extend his mandate until 2020. Nazarbayev rejected the measure and instead ordered early elections, allowing little time for any serious candidates to enter the fray. *Kazakhstan's electoral process rating remains unchanged at 6.75.*

Civil Society. Kazakhstan portrays itself as an open, tolerant, democratizing state, committed to promoting civil society and the nongovernmental sector. In reality, the government has used the country's rising prosperity to enhance its international status, co-opt nascent NGOs into the state sphere, and constrain the development of an autonomous space where genuinely independent and self-organized associations and non-state actors can emerge. The right to assembly is severely curtailed by a 1995 law requiring citizens to seek advanced approval for all public assemblies from local authorities, which typically only grant permission to pro-government groups. The authorities have considerable power to monitor religious congregations, opposition groups, and independent NGOs, all of which are required to register with the Ministry of Justice. *Owing to its continued failure to support and promote the civic sector, Kazakhstan's civil society rating remains unchanged at 5.75.*

Independent Media. Kazakhstan's media outlets are privately owned but firmly under the control of major financial groups affiliated with the regime. While the government has initiated minor amendments to the highly restrictive Media Law, it has not offered any significant liberalization of this law or the criminal code, both of which criminalize criticism of the president and leading government figures. Having used libel convictions and massive fines to drive the handful of surviving independent newspapers out of circulation, the government has now begun to institute legal provisions to monitor internet content, effectively introducing a degree of online censorship. *Owing to the lack of any serious liberalization of the Media Law under its OSCE obligations and the continued persecution of media critical of the government, Kazakhstan's independent media rating remains unchanged at 6.75.*

Local Democratic Governance. In Kazakhstan's unitary administrative framework, the central government exerts top-down control over the regional and local levels of government, with the president maintaining full authority over the appointment of the heads (*akims*) of all regions and districts. President Nazarbayev has steadfastly refused to consider demands for the election of akims or to allow further regional autonomy. Regional akims, however, may enjoy considerable informal autonomy if they have close personal ties to the president. Although constitutional amendments in 2007 granted a greater voice to local legislators in

the appointment and removal of akims, the dominance of the Nur Otan party at all levels of government effectively nullifies the formal powers granted to local bodies. *Kazakhstan's local democratic governance rating remains unchanged at 6.25.*

Judicial Framework and Independence. Kazakhstan's judiciary, like the legislative branch, operates under presidential patronage; it is loyal to the regime and protects the interests of the state rather than those of individuals, minorities, and the weaker strata of society. A significant increase in funding has led to an improvement in professional training, technical infrastructure, and wages in order to reduce corruption. Although Kazakhstan's criminal justice system is undergoing incremental reforms, the judiciary has a poor record on cases involving civil liberties, political freedom, independent media, and human rights issues. The courts have convicted all major political or public figures brought to trial on politically motivated charges. Its refusal to grant parole to the human rights activist Evgeniy Zhovtis in 2010 demonstrates the judiciary's inability to follow proper procedures and render fair and independent verdicts. *Kazakhstan's judicial framework and independence rating remains unchanged at 6.25.*

Corruption. Corruption is systemic in Kazakhstan and entrenched in rent-seeking behavior that guides the appropriation, control, and distribution of key resources by ruling elites. The existing legal system formally upholds principles of justice and impartial inquiry, but in practice defends the privileges of the incumbent elite over the rights of citizens, journalists, or nongovernment bodies. Inquiries into official corruption are handled by the presidentially appointed prosecutor general and the financial police, working in conjunction with the Ministries of Justice and Internal Affairs and National Security Committee (KNB), also loyal to the president. Charges of corruption, misuse of office, and criminal activity are routinely levied against individuals engaging in open criticism of the president or the regime. Moreover, the authorities entrusted with the task of combating corruption lack credibility and a mandate to act impartially. *Kazakhstan's corruption rating remains unchanged at 6.50.*

Outlook for 2011. The title "Leader of the Nation" conferred by the Parliament upon President Nazarbayev further enhanced the immunity granted to him and his family, which extends beyond the completion of his term. The president called for early elections to be held in April 2011, intimating his desire to serve the country as long as people want him and his health permits, thus confirming the widespread belief that he enjoys the *de facto* status of president-for-life. This exposes the long-term vulnerability of Kazakhstan's political system that is linked with the personality of the president and lacks autonomous and sustainable political institutions. The president's image-building propaganda pervades domestic and international circles to such an extent that the possibility of another leader or party assuming power is seen as tantamount to derailing the country's economic achievements and heralding conflict, instability, deprivation, and possibly civil war. Despite its self-acclaimed stability, such a governance system is inherently unstable and insecure and thus incapable of initiating genuine democratic reforms under the current leadership.

MAIN REPORT

National Democratic Governance

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
n/a	n/a	n/a	6.50	6.75	6.75	6.75	6.75	6.75	6.75

As the 2010 chair of the OSCE, Kazakhstan was the first former Soviet republic and first Central Asian state to assume the rotating one-year chairmanship of the 56-member organization. The year featured an array of government-supported international events and high-profile meetings geared toward international image-building, such as the spectacular celebration of the 70th birthday of President Nursultan Nazarbayev and the opening ceremony of the multibillion-dollar Khan Shatyr complex housed in a grandiose glass yurt. The year culminated in the Astana Summit, acclaimed by President Nazarbayev as “a triumph for our country and global recognition of the success of the Kazakhstani path.”

Instead of using the rare OSCE summit to address the long-standing regional security issues or more recent challenges posed by the political instability and ethnic conflict in Kyrgyzstan, Kazakhstan used the platform primarily for self-acclamation and to hail the success of the “Kazakhstani path,” presumably the country’s combination of rapid prosperity, stability, and ethnic harmony. Uzbekistan criticized the OSCE, alluding to Kazakhstan’s role as its chair, for failing to take any action to prevent the violent ethnic clashes in southern Kyrgyzstan.¹

To be sure, the skilled leadership of President Nazarbayev has played a critical role in transforming Kazakhstan into the most dynamic economy in the post-Soviet space after Russia, with rapidly rising levels of prosperity. This has been achieved by Kazakhstan’s enormous resource wealth, small but well-educated population, well-developed industrial infrastructure, and rich legacy of multiethnic solidarity. Behind the claims of stability and prosperity, Nazarbayev has established extensive and uncontested personal control over the country’s resources and institutions, while eliminating the numerous challenges and alternatives to his authority. He has generously rewarded his supporters with rapid economic gains and career mobility, while at the same time discrediting or co-opting all self-organized economic, political, and civic activities, ethno-religious associations, and severely cracking down on challenges to his authority.

To control its opponents, including even family members, the presidential regime has used such tactics as co-optation and buyoffs, coercion, intimidation, criminal conviction, physical harm, and suspicious deaths. The 2007 dismissal of Rakhat Aliyev, the president’s former son-in-law and ambassador to Austria, and trial in absentia culminating in a 40-year prison sentence was a warning to any extended family who may harbor political ambitions. Meanwhile, the ruling establishment and rapidly rising upper-middle classes remain deeply fearful of any form of political opposition, self-organized civic action or societal mobilizations by

the less privileged; these are viewed as emanating from economic deprivation and the absence of strong leadership, as seen in neighboring Kyrgyzstan. This fear is used to mobilize ordinary citizens to rally around the president and the Nur Otan party to preserve the country's "hard-earned stability" and combat the threat posed by so-called color revolutions.

Kazakhstan's political system is a hybrid of Soviet-era institutions and practices that formally endorse democracy and rule of law but are entrenched within a patriarchal authority structure. This is characterized by the opacity of personal networks and informal practices that operate within a shell of formal institutions and structures. At the top is the president on whom the entire political system hinges. The constitution, Parliament, the ruling Nur Otan party, and the Assembly of People of Kazakhstan are credited with preserving "ethnic harmony and accord," and the regional administration are kept functioning as a result of the president's patronage.

The role of the Parliament is limited to formulating and passing laws proposed by the prime minister and cabinet. The president has sweeping powers to appoint and dismiss the PM and dissolve the Parliament. The PM has little independent power to formulate policies and is entrusted with implementing targets and guidelines set by the president. The president also appoints a third of the members of the Senate, nominates nine members from the Assembly of People of Kazakhstan (APK) to the *Mazhilis*, the lower house of Parliament, and chooses the chair and two members of the seven-member Central Election Commission. The APK itself is appointed by the president to represent ethnic minorities.

About a half-dozen of the most prosperous and powerful business groups are closely affiliated with the regime and in fact constitute the present regime. Foremost among these are the financial "Eurasia Group" led by the president's son-in-law, Timur Kulibayev, and the copper giant Kazakhmys, all of which coalesce around the broad-based platform of Nur Otan and indirectly control the Parliament, ministries, and major media outlets. These separate entities may compete intensely among themselves but publicly display their loyalty and veneration for Nazarbayev. Kulibayev, who with his wife Dinara Nazarbayeva controls the largest financial group in Kazakhstan, was described as "the ultimate controller of 90 percent of the economy of Kazakhstan" in a 2010 WikiLeaks cable. The Eurasia Group, headed by the billionaires Alizhan Ibragimov, Alexander Mashkevich, and Patokh Chodiyev, has built a mining empire in Kazakhstan and abroad and is closely associated with the president. Ibragimov is a Kazakhstani citizen, whereas Mashkevich and Chodiyev, though of Central Asian origin, have multiple foreign citizenships.²

The military and security services remain under firm control of the president, who appoints their heads and key members. The return of Nazarbayev loyalist Nurtai Abykayev as head of the National Security Committee (KNC), after a hiatus as ambassador to Russia, further extended the president's personal authority over the Security Services. Abykayev was appointed to the post after the sacking of the previous head and several members of the security service for allegedly wiretapping and plotting a coup.³ In January 2010 Nazarbayev appointed his nephew Samat

Abish, a Russia-educated Lieutenant colonel, as head of human resources of the KNB.⁴ Kairat Satybaldy, another nephew of Nazarbayev, became Nur Otan's new secretary in charge of coordinating party operations on the military, the "patriotic upbringing of Kazakh youth,"⁵ and cooperation with youth and veterans organizations. He was vice president of the state oil company Kazakoil and was recently elected chairman of the fledgling political movement "My Kazakhstan," which has set up networks throughout the country and claims to have over 25,000 supporters.

Kasymzhomart Tokayev, seen as personally loyal to Nazarbayev yet not linked to any of the financial groups or other networks, holds the most crucial position as the chairman of the Senate. According to the constitution, Tokayev is in line to replace the president in the event of his death or removal from office.

Electoral Process

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
6.25	6.50	6.50	6.50	6.50	6.50	6.75	6.75	6.75	6.75

Although Kazakhstan has held regular parliamentary and presidential elections and invited international monitors to observe, none of the polls have qualified as free and fair or been conducted in compliance with international standards. Despite technically qualifying as multiparty and multicandidate contests, these elections have failed to offer a level playing field for opposition parties and candidates.

In the last parliamentary elections, held in August 2007, the Nur Otan party took all seats; OSCE monitors criticized Kazakhstan for failing to meet commitments, "in particular with regard to elements of the legal framework, and to the vote count and tabulation."⁶ Nur Otan obtained 88.5 percent of the votes cast, while the opposition Social Democratic Party came second with less than 5 percent, below the 7 percent threshold required for representation. In the previous elections in 2004, the opposition Ak Zhol party alleged electoral fraud and refused to accept the single seat it was allowed to win. The opposition party Alga! (Forward!) has persistently been denied registration.

Constitutional amendments introduced before the 2007 elections placed Nur Otan in an unassailable position and pushed the already enfeebled opposition out of any real contest. The number of seats in the lower house was raised from 77 to 107. Of those, 98 are elected from party lists on a proportional basis, and the president appoints the remaining nine deputies to represent the APK. The Senate, the upper house of Parliament, is composed of 47 deputies. The assemblies of the 14 regions, the capital Astana, and the former capital Almaty each select two senators. The remaining 15 are appointed by the president. Senators serve six-year terms, with half of the indirectly elected members coming up for election every three years. The last round of Senate elections, held in 2008, received little public attention, though members of Nur Otan or those affiliated with it won the seats in question.

Instead of reforming the stringent legislation that hampers party formation and fair multiparty contests, Kazakhstan introduced a cosmetic amendment to

its flawed Law on Elections and Political Parties by creating a minimal two-party system in which the second-place party is allowed to win representation whether or not it crosses the 7 percent threshold. In practice, such a measure would only allow a “loyal opposition” group or another channel of support authorized by the president to compete with Nur Otan.

By eliminating single-mandate voting from parliamentary elections and establishing that all candidates must be elected by party list on a proportional basis, the Law on Elections and Political Parties privileges loyalty to the party over accountability to voters. The law requires that all candidates be members of political parties, thus denying citizens the right to seek election as independents. Furthermore, the high 7 percent threshold is clearly aimed at blocking the rise of new parties. Finally, the reservation of nine seats for APK members fails to provide a democratic method for representing ethnic minorities. The APK is an appointed body chaired by the president, and in practice ethnic minorities lack any means of participating in the selection of their representatives.

A proposal by first deputy chairman Darkhan Kaletayev in late 2009 to bestow the title “Leader of the Nation” upon Nazarbayev was swiftly passed as law by both houses of the Parliament a couple of weeks before the president’s 70th birthday. Exploiting its control over the administrative machinery and propaganda channels, Parliament induced state officials, media, prominent businesses, public figures, and university and school administrators to lend support to the campaign. Although Nazarbayev refused to sign the bill and used a veto in what appears to be a staged façade of modesty, the Parliament went on to respectfully overrule the veto and put the law into effect.⁷ No mere decorative emblem, the “Leader of the Nation” law further boosts the privileges already granted through the Law on First President adopted in 2001 that gave Nazarbayev the right to address the Parliament or speak on national media even after retirement and conferred complete immunity from prosecution for any action undertaken by him while in office. The Law on Leader of the Nation extends the immunity over all property and holdings to Nazarbayev and his relatives as well.

In late December, an informal gathering of about 900 delegates voted unanimously in favor of holding a referendum to extend Nazarbayev’s term of office to 2020. After four days the Central Election Commission (CEC) registered this initiative, and a nationwide campaign in support of the referendum collected about 5 million signatures within weeks. The campaign was mobilized to push an amendment to the constitution that would do away with the 2012 and 2017 presidential elections and allow the referendum. Ultimately, President Nazarbayev rejected the amendment and called for the presidential election to take place in April 2011, about 20 months ahead of schedule.

Developments over the past decade or more amply show that the political system established under Nazarbayev has become entirely personalized: the constitution grants unlimited presidential powers, the Parliament is composed entirely of ruling party members, and the party-list voting system effectively bars rival parties and independent candidates from the legislature. Elections are a

mechanism for producing and consolidating overwhelming electoral support for the privileged financial elites who dominate the ranks of Nur Otan, and by getting elected, muster unlimited political powers and immunity from prosecution.

Civil Society

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
5.50	5.50	5.50	5.50	5.75	5.75	5.50	5.50	5.75	5.75

Despite Kazakhstan's rising prosperity, liberal economic climate, and growing international engagement, the political leadership has not created a hospitable environment for the development of genuine civil society and democratic institutions. As a telling indication in 2010, the unreasonably harsh sentencing of Evgeniy Zhovtis, a prominent human rights activist and director of the International Bureau for Human Rights and Rule of Law, demonstrated the regime's determination to elevate the country's international image by silencing critical perspectives. Zhovtis was convicted in September 2009 of manslaughter following an automobile accident that resulted in the death of a pedestrian. In a trial fraught with procedural violations, the judge did not consider any of the mitigating evidence, prevented Zhovtis from mounting an adequate defense, and delivered an excessive four-year prison sentence. The state authorities and judicial organs acted in unison to exploit the accident, preventing Zhovtis from traveling abroad to participate in conferences related to democracy and civil society issues in Kazakhstan.⁸ In September 2010 the authorities turned down his plea for parole on grounds that he "violated terms and conditions of prison" but failed to substantiate these charges.

The presidential regime uses its powerful patronage network to target nascent NGOs and public associations for co-optation, using them to promote an agenda of social and infrastructural development rather than allowing the nongovernmental sector to develop independently. While pro-government NGOs are offered funds, publicity, and recognition for engaging in "constructive cooperation" with the government, independent NGOs that resist such pressures are portrayed as being irresponsible, serving outside interests, or opposing reforms and prosperity.

In order to counteract the influence of autonomous and independent NGOs, the government in recent years has set up a number of "public organizations" and uses them to demonstrate the vibrancy of civil society in the country. At the end of 2009, the Embassy of Kazakhstan in Washington, DC reported the existence of a growing "third sector" in Kazakhstan, employing over 550,000 people. The embassy bulletin claims there are 25,000 non-profit organizations in the country, "13,000 of which form NGOs."⁹ Statistics published on President Nazarbayev's website show that Kazakhstan's NGOs focus primarily on environmental issues (15 percent), followed by children and youth (13.6 percent), women's rights (13.3 percent), health and medical concerns (13.1 percent), education (12.5 percent), civil rights (7.6 percent), and social welfare (6.8 percent).¹⁰

In reality, official government sources point to the existence of just 5,000 registered NGOs, and only a fourth of that number appear to be active. The vast majority are quasi-governmental groups propped up to compete with real NGOs in obtaining grants. An estimated 200 are able to make a positive impact.¹¹ No more than about 10 percent of NGOs are engaged in civil liberties, human rights, and minority protection issues. The few genuinely independent groups among these are subjected to surveillance by the KNB and the Office of the Prosecutor General. As with political parties, all NGOs, public associations, and religious bodies are required by law to register with the Ministry of Justice.

One of the most basic civil liberties, the right to public assembly, remains severely restricted in Kazakhstan, as any public appearance or gathering broadly defined as an ‘assembly’ must be sanctioned ahead of time by local government authorities. Citizens holding a public demonstration are required to notify the authorities 10 days in advance. Since the Law on Public Assembly was passed in 1995, permission to assemble peacefully in a downtown area or near government buildings has only been granted to pro-government parties and public associations.¹²

As part of its effort to steer the development of the civic sector, the government has created a biannual Civic Forum to forge cooperation with NGOs. The stated goal is to aid the establishment of a vibrant civil society, but in practice it serves to co-opt existing NGOs and tends to limit and control efforts at self-organization among societal groups and interests.

The U.S. Agency for International Development (USAID) has been the largest single-country donor organization in Kazakhstan, providing over US\$500 million since 1992 in programs to assist the development of the country’s economy, healthcare system, and democratic institutions. A study in funding of NGOs over the past decade heralded a decline in international aid, and noted that Kazakh NGOs are seeking to diversify their sources of funding.¹³

Kazakhstan’s budding business and entrepreneurial strata enjoy considerable economic freedom and privileges as long as they refrain from any independent political activity, publicly adulate the president and the Nur Otan party, and make “voluntary” financial contributions to projects initiated by the regime, which are realized through a range of government-sponsored NGOs.

Working under state patronage, the corporate sector is induced to fund government-organized NGOs or invest in social or community development projects. However, there are reports of private businesses covertly funding civil-rights advocacy campaigns and independent media channels in an effort to safeguard their own interests and carve out a sphere of activity free from governmental control.

According to the 2009 census, ethnic Kazakhs comprise 63 percent of the population, up from 53 percent in 1999, whereas the share of ethnic Russians has declined from 30 percent in 1999 to 23.7 percent in 2009. Uzbeks form the third-largest ethnic group at 2.9 percent. While ethnic Kazakhs are recognized as the titular or name-bearing nation and enjoy a *de facto* primacy in obtaining numerous state positions, Kazakhstan’s political elite, the government, and administrative structures bear a multiethnic profile, and “ethnic reconciliation” and “tolerance” are

highlighted as the guiding principles of the multiethnic state. The ability to operate within the regime-controlled patronage networks, rather than ethnic affiliation, is crucial for acquiring a prominent public position; yet, ethnic Kazakhs dominate in the various networks that are closely connected with the regime.

While claiming a commitment to promoting interethnic peace and reconciliation, the government tightly regulates public expression of ethnic and religious identity by placing restrictions on freedom of assembly and encouraging ethnic groups to organize themselves into official national-cultural centers. These are expected to work closely with the APK, which is chaired by the president.

The Law on Religion, adopted in 2008, strictly regulates the registration of all religious communities. A 2006 presidential decree categorized various minority religions as “sects” or “nontraditional” groups, suggesting that they are potentially subversive or extremist in nature. The minority religious groups that have continued to face persecution are Jehovah’s Witnesses, Hare Krishna devotees, and several independent Muslim groups whose affiliations, beliefs, or practices are at variance with the government-approved version of Islam as a liberal, non-political force. Media campaigns have been organized to spread fear of “nontraditional” religions and to generate support for an amended Law on Religion, which would seriously restrict freedom of thought, conscience, and religion.

Human rights advocates note that the methods employed by the government to control religious groups are not unlike those used in Uzbekistan, Turkmenistan, and Tajikistan. These include raids of religious institutions, fines for failing to acquire registration, expulsion of foreign missionaries, seizure of assets, and obstacles to the dissemination of religious literature. Human Rights Watch characterizes the state’s policies toward religious groups as “quiet repression.”¹⁴

While the security and intelligence services publicly claim to combat terrorism, extremism, drug trafficking, and other regional and international security threats, many of the vast resources of the KNB are diverted toward monitoring the activities of opposition groups, independent NGOs, media outlets, religious bodies, and foreign missionaries in the country. Asserting that religious pluralism and tolerance are fueling extremism, government officials have openly called for stringent action against religious groups operating outside state-recognized structures, and the Ministries of Justice and Internal Affairs together with the KNB have created special divisions to work with religious denominations.

Independent Media

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
6.00	6.25	6.50	6.50	6.75	6.75	6.75	6.50	6.75	6.75

Most media outlets in Kazakhstan are privately owned and formally categorized as independent, but in reality they are regulated by the government and controlled by politically entrenched financial groups. Media outlets may compete intensely with one another, but they do not engage in investigative work or criticize the president,

his close family, or other top figures in the regime. The few media outlets that are independent of the state, and critical of the direct and indirect control exerted by the authorities over the informational space, have found it increasingly difficult to survive in the traditional media market and are forced to operate mainly via the internet.

According to Freedom House's annual Press Freedom survey, Kazakhstan's media is "Not Free," and is ranked 172nd out of 196 countries and territories.¹⁵ The media are far more diverse than those of some other countries in the region and allow some debate on prevalent socioeconomic issues. However, the president and his inner circle remain above scrutiny, while parliamentary deputies and regional akims have increasingly used their positions to punish critical journalists.

A mix of highly restrictive laws and unauthorized, indirect, and informal mechanisms of control have ensured the national media's subordination to the government. 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. Influential members of the government have also won libel suits against opposition-oriented media. Existing legislation does not regulate compensation for libel, exposing any publishing house to sudden bankruptcy. Opposition newspapers have also been subjected to numerous bureaucratic interventions, ranging from tax audits to fire and safety inspections, and they encounter continual difficulties in finding printing facilities.

The regional newspaper *Uralskaya Nedelya* in western Kazakhstan was sued for libel for an article investigating the alleged rigging of a tender, and its journalist was ordered to pay the equivalent of US\$133,500 to the Tengizneftestroi Oil Company.¹⁶ In previous years, the prominent independent investigative weeklies *Respublika* and *Taszhargan* were ordered to pay massive damages in libel suits brought by senior government officials. *Respublika* was forced to close when it could not pay the equivalent of US\$500,000 in damages in a case where Bank TuranAlem (BTA) accused the newspaper of spreading false information. After several attempts to revive under different names, a version of the paper emerged as *Golos Respubliki*, publishing for the last year and a half only online, as no publishing house would agree to print it for fear of reprisal from the authorities.

Journalists working with state-controlled media reported encountering pressure to publish articles that call for bestowing the Leader of the Nation status upon President Nazarbayev and the subsequent campaign to hold a referendum to support his tenure until 2020. Many protesting against these proposals were routinely detained and fined.¹⁷ Members of "Journalists in Distress," a Kazakh media watchdog foundation with international support, have frequently been detained and fined for organizing demonstrations.

The government formed a working group that included the Ministry of Culture and Information, the OSCE, and the independent media watchdog Adil Soz to consider reforms to the existing Media Law. However, it rejected virtually all recommendations made by NGOs, despite its pledge to introduce greater media liberalization before receiving the OSCE chairmanship. Restrictive measures on internet content and privacy adopted in August 2009 categorize all websites in Kazakhstan as mass media

outlets, and hold bloggers or website owners accountable for anything they publish. Bloggers who publish items that are critical of the government have been charged under clauses protecting the president's "honor and dignity."

The Center for Computer Incidents was created to monitor internet activities, including blogging. According to Kuanyshbek Esekeev, head of the state communications agency, the Center's aim is to monitor websites that have "pornographic or extreme character" and prepare a "blacklist of sites which have a destructive character for society."¹⁸ The failure to involve any independent media watchdogs in such monitoring efforts lends credence to the widespread view that such efforts are geared at intensifying internet censorship. The prosecutor general warned that printing or quoting excerpts from Rakhat Aliyev's sensational critique *The Godfather-in-law* would lead to criminal charges, and websites publishing materials or allegations made by Aliyev against Kazakhstani authorities are continually blocked.¹⁹

Official figures note that internet users in Kazakhstan exceeded 3.5 million in 2010, and about 21 percent of the population (37 percent in urban areas and less than 10 percent in rural areas) has access to internet.²⁰ As the country's urban middle class and student population increasingly turn to the internet to obtain news, the authorities have stepped up their efforts to directly control the availability of information online rather than relying entirely on criminal penalties. The state-owned Kazakhtelecom and its subsidiaries have a monopoly on internet service provision, and they have fully cooperated with the government and security services to apply controls and block access to opposition websites.

Articles adulating President Nazarbayev for the country's accomplishments proliferate in the media. Virtually every page in the state-owned *Kazakhstanskaya Pravda* and *Egemen Kazakhstan* contains extracts from speeches by Nazarbayev. The state channels Khabar and Kazakhstan 1 continually broadcast the president's speeches and report on his travels. In addition, 50 percent of the billboards in Astana feature images of Nazarbayev or quotations from his pronouncements. In this environment, the president risks becoming a hostage to his own propaganda by cutting himself off from accurate information about the problems facing the country. Furthermore, beneath the pervasive personality cult depicted in the media and the various government public-relations campaigns is a struggle for supremacy among the numerous individuals and financial interests that form the president's inner circle.

Local Democratic Governance

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
n/a	n/a	n/a	6.25	6.25	6.25	6.25	6.25	6.25	6.25

Kazakhstan has a unitary administrative framework in which the central government exerts top-down control over regional and local bodies. The centralized nature of the state and concentration of revenues and resources have so far effectively contained

regional elites and interest groups. President Nazarbayev has also continually shuffled officials, not allowing them to spend more than a few years in office and rewarding them with a better position for their compliance.

The constitution does not provide for elections of regional or local administrative heads (*akims*). All regional *akims* are appointed by the central government and may be dismissed by the president at his discretion. Members of the local legislative councils, or *maslihats*, are elected for five-year terms to represent their constituencies but in practice serve as rubber-stamp bodies to approve acts by the local executives. Patronage and personal influence, rather than a constitutional mandate, define the powers of the incumbent. The regional *maslihats*, and those of Almaty and Astana, each name two members to the Senate. The last *maslihat* elections were held concurrently with the parliamentary elections in August 2007 but attracted little popular or media attention in the shadow of the national polls.

Regional and city *maslihats* have formally been granted the right to refuse the president's nominee for *akim*, and the share of *maslihat* members required to oust a sitting *akim* was reduced from two-thirds to one-fifth. However, given the minimal functions assigned to regional *maslihats*, the patronage exerted by *akims* and the lack of any budgetary powers make it unlikely that the councils play any significant role in the composition of their governments.

President Nazarbayev has been opposed to holding direct elections for local and regional *akims* and granting local autonomy, and there has been virtually no public discussion of the subject. The most prominent advocate of such reforms was Galymzhan Zhakiyanov, founder of the opposition party Democratic Choice of Kazakhstan and a popular former *akim* of Pavlodar, who was jailed from 2002 to 2006 on politically motivated charges. Even if elections were introduced, it is doubtful that they would have a democratizing effect as long as a single party dominates the political landscape. In addition, the incumbent *akims* and their patrons, together with members of the Central Election Commission and district election commissions, wield enormous influence in the nomination of candidates.

The lack of financial autonomy for local bodies is a severe constraint on their authority and ability to implement effective socioeconomic measures. The central government determines taxation rates and budgetary regulations. The regions are officially responsible for the provision of social services, such as education, local law enforcement, and medical assistance. Local governments can keep all fines for environmental pollution but are required to transfer other revenues to higher authorities. Regions are not allowed to keep their budget surpluses, which are forfeited to needier areas.

The extent to which regional administrations may retain collected taxes in their budgets is influenced by the standing of the *akim* and the region's revenue-generating capacity. The *akims* in oil-rich regions as well as Astana and Almaty, which have attracted the most foreign investment, exert greater control over budgetary matters, mainly by extracting significant contributions from investors to social and welfare projects and thus informally negotiating revenue-sharing rates with the central government. These *akims* also tend to have a high personal standing with the central government that appointed them.

Judicial Framework and Independence

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
6.00	6.25	6.25	6.25	6.25	6.25	6.25	6.00	6.25	6.25

While Kazakhstan's constitution recognizes the separation of powers and safeguards the independence of the judiciary, in practice both the judiciary and the legislature remain subservient to the executive. The judicial record over the past decade shows that it has consistently protected the interests of the ruling elites, state functionaries, and top business groups rather than those of individuals, minorities, and the weaker strata of society. It has tended to toe the official line when penalizing the political opposition, independent media, and civil society activists who are critical of the government.

The country's courts often intervene to ban media outlets that are critical of the president or the political establishment. The Zhovtis trial highlighted the vulnerability of the judicial system to political interference and confirmed a long-established tradition of judicial verdicts aligning with state interests. The U.S. mission to the OSCE, echoing numerous international and domestic human rights groups, complained that the case involved "serious allegations of procedural irregularities and apparent lack of due process."²¹ The Open Society Justice Initiative and the Kazakhstan International Bureau for Human Rights and Rule of Law filed an appeal to the United Nations to challenge the conviction and sentence imposed on Zhovtis.²²

The constitution of Kazakhstan provides an elaborate mechanism for appointing members of the Supreme Court. The president proposes nominees from among recommendations by the Supreme Judicial Council, which is comprised of the chairs of the Constitutional Council and the Supreme Court, the prosecutor general, the minister of justice, senators, judges, and others appointed by the president. The nominees proposed by the president are then approved by the Senate. The president may remove judges, but not members of the Supreme Court, on the recommendation of the Supreme Judicial Council. There has been no instance to date of any disagreement between the executive and legislature over the appointment of Supreme Court justices. A number of constitutional amendments have reinforced presidential control over judicial appointments.

According to law, Supreme Court judges are appointed by the president on the recommendation of the Supreme Judicial Council and elected by the Senate. Judges of local courts and other levels are appointed by the president on the recommendation of the Supreme Judicial Council. The president also appoints a chairman, secretary, and other members of the Supreme Judicial Council.²³

The judiciary's level of training and professionalism has improved significantly as a result of steady increases in state funding. However, it has not been effective in enshrining the principles of independence and impartiality. Although Kazakhstan set up a Judicial Academy in 2004 with help from the OSCE/ODIHR, the quality of training remains uneven. The legal profession is perceived to be among the most prestigious, which has led to a disproportionate number of lawyers, but their quality is also uneven.

The European Union allocated Euro 3.4 million for the project “Support to Judicial and Legal Reform in the Republic of Kazakhstan,” which will provide assistance to the country’s Supreme Court and Ministry of Justice and support judicial and legal reform. In effect from February 2010 until September 2013, the project’s key objectives are to introduce international best practice in strategic policy documents and their implementation action plans in the judiciary and public administration; to support the country’s efforts to strengthen the institution of advocacy; and to enhance capacities of state institutions in charge of the country’s legal and judicial reform.²⁴

Kazakhstani lawyers have also lobbied for legislation to provide security clearances to work with cases involving state secrets, as under the current framework neither the Law on Legal Practice nor the Criminal Procedure Code provide for security clearances for lawyers. This has often caused conflicts between well-trained lawyers and the unprofessional attitude of law-enforcement bodies.²⁵

Corruption is entrenched in the judicial system, as in other organs of the government. Corrupt behavior is widely accepted as natural, and many believe that the judiciary serves only the interests of the rich and powerful. For small and medium offenses, bribery is seen as an effective means of achieving the desired verdict. It is also widely understood that becoming a judge is extremely difficult without giving bribes to various officials and court administrators.

The OSCE is working to reform Kazakhstan’s penitentiary and criminal justice systems. According to a report by Manfred Nowak, the UN Special Rapporteur on Torture, the prison population in Kazakhstan is three times the average in Europe and well above that of other post-Soviet countries. In 2009, the inmate population was 59,141, and the incarceration rate of 382 per 100,000 people was the highest among Central Asian countries.²⁶ Nowak’s report highlighted an increase in cases of self-harm and suicide to escape inhumane prison conditions, widespread use of torture, and ill-treatment. Over 60 percent of prisoners in Kazakhstan are serving sentences in excess of five years.²⁷

The introduction of judicial authorization of arrests in Kazakhstan denotes a first step toward compliance with one of the central provisions of the International Covenant on Civil and Political Rights. However, for this reform to have a significant effect, the Office of the Prosecutor General and the judiciary must also be mutually independent, which is not the case in Kazakhstan. The government is debating an amendment to existing legislation to bring it into compliance with the UN Convention Against Torture and has declared its support of alternatives to imprisonment, such as mediation, community service, limitation of freedom, electronic tagging, and so forth, but no concrete measures have been taken so far.²⁸

While Kazakhstan’s criminal justice system is undergoing incremental reforms, the judiciary has a poor record when it comes to cases involving civil liberties, political freedom, independent media, and human rights issues. The courts have convicted all major political or public figures brought to trial on politically motivated charges without credible evidence or proper procedures. Kazakhstan has a National Human Rights Commission headed by an ombudsman, but the

position has limited authority to monitor the government's observance of human rights and is barred from any "interference with the work of either the police or the judicial system." As a presidential appointee, the ombudsman appears partial and lacks the support of civil society and human rights activists.

Corruption

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
6.25	6.25	6.50	6.50	6.50	6.50	6.50	6.50	6.50	6.50

Corruption in Kazakhstan is systemic and difficult to prove. It thrives on the country's enormous oil and mineral wealth, and the lack of transparency in the privatization of state-owned assets during its post-Soviet transition, which has benefited the ruling establishment. Corruption is embedded in the rent-seeking behavior of ruling elites who use their official positions to appropriate, control, and distribute key resources for personal gain and obtain immunity from prosecution or investigation. The absence of a genuinely independent anticorruption body and persistent attacks on and criminalization of investigative journalism reinforce the lack of transparency and make it impossible to publicly identify and investigate the misuse of state resources by top officials.

The impossibility of proving, let alone combating, corruption has led to a pervasive social perception that the use of state resources for the enrichment of one's family, friends, and personal networks is normal and constitutes an integral aspect of the local culture and social structure. As long as they enjoy rising prosperity, a vast majority of Kazakhstan's citizens accept corruption as integral to the system, and remain resigned to its existence. A related issue is the lack of transparency that surrounds many business and financial activities, both domestic and international, in which members of the elites are involved.

The WikiLeaks cables, in which Kazakhstan featured prominently, made public information that was already widely known to citizens of Kazakhstan, members of the diplomatic and business community, and experts. One of the cables from the U.S. embassy in Astana in December 2010 quoted the chairman of the state-owned oil and gas company Kazmunaigaz referring to the president's billionaire son-in-law Timur Kulibayev as having "an avarice for large bribes" and one of the four major gatekeepers around the president.

Charges of corruption and abuse of office tend to be leveled against government officials or political figures only after they enter into a personal or political rivalry with more powerful elites or challenge President Nazarbayev's authority. The political motivations behind such cases were described in detail by Rakhat Aliyev in his book, *The Godfather-in-law*, although Aliyev himself is a product, beneficiary, and eventually a casualty of the system he criticizes.

The hope that international investigations might uncover official corruption receded when the final verdict of the "Kazakhgate" case in the United States absolved American businessman James Giffen of charges of allegedly passing \$80

million from U.S. oil companies to President Nazarbayev and other top officials in exchange for lucrative contracts in Kazakhstan in the 1990s. Giffen pleaded that he was contracted by the CIA and was led to believe that he was serving U.S. strategic purposes by being close to Nazarbayev. He got away with a symbolic sentence as the judge applauded him for being an “important information source for the American government,” while his firm Mercator was fined \$32,000 for tax evasion and committing a felony by sending two \$16,000 snowmobiles to a Kazakh government official.²⁹ The Kazakhstani government had hired powerful law firms in Washington and New York along with influential lobbyists to have the charges against Giffen cleared and the names of all Kazakhstani officials removed from the inquiry.³⁰

The Kazakhstani authorities are seeking to extradite Mukhtar Ablyazov, the former chairman of Bank TuranAlem (BTA) from 2005–09, who fled to the UK in 2009 to escape what he alleged was a politically motivated inquiry into accusations of fraud. Ablyazov, a powerful former minister, was issued a six-year prison sentence in 2002 on charges of corruption after he launched an opposition movement. He obtained a presidential pardon a year later to assume the chairmanship of BTA in what was apparently a deal struck with President Nazarbayev in which he pledged support through non-involvement in any form of politics.

BTA, which was taken over by the state, filed a number of court cases in the UK to recover assets worth at least \$10 billion allegedly transferred by Ablyazov to offshore accounts and which resulted in losses of nearly \$12 billion to BTA under his chairmanship. Russian authorities have charged him with embezzling \$321.4 million through a series of loans for a Russian development firm. Ablyazov claims that he was forced to borrow from international lenders under pressure from Kazakhstani authorities who monitored all activities. BTA won a UK appeals court ruling in December 2010 that forced Ablyazov to place his assets, estimated at \$4 billion, into receivership after stating that he had failed to mention his ownership of several assets in London. The court had already issued a freeze on his assets in early 2010.³¹

A report by Global Witness, an independent international anticorruption organization that monitors corruption in the natural resources industry, is investigating the role of Kazakhmys, Kazakhstan’s biggest copper miner and among the top 10 copper producers in the world with revenues of \$1.63 billion in 2009. It alleges that Kazakhmys withheld key information about its final owners during its IPO, which is required from companies seeking to enter the London Stock Exchange (Kazakhmys became a FTSE100 company in 2005). It also raised concerns about Kazakhmys’s close links with the government.

As multimillion-dollar deals involving top government figures continue to be questioned and investigated abroad, the ruling Nur Otan party is elaborating a new draft strategy on combating corruption for the next 10 years, focusing on the selection of civil service personnel with a high risk of exposure to corruption. It has proposed a plan to publish the salaries of public officials in the media to cut down on bribery.³²

The Ministry of Internal Affairs, the KNB, and the tax and financial police are the main bodies tasked with combating corruption in Kazakhstan. The anticorruption drive has become a political and economic tool that allows officials involved to accrue special power and influence and intimidate rivals to extort bribes and elevate their economic and social status. As one critic of the government alleged, these organs are used by the state to “settle scores with inconvenient highly placed officials and with business.”³³

Kazakhstan endorsed the Extractive Industries Transparency Initiative (EITI) in 2005 and was designated as an EITI candidate country that is “close to compliant.” The country has until June 2011 to complete the remedial actions needed to achieve compliance.³⁴ Since EITI reporting for oil, gas, and mining is voluntary, the state is not required to disclose the revenues it receives from leading oil companies or to involve independent NGOs in overseeing how oil revenues are managed. The government does not publicly report how much money it makes from oil exports, which has led to a widespread perception that government officials siphon money from oil revenues.

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