CHAPTER- 4

KAZAKH MODEL OF DEMOCRACY

After attaining independence in 1991, Kazakhstan adopted two Constitutions that had all the provisions of democratic dispensations. However, the democratic credentials of Kazakhstan have throughout remained doubtful. President of Kazakhstan claims that the country is moving fast on the track of democracy, notwithstanding the system is labeled as totalitarian and authoritarian. In this chapter an attempt has been made to assess the working of democracy in the country. The nature of political process, laws governing the working of political parties, freedom of media, the evolution of civil society have also been examined. This would help to understand the real the nature of democracy in Kazakhstan.

Constitution of Kazakhstan

Constitutions are described as ‘power maps’ or ‘official blue print’ which set out the framework within which public power is exercised. As such, they define the territorial distribution of power within a state, set out a framework of governmental institutions and define the relationship between these institutions and the citizens. In the post-Soviet period Kazakhstan has adopted its first Constitution in 1993. This Constitution remained in operation for two years till 1995 when new Constitution was adopted by the Supreme Soviet (Parliament) of Kazakhstan. In order to understand the functioning of democracy in Kazakhstan, Constitution of Kazakhstan needs to be examined.

The first post-independent Constitution was adopted in 1993 when it replaced its previous Constitution of the Kazakh Soviet Socialist Republic adopted in 1987, based on the Brezhnev Constitution of the U.S.S.R. The Constitution established a strong presidential system of government, with limited powers for the Parliament. It described the government as ‘accountable before the President’, not to Parliament, except with regard to the implementation of laws. The Parliament chosen in accordance with this
Constitution served only a year of its five-year term. On paper the Constitution seemed a balanced system. Although there was no possibility of impeaching the President by the Parliament, it could not be dissolved by the head of state and it enjoyed a wide range of formal rights including the right to approve the budget, amend the Constitution and elect the Constitutional court. However, there was lack of an accountable President and Prime Minister, as well as of political checks and balances in the Constitution.

In this Constitution, the role of the Parliament in the resignation of the government was reduced to the minimum. It was laid down that the Supreme Soviet could place before the President the matter of removal of a member of the council of ministers before expiry of his term only in the event of violation of the Constitution and the law of the state by him/her. In other words, the council of minister was responsible to the head of the state and was terminated upon the election of the new President. The Constitution strengthened the executive power. There was no clear demarcation between the presidential and the executive power in as much as the President headed the executive power. As such strengthening of the President’s position signifies the strengthening of the executive power and vice versa. The executive power was further strengthened on account of several other factors such as low effectiveness of the activities of the legislative and judicial organs and weakness of the political parties. Similarly the Constitution did not clarify the mutual relationship of the President and the Prime Minister. It only mentioned that the President is the “head of the state and unified system of executive power”. About the Prime Minister, it stated that he directly guides the activities of the council of ministers. Thus there left a large potential for conflict.

The mechanism for the division of power established in Kazakhstan through this Constitution suffered from several serious inadequacies. The problem was further aggravated due to the absence of mechanism for resolution of conflict between the two branches of power. The Supreme Soviet had the power to remove the head of the executive power and the President had the power to dissolve the Parliament. In practice the prevailing conditions led to intensification of the tension between the two branches of power- the executive and the Legislative.

In 1994, resignation of the government led to the Parliamentary crisis. The result was perceived constitutional crisis which resulted in the work on formulation of a new
Constitution. The Constitution of 1993 gave little indication of the strength of President apparatus vis-à-vis the formal institutions of government, Parliament and judiciary. It also failed to discuss the informal networks rooted in ethnic, regional, tribal and kinship groups which play such a key role in Kazakhstan.

In June 1995 Supreme Soviet approved the initiative of the Kazakhstan’s leadership to adopt a new Constitution. A referendum was held on 30 August 1995 for the approval of Constitution. The vote in the favour of the Constitution was 90 percent (actually just 34 percent, according to the opposition), with 10 percent voting against the Constitution.\(^9\)

The legislators serving in Kazakhstan’s first two Parliaments under 1993 Constitution, regularly debated legislation with vigour and sometimes even forced their will on a reluctant President. The Constitutional changes introduced in 1995 virtually ensured that this would no longer to be the case. Kazakhstan’s unicameral legislature, was replaced by a much weaker bicameral legislature, with an upper house consisting of senators largely handpicked by the President and a lower house with sharply restricted authority.\(^10\)

The new Constitution established Presidential form of government. The Constitution describes Kazakhstan as a “democratic, secular and unitary state”.\(^11\) The democratic principles have been given centre stage in the Constitution. Life and liberty of the individual are of highest value for the state. Citizens are guaranteed a basket of basic civil liberties including freedom of thought, expression and speech\(^12\), freedom of media and right to receive information\(^13\), freedom to demonstrate peacefully\(^14\), freedom to create public organisations\(^15\). The citizens of the Republic have the right to profess or not to profess any religion.\(^16\) However, the right for minorities of the Republic have not been given space in the Constitution. The Constitution describes the power of the President in twenty-two articles; it declares that “his honour and dignity are inviolable” and that “the support, service and protection of the President and his family are provided at the expense of the state” he can only be removed from office because of illness or accusation of state treason. The new Constitution also abolished the office of vice-President; consistent with the post-Soviet model of “Presidents without alternatives”
there cannot be a second person who is “elected by the people”.\textsuperscript{17} The President could have complete freedom in naming successor.

The Constitution provides even more direct preventive measures. The Constitution of Kazakhstan forbids the establishment of any social organisation which seeks to forcibly change the constitutional order and undermine the state, security, violate territorial integrity or promote ‘social, racial, national, religious, class or tribal discord’.\textsuperscript{18} The new Constitution supplemented the legislation by an absolute ban on any propaganda or campaign directed towards the above aims. The creation of political parties based on religion is not allowed.\textsuperscript{19}

The Parliament, according to present Constitution, consists of two houses, the Majilis (one elected per district), and the Senate (two per Oblast, elected at meetings of deputies to represent the organs of Oblasts; seven members are appointed by the President.\textsuperscript{20} Whereas the 1990 Parliament had 360 deputies, and that of 1994 had 144, the Constitution of 1995 provided for 114, with 47 in the Senate and 67 in Majilis. The fewer the deputies, the easier it is to control them all the more so if they are divided into two houses. A vote of no-confidence in the government henceforth required a two-thirds majority in both Houses.

There is no Constitutional Court, but only a Constitutional Council, which had limited power compared with the Constitutional Court. The Council consisted of seven members; three (including the Chairman, who cast the deciding vote) are appointed by the President; the chairman of the Senate and Majilis each appoint two members.\textsuperscript{21}

The 1995 Constitution of Kazakhstan defines the system of state power in such a way that the executive power is independent of legislative power and the latter has been weakened. The provision for the consent of the President to the appointment of the head of the government curtails the jurisdiction of the Parliament.\textsuperscript{22} If the Parliament rejects the candidate proposed by the President, it does not make any difference, as after the rejection for the second time of the candidate proposed by the President, he can appoint a person of his choice as head of the government. The Parliament faces the risk of dissolution and new elections in case it tries to obstruct the President for the third time. The Parliament can express its lack of confidence in the government through a no-confidence motion in two cases: When a draft law introduced by the government is
rejected, the Prime Minister has the right to raise the question of confidence in his government by proposing it for the second time and; The rejection by the Parliament of the programme of the government twice by a majority of 2/3 votes. In the event of a no-confidence vote, the government places before the President of the Republic its resignation and the head of the state during a period of ten days either accepts the resignation of the government or dissolves the Parliament. This Parliament decides the question of confidence in the government that is dejure while the President is the defacto arbiter. If the Parliament expresses its lack of confidence in the government, it hands over its fate to the President by doing so. As such it is hardly expected to undertake such a risk; similarly the Parliament decides the question of its agreement or disagreement with the President over appointing the Prime Minister.

Parliamentary control appears in the Constitution indirectly. The Parliament appoints an Accounts Committee with six members for the implementation of the budget, confirm the budget and reports of the government and the Accounts Committee; makes alternation and addition in the budget, and levies and changes the state taxes and revenues. Although in accordance with the changes and additions in the basic law of the state, the framing of the budget of the republic is not just the prerogative of the government as it was earlier, nevertheless reporting on its implementation, is as, before within the jurisdiction of the government alone. As such, notwithstanding the changes in the Constitution in this regard, the above-mentioned function of the Parliament is in the nature of a form of control over the activities of the government, as it is the government which takes part in framing the budget and ensuring its implementation as also placing a statement on it before the Parliament. The Parliament has very limited powers on preparing the budget. All draft legislations concerning reduction of state revenues or increase in government expenditure can be introduced in the Parliament by the government alone.

The 1995 Constitution differed from the Constitution of 1993 by establishing the dominance of executive power at the national level in both the governmental and presidential administration; dual executives in Parliament and the judiciary prevented any meaningful separation of powers. Up to 1995 this executive dominance spanned government as well as the presidential administration, but by 2012 power had been
concentrated in one institution i.e. the presidential administration. In this way the President continues to possess vast powers to influence the legislative, executive and judicial power. In the background of such vast powers of the President, a threat of usurpation of power by the President and abolition of the principle of division of power appears to be quite real.

**Political Parties in Kazakhstan**

Kazakhstan’s political party landscape is currently dominated by the ruling Nur-Otan party, which dominates Parliament and the public debate. However, numerous other political parties exist. Outside of Nur-Otan, the present-day political parties in Kazakhstan can be grouped into three categories: Pro-presidential parties, mild opposition parties and hard-core opposition parties. Numbering among the current Pro-presidential political parties is Nur-Otan party, Rukhaniyat Party and the Party of Patriots of Kazakhstan. Those falling into the category of mild opposition are the recently reconstituted party Adilet, Ak-Zhol, Kazakh Social Democratic Party ‘Auyl’, Communist Party of Kazakhstan, Communist People’s Party of Kazakhstan, All-National Social Democratic Party, and Azat (formerly NaghyzAk-Zhol). The hard core opposition party in Kazakhstan is Democratic Choice of Kazakhstan.26

In Kazakhstan, real political power is vested in one major political party: Nur-Otan, chaired by NursultanNazarbaev, President of Kazakhstan.27 Nur-Otan formally came into being in 2006 as a result of the merging of two other pro-presidential parties which had competed separately during the 2004 parliamentary elections, the Civic Party (grazhdanskayapartiya) and Asar (led by President Nazarbayev’s daughter, DarigaNazarbayeva) with the Otan party, which had won 4 party list seats (and 24 overall) in the 1999 elections to the Majilis.28 The success of the Nur-Otan at the 2007 parliamentary election was explained by the high party membership requirement - the barrier established by the election law which is designed to protect the pro-president party’s “success” during elections.29 Another important factor in Nur-Otan’s victory in 2007 elections, the personality of its leader, NursultanNazarbayev, whose image was identified with that of the party.30
Nur-Otan claims a membership of one million members.\textsuperscript{31} It is the only party with the resources to operate in every electoral district and to run a party newspaper. In 2007, state and government officials were granted permission to be members of political parties and take up official party posts. This provision allowed President Nazarbayev to officially become the chairman of Nur-Otan.\textsuperscript{32} However, the President is likely to maintain double standards with regard to his own party. On the one hand, he is giving the party and its functionaries to expand and strengthen their positions in the political system. On the other hand, the President is virtually not allowing Nur-Otan to go beyond limits, as the party cannot run its own activities independently of the President.\textsuperscript{33} Therefore, shortcomings in Nur-Otan’s work are conditioned by systematic factors rather than by mistakes and omissions by the party’s previous functionary.

The Rukhaniyat Party (‘Rebirth’) is a small party that tends to support the ruling government’s position.\textsuperscript{34} This party was registered in 2003. The party is led by Altynshash Zhaganova who is a well-known writer and worker in state television dating back to Kazakhstan's days as a Soviet Republic. The party pledges to expand the economy, address social issues and develop the spirituality of society. Rukhaniyat registered a proportional list consisting of nine candidates for the 2007 elections, receiving 1.51% of the party list vote, a slight improvement over the 0.44% received in 2004. It maintains a party website, www.rukhaniyat.kz, and claims a nationwide base of constituents.\textsuperscript{35}

The Party of Patriots of Kazakhstan (PPK) was established in 2000 and had eleven candidates on its party list for the 2007 elections.\textsuperscript{36} A small party, like Rukhaniyat, the PPK is sometimes critical of certain government policies, but in general supports most presidential initiatives. Led by Gani Kasimov, who once ran opposite Nursultan Nazarbayev as a candidate for the presidency, the party aims to establish a governmental system based on the rule of law and democratic principles, and promote a civil society with a market economy and higher standard of living.\textsuperscript{37} The party maintains a website www.ppk.gl.kz. Having won 0.6% and 0.75% seats in the 2004 and 2007 elections, respectively, it appears to lack broad appeal. The party claims to have over 130,000 members and attracts the support of military officers and the official endorsement of the Union of Officers.\textsuperscript{38}
The recently re-constituted Adilet Party (“Justice”), which merged with Ak-Zhol for the 2007 elections, has assumed the status of a mild opposition party. It maintains an extensive website of information, www.dp-adilet.kz, and fights for justice and against corruption. It developed out of the foundation of the Democratic Party and the “For a Just Kazakhstan” movement in 2004. It is led by Maksut Narikbayev, and is active in its critique of government, recently criticizing a state project on economic development of the regions of the country.

Ak-Zhol (“Bright Path”) represents the so-called moderate opposition. It is led by Alikhan Baimenov, who ran as the party’s candidate for President in the 2005 election. Just before that election, Ak-Zhol split, with the more vocally critical wing of the party re-registering under the name Naghyz (True) AkZhol. The only opposition party to win a seat in the 2004 elections, Ak-Zhol characterizes itself as ‘constructive opposition,’ with Mr. Baimenov later becoming a key player in the President’s Commission for Further Democratization of Kazakhstan. In 2006 the party signed an agreement of cooperation with the Adilet party and the two parties ran a joint list consisting of 98 candidates for the 2007 elections.

Despite its relative low-level activity and the lack of tangible results of its work in 2009, this party frequently ranks second in the polls, steadily following Nur-Otan in various public opinion ratings. The impression is that Ak-Zhol has decided to distance itself from the country’s most urgent political issues. In the political realm, Ak-Zhol continues to occupy an inconsistent position. In February 2009, the party proposed a program for political modernization in Kazakhstan. The program harshly criticized the government and the ruling party for integrating the overall political system into the Nur-Otan party structures. However, Ak-Zhol has virtually become a political ally of Nur-Otan in April by joining the memorandum on ensuring social and political stability during the economic crisis.

The Kazakh Social Democratic Party ‘Auyl’ (“Village”) was created in 2002 and promotes itself as a party for the defense of rural districts and social justice. As such it focuses on the development of agriculture and the protection of the interests of agricultural workers. Auyl supports economic and political reforms aimed at the further democratization of society, and increasing the living standards of citizens. It works with
the President and Nur-Otan, generally supporting the President’s policies.\textsuperscript{44} It is headed by GaniKaliyev and succeeded in registering 33 candidates on its proportional list, though could not have any members elected to the Majilis in the 2007 (or preceding) elections. It got 1.51% of the votes cast in that election. In the 2004 elections it received 1.73% of the votes. It maintains representation in all 14 oblasts, 160 regions and in the cities of Almaty and Astana, claiming itself only party to have such widespread support in the country. It has earned seven seats in Oblast Maslikhats and another 30 in local Maslikhats around the country. Auyl members found the election results from August 2007 to have been “problematic,” as they felt they should have won “at least 20% of the seats.” They found it pointless to appeal the results. However, citing their experience from past elections,\textsuperscript{45} it goes without saying that they are against the current party list system, and feel that the system will change before the next elections.

The Communist Party of Kazakhstan (CPK), the successor to the Communist Party of the Kazakhstan SSR, was created in October 1991 and registered in February 1994.\textsuperscript{46} The party was not allowed to field candidates in the 1994 elections, thus removing from the ballot the party that enjoyed recognized name.\textsuperscript{47} The party has been led by SerikbolsynAbdildin since its re-inception, and functioned as the only registered Communist political movement in the country until 2004. In that year, Abdildin and prominent party member VladislavKosyrev split when the latter accused Abdildin of questionable fund raising practices. The resulting schism led to the forming of the Communist People’s Party, which ran as a separate party in both the 2004 and 2007 elections (failing to win seats on both occasions). Abdildin’s Communist Party boycotted the 2007 elections and has arguably suffered a drop off in prominence vis-à-vis the Communist People’s Party led by Kosyrev, which tends to support the policies of the President. The Communist Party in its post-1991 history has frequently cooperated with other movements, having participated in the opposition coalition entities Azamat and Pokolenie ("Generation") as well as initiating the unregistered "National-Patriotic Movement-Republic" in 1996. In 1998 it joined the “People's Front of Kazakhstan” movement, an opposition bloc, and during the December 2005 presidential elections, the Communist Party, Democratic Choice of Kazakhstan and NaghyzAkZhol Party formed a coalition movement, “For a Just Kazakhstan,” and supported ZhamarkanTuyakbai as
its presidential candidate, who was defeated by President Nazarbayev with huge margin. The party’s electoral history in the 1990s was consistent after its organizational reformation, winning two seats in both the 1995 and 1999 elections. The party was not permitted to field candidates in the 1994 elections. In the 2000s once again the Communist Party sought alliances and in 2004 it joined with the Democratic Choice of Kazakhstan but could not get any seat in the Parliament.\textsuperscript{48} Thus the Communist Party of Kazakhstan remains in a low intensity conflict with Communist People’s Party.

The Communist People’s Party of Kazakhstan (CPPK) was registered prior to the 2004 parliamentary elections, competing with the opposition Communist Party of Kazakhstan, though not winning any seat in Parliament.\textsuperscript{49} The party, headed by Vladislav Kosarev, registered a proportional list numbering 20 candidates for the 2007 elections. Largely pro-Presidental, the party promotes Marxist-Leninist ideology, but adapted to the new realities of social development. They “expected” to have won at least seven seats during the 2007 elections, and claimed that they were unfairly denied these seats but did not take the matter to court. While recognizing that cooperation with Nur-Otan is a necessity, they do not embrace this alliance, referring to their Nur-Otan colleagues instead as “fanatics.” The party does not have representatives in local government, though it holds that the actual process of the election is more important than outcome, an oblique reference to electoral struggles at the lower levels. The party acknowledges having participated once in the Nur-Otan led all-party discussion groups, but refused further invitations to participate due to the “heavy-handed” nature of Nur-Otan’s leadership of those sessions. The party publishes newsletters regularly and maintains a party website, www.knpk.kz.\textsuperscript{50}

The main loyal opposition party is Azat (former Naghyz Ak-Zhol, “True Bright Path”), which describes itself as ‘constructive opposition’.\textsuperscript{51} The newly-renamed party claims to be the most structured and popular democratic opposition party in the country. Its founders, which split with Alikzhan Baimenov’s Ak-Zhol party in 2005, include famous businessman Bulat Abilov, ex-Governor of the National Bank Oraz Jandosov, and the late Altynbek Sarsenbayev, ex-minister of information, murdered in February 2006. They claim their former Ak-Zhol colleagues to be “puppets of the
administration," while they alone are true standard-bearers of opposition to the ruling elite. In February 2008 the party formally changed its name to “Azat” [Freedom] party.\textsuperscript{52}

Following his unsuccessful presidential bid in 2005, Zharmakhan Tuyakbai established the All-National Social Democratic Party (ANSDP) in January 2007.\textsuperscript{53} It emphasizes the establishment of democracy, rule of law, a socially-oriented state, an innovative economy and a new ‘humanist’ system of politics, as well as the principles of the social-democratic movement. In October 2009, ANSDP merged with the Azat party. In June 2007, prior to the announcement of the election, the ANSDP and Azat declared that they were merging. Due to the later ban on electoral blocs, they failed to get registered with the Central Election Commission and thus could not participate in the 2007 election. ANSDP considers itself as a radical opposition\textsuperscript{54} but it has supported almost all the Government policies. In October 2009, ANSDP and Azat finally merged.\textsuperscript{55}

The Democratic Choice of Kazakhstan (DCK) movement represented a new stage in the evolution of opposition movement in Kazakhstan. It was brought on by the emergence of a new economic cleavage within the country’s previously homogeneous elite. The DCK movement was started in November 2001 by elements of Kazakhstan’s business and political elite to challenge the leadership of the country.\textsuperscript{56} In May 2004, the DCK, which Galimzhan Zhakiyanov and Mukhtar Ablyazov had formed in 2001, had received the registration.\textsuperscript{57} It called for the decentralization of political authority (via the direct election of regional governors), a strong legislature and an independent judiciary to balance presidential power.\textsuperscript{58}

The party had called for “civil disobedience” to “remove the family clan that has usurped power and lambasted “the ruling clan headed by President Nazarbayev” for persecuting the opposition with “unconstitutional and illegitimate methods.” This served the Kazakhstani authorities as a reason to liquidate the party, which was aiming to overthrow the constitutional order.\textsuperscript{59} The government's response to the new political movement was quick and decisive. In an early speech, then-Prime Minister Kasymzhomart Tokaev condemned the DCK and demanded the resignation of "all those who disagree with the government's policy and wish to be involved in political movements," calling the movement's founders "nonprofessionals" and "schemers."
Within weeks, DCK members holding government posts were replaced through presidential decree, and criminal charges alleging tax evasion and misuse of office were filed against the movement's two most outspoken leaders, Galyamzhan Zhakiyanov and Mukhtar Ablyazov. Unknown "hooligans" shot up a television station sympathetic to the new movement, and firebombs were detonated in the offices of a newspaper run by one of DCK’s founders.60

As a result of this pressure, some of the DCK's original members renounced their support for the movement, while others withdrew their participation. Some joined to create the new, moderate Ak-Zhol political party. Zhakiyanov and Ablyazov were jailed on criminal charges. Foreign observers, including the OSCE, characterized their trials as suspicious and politically-motivated.61

Kazakh law on political parties and election procedures limit the people’s freedom of association and restrict the activities of a number of political groups. Based on Article 5, Paragraph 3 of the Constitution prohibiting the incitement of social, racial, national, religious, class and tribal enmity, the law precludes political parties organized according to ethnicity, race, nationality, religion or gender.62

In the run-up to the 1994 parliamentary elections, the government imposed onerous conditions on the registration of political parties and social movements: in order to register, a party had to submit a list of at least 3,000 members from 11 different provinces, provide the details of organization’s financial resources and furnish personal information about its members. Local and regional administrations (i.e. election boards) could thereby frequently block candidates from participating in elections by refusing to accept their registration.63 In 1995 the Kazakhstan authorities imposed a new set of restrictions on public organisations. A presidential decree of 17 March 1995 made punishable not only the creation of, but also participation in non-registered public associations, as well as organisations whose activities had been suspended or banned. An additional article (63-3) was added to the criminal code, entitled ‘creation or participation in illegal Public Associations’.64 Hurdles was created so as to block the effective participation of any real opposition in the Kazakh elections of 1995. The opposition, in order to contest, had to qualify for the “100 minimum wage clause” (they had to pay wages to at least 100 party workers). Those parties which did
not have the resources to implement this clause were excluded. Only the Respublika opposition bloc (along with democratic groups and others) could contest. Several Socialists, Communists, the Azat, and others could not contest. There were even reports of opposition candidates being beaten up. Nazarbayev got Parliament of his choice elected.

Although the 1996 Law on Public Associations adopted in Kazakhstan declared freedom of (registered) association, the registering bodies (belonging to the ministry of Justice) were authorized to supervise the activity of an association if they declared that it had strayed from its own stated rules and goals, perceptive of whether or not this activity violated the country’s Constitution and existing legislation. In this way, the laws on public associations in Kazakhstan were designed to drastically limit opportunities for the creation of unwelcome opposition parties and movements.

Since 2002, the organization and activities of political parties have been governed by the ‘Law about Political Parties’. To register with the Ministry of Justice, a party requires a membership of at least 50,000 (up from 3,000), divided up proportionally by Oblast with no fewer than 700 registered in each of Kazakhstan’s 16 regions. The registration requirements for parties wishing to take part in elections and the verification process by the Ministry of Justice are very stringent; a single mistake in an application is ground sufficient for elimination. There is no legal timeframe for the Ministry to make its decision on a party’s application. As a result, two prospective parties were barred from running in 2007 because their applications were still pending at the time of the elections. The Law on Political Parties (2002) was criticized by the OSCE, among others, as a means to push out all opposition parties by making legal registration extremely difficult and placing questionable burdens upon the opposition.

In OSCE permanent council meeting in July 2002, the EU expressed concerns about the new law on political parties in Kazakhstan, saying that it ‘posed a threat to political pluralism and would impede the full development of political parties in the society. The law imposed stringent conditions for re-registration of political parties and as a result, the country’s opposition groups were barred from contesting elections. Article 6 to 10 of the law on political parties in Kazakhstan limits political parties from establishing nationwide presence. There are substantial restrictions on the freedom of
associations and on the rights of citizens to establish political parties. Defending the law, a Justice Ministry spokesman claimed that some parties had been refused registration as they violated the civic code and the laws on political parties. 70

In February 2005 the Kazakhstan Parliament adopted a law on Counteracting Extremist Activity. With this law, opposition parties were at risk of being branded extremist organizations. 71 The same year, the opposition party, the People’s Party Democratic Choice of Kazakhstan was banned, although it did not call for or commit any acts of violence. It was banned by the Inter-District Economic Court of Almaty in 2005 for stating that it did not accept the results of the elections and its willingness to call on its proponents to engage in acts of civil disobedience, none of which actually took place. On the other hand, political parties, primarily opposition ones, face many problems for registration due to excessive requirements (such as the need to have 50,000 members in a country of only 15 million people) and complex registration procedures, including those involving validation of founding documents and of lists of party members, which are not limited in time and are quite arbitrarily interpreted by the authorities. For example, the opposition People’s Party Alga had to wait for a response from the Ministry of Justice to its application for registration for more than one and a half year because the Ministry had halted the registration process for an indefinite period of time in order to validate the list of the party’s members. 72 In June 2008, two opposition political parties – Azat and the All-National Social Democratic Party – presented proposals for a new set of laws, including a draft law on political parties, a draft law on procedures for arranging and holding peaceful meetings, and a draft Law on amending and supplementing the laws on elections. 73 They also submitted these proposals to the Presidential Administration. There was, however, official response to such proposals.

Kazakh law on political parties and election procedures limit people’s freedom of association and restrict the activities of political groups. All political organizations and presidential candidates have to officially register, a procedure that can be used as a political weapon against the opposition. Kazakhstan’s laws on political parties have become tougher for establishing, registering, running political parties, and have come in for criticism from international organizations and non-governmental human rights
organizations. For instance, in 2002, the OSCE Center in Almaty expressed its deep concern with the new law on political parties. Kazakhstan’s laws on political parties contain excessive and unreasonable provisions that are not in compliance with international standards. The list of grounds, on which a party might be banned, has grown longer while the procedure for banning political parties has been simplified.

On March 7, 1994, elections were held in Kazakhstan for the new Parliament in accordance with the Constitution of 1993. These elections held for 135 seats, were contested by 692 candidates. Just under 74% of voters participated in the election. Representatives of four political parties were elected, including the party of President Nursultan Nazarbayev, the Party of People’s Unity (32 seats won), the People’s Congress Party of Kazakhstan (22 seats), the Socialist Party (12 seats), the Federation of Trade Unions (12 seats) and deputies from fourteen different groups. The elections were conducted according to rules stipulated in a Presidential decree that provided for forty candidates to be elected on a so-called “State List” compiled by the President. These candidates did not need to collect the required number of signatures for candidacy. All of them were elected. In general, the elections were held under conditions marked by total arbitrariness of the Election Commissions, appointed by the Oblast governors (akims), who in turn, had been appointed by the President. Frequently these commissions simply refused to register candidates they deemed undesirable. The elections also had a peculiarity, the commissions counted ballots left blank as “yes” votes. As a result, the number of votes exceeded the number of voters.

In these elections, the Communist Party of Kazakhstan did not participate. It was registered a week after the elections. Its successor, the Socialist Party of Kazakhstan did participate, having gone into opposition. Political parties complained that they had great difficulty registering their nominees. Election observers from the European Union questioned the fairness of the election due to reports of widespread irregularities in the nomination procedure and in the actual voting process. These irregularities included voter intimidation, whereby polling station officials told voters which candidate to support; discrepancies between electoral rolls and the number of ballots cast; and instances of multiple voting that raised doubts about whether the 50% minimum turnout necessary for validation had in fact occurred.
The election code stipulates that premises where ballot papers are kept should be sealed and guarded by the militia. But checks had shown that this rule was not been followed in some places. In some cases packets of ballot papers were found to have been opened and the seals broken. The same code stipulates that each voter should vote in person and should turn up with a document proving his right to vote. But the stipulation has been ignored rather often in a scramble to ensure that the official turnout is as big as possible.\textsuperscript{78} Such infringements of the electoral code do no credit to members of constituency and polling station commissions.

The Parliament was dismissed in March 1995 based on a constitutional court decision (resulting from a dispute filed by one complainant) which ruled that the parliamentary elections of one year prior were invalid due to administrative irregularities involving the vote counting process. Following nine months of a handpicked “People’s Assembly” to succeed the Parliament in an interim period, new elections were held in December 1995.\textsuperscript{79}

**1995 Elections**

Elections to Kazakh Parliament were held on 5th December 1995.\textsuperscript{80} The elections were the outcome of a constitutional reform process that led to the passing of a referendum by nationwide vote on August 30, 1995, with 81.9% of voters voting in favour of the changes, which created a two-chamber parliament consisting of the upper house, the Senate (with members serving six year terms, half elected every three years) and the lower house, or Majilis (with members elected for five-year terms). The forty-seven member Senate consisted of forty deputies elected from Oblast and city Maslikhats, with seven members appointed directly by the President. The Majilis had 67 members elected in single-mandate constituencies. The December 1995 elections saw 24 deputies elected from Nazarbayev’s Party of People’s Unity, 12 from the upstart and nominally opposition Democratic Party, 21 from various trade unions and youth organizations which were loyal to the President, and the remaining seats divided up between the new Communist Party (2 seats) and independent candidates.\textsuperscript{81} 58 deputies were male and 9 female. Deputies came with a variety of academic and professional
qualifications, with all deputies having a higher education with seven having achieved doctoral degrees.\textsuperscript{82}

The OSCE observers were unhappy with the people’s knowledge of the electoral regulations, feeling that “some voters did not know who they voted for or what the elections were about”.\textsuperscript{83}

1999 Elections

In 1999, Kazakhstan featured the first Parliament in Central Asia to have members of parliament elected via party list. It was interesting in view of the state of political parties that was very weak and tenuous at best, with none but the old Communist Party (banned from running in the 1994 elections) garnering 10\% of support of the population in survey polls. The mixture of single mandate constituencies and party list seats was still tilted towards individual candidates, who undoubtedly had greater appeal and local recognition. This has been and continues to be an inherent weakness of political parties in the post-Soviet sphere, which tended to be associated more with charismatic leadership and less with ideas. Political opposition began to organize more concretely after the 1995 elections, with the Azamat movement surfacing in 1996.\textsuperscript{84} Parliamentary elections in October 1999, delivered Nazarbaev a wholly compliant parliament.\textsuperscript{85} Both elections fell far below international standards.

The OSCE mission on Parliamentary election 1999, noted certain improvements in Kazakhstan’s electoral legislature, but said that the Central Electoral Commission had failed to live up to the promises given to the OSCE regarding free and fair elections.\textsuperscript{86} In the months that followed, journalists, editors and opposition politicians critical of the government became prey to increasing attacks and politically motivated criminal charges. Those who exposed instances of official corruption were particularly subjected to attacks.\textsuperscript{87} One of those targeted in the lead-up to the 1999 elections was former Prime Minister Akezhan Kazhegeldin, then a serious contender to President Nazarbayev. Fifty thousand Russian-language copies of his book, \textit{Kazakhstan: Meeting the Challenges Ahead}, which calls for wide-ranging political reforms, were confiscated and burned, and the Kazakh-language edition was halted altogether. In the months preceding the 1999 elections, Kazhegeldin and his associates also suffered physical assault by unknown
assailants, harassment by law enforcement agents, and arbitrary misdemeanor charges. During the elections, Kazhegeldin fled the country, fearing prosecution on charges of tax evasion and abuse of office.\textsuperscript{88} He continued to direct the party, the Republican People’s Party of Kazakhstan (RNPK), from abroad, and it remains dynamic and well-funded, even though it is unregistered and therefore formally illegal. One of President Nazarbayev’s most bitter opponents, he supports a popular and critical opposition website. This website is www.eurasia.org.ru. Kazhegeldin had been detained at least twice in airports in Russia and Italy on requests from Kazakh judicial authorities. On September 6, 2001, the government convicted him in absentia and sentenced him to ten years of imprisonment. Local and international human rights organizations concluded the trial was flawed. Other RNPK founding members have also been convicted on political grounds, including Sergei Duvanov and Amirzhan Qosanov (both documented in this report), and well-known political scientist Nurbulat Masanov.

In this elections, only four parties were able to surmount the 7% barrier, including Otan (30.89%, 4 seats), the Communist Party (17.75%, 2 seats), the Agrarian Party (12.63%, 2 seats) and the Civic Party (11.23%, 2 seats). In the single mandate elections, 20 of the 67 seats were won by Otan, with 9 more from the Civic Party and one each by the Communists, the Agrarian Party, and the opposition RNPK, with the remainder going to government-associated or business persons. Considering itself the only “real” opposition party, the Communists maintained at least a nominal representation, though the “hard” opposition parties, the RNPK and Azamat, were nearly shut out.\textsuperscript{89}

\textbf{2004 Elections}

In the 2004 elections to the Majilis, which again featured 77 seats, ten members were elected via party list, four parties of 12 who competed successfully passed the 7% threshold, including Otan (60.61%), the opposition party AkZhol (formed from out of the split of the Democratic Choice of Kazakhstan (DCK) movement after its two other leaders were sentenced to prison on charges widely viewed as politically motivated) (12.04%), Dariga Nazarbayeva’s party Asar (11.38%), and the AIST Bloc (a coalition of
The new Democratic Choice of Kazakhstan party ran candidates in a bloc with the Communist Party of Kazakhstan (CPK), which could no longer trace its roots to the Soviet-era Kazakh SSR Communist Party. The Agrarian and Civic Parties together formed the AIST bloc for the 2004 elections. Most of the 12 political parties registered for these elections, either individually or in blocs, described themselves as pro-President. The largest party was Otan (Fatherland), of which President Nazarbayev was honorary chairman. The two other main pro-president forces were Asar, led by Ms. Dariga Nazarbayeva, daughter of the President, and the AIST bloc, a coalition of the Agrarian and Civic parties. Sixteen self-nominated candidates also played a significant part in the campaign, although a number of these were members of or supported by political parties. The campaign was generally calm, with relatively few large demonstrations or rallies. After the elections, the opposition made unsuccessful attempts to request invalidation of the elections and joined in a statement that called the elections illegitimate. The only AkZhol candidate elected to the Parliament was Mr. Alikhan Baimenov. He refused to participate in the legislature in protest over the election process until 2006 when he declared that he would cooperate with the ruling Republican Party Otan (Fatherland). This left the Majilis without any formal opposition, as only Otan (42 total seats), the AIST Bloc (11 total seats), Asar (4 total seats) the Democratic Party (1 total seat) and Ak-Zhol (1 total seat) won seats, with 18 self-nominated candidates winning seats as well (with several of these individuals associated with Otan, formally or otherwise). The Majilis again featured deputies of high professional and academic qualification, with several Kandidat and Doctors of Science, lawyers, economists, engineers, journalists, and other professionals. The results were once again far from satisfactory to the opposition.

For the 2004 parliamentary elections, Nazarbayev continued to engineer impediments for opposition parties to register, field candidates, and freely contest seats. Earlier, in 2002, the President imprisoned two leaders of the main opposition party, Democratic Choice of Kazakhstan (DCK), Galymzhan Zhakiyanov and Mukhtar Ablyazov, on charges of corruption (Ablyazov was released after one year on promise to stay out of politics, and Zhakiyanov served four years of a seven-year sentence and was released in 2006). International monitors declared that the September
and October 2004 parliamentary elections did not meet international standards of fairness. Monitors cited irregularities including the deregistration of candidates based on politically motivated criminal convictions, a strong media bias in favour of pro-President parties, the lack of opposition or independent access to election commissions, the manipulation of election results, and discrepancies in electoral rolls. In 2005, the Freedom House report gave Kazakhstan a 6 (very low) marks on political rights and 5(almost as low) on civil liberties. It called the country “not free”. Here how the country report began:

Political parties loyal to President Nursultan Nazarbayev continued to dominate Parliament following the September 2004 legislative elections, which are criticized by international monitor for failing to meet basic democratic standards. Only one opposition deputy was elected, although he refused to take his seat in protest over the flawed nature of the polls. Meanwhile, the resignation of key senior officials raised question about internal power struggle and dissension within Nazarbaev’s government.

2007 Elections

In May 2007 a series of constitutional amendments were proposed that could fundamentally change the way deputies to the Majilis were elected, relying exclusively on the party list vote. The quantity of deputies serving in the Majilis and Senate was also changed, with 98 deputies to the Majilis elected via party list (again with a 7% threshold) with the territory of Kazakhstan representing a single national electoral district, and 9 selected by the Assembly of Peoples. The Senate increased in size to 47 members, with 8 additional members appointed by the President totaling 15 of the 47, with the remainder continuing to be elected by representatives of Oblast Maslikhats. The Election Law was amended on June 19, 2007, primarily to reflect the relevant changes to the Constitution and to define a new election system. On June 20, the President
dissolved the lower house of Parliament and called early Majilis elections for August 18. Maslikhat (local council) elections were already planned for 2007, but the calling of the election to the Majilis came as a surprise to some parties. While there was a keen interest by most parties to contest the early Majilis election, they had little time to prepare. As the deadline for submitting candidate lists fell less than one month after the election was called, parties had a short time to make decisions on merging party structures and to adjust campaign strategies to the new electoral system, including the fact that parties were not allowed to form pre-election coalitions as they had been able to do in previous elections. In late 2006, well in advance of the changes to the election legislation, the Asar, Agrarian and Civic parties merged with the governing Otanparty to become Nur-Otan. Nazarbayev became the leader of the party on July 4, 2007. The Communist Party of Kazakhstan did not nominate candidates for the Majilis election, stating that this was in protest to changes in the election system. On election night, the CEC announced an unofficial voter turnout of 5,726,544 from an electorate of 8,870,146 (64.56 per cent). There were significant differences in turnout among the regions. In Almaty City, only 22.5 per cent of registered voters participated compared to 90 per cent in Almaty region. The CEC revised voter turnout the next day. Leaders of the All-National Social Democratic Party, AkZhol, and the People’s Communist Party of Kazakhstan made a joint appeal to Nazarbayev, demanding that the parliamentary elections be canceled as illegitimate. The losing parties called for repeat elections and warned the President that the domination of a single party in Parliament amounts to political stagnation and the resurrection of the one-party system of Soviet era.

It is not out of the question that a "one-party-dominant" system in Kazakhstan around a pro-President (rather than "ruling") party may lead to a genuine multiparty system that culminates in the legitimate alternation to party in power. Also, the cultural requisites for a multiparty system are better established in Kazakhstan. Nevertheless, the present political system remains highly "Presidential" with little substantive role for Parliament. The question for Kazakhstan, under its present Constitution, is whether the political executive will allow a multiparty system to emerge.

The election (2007) campaign was monitored by an unprecedented number of observers sent by international organizations and foreign countries. The total number of
accredited international observers stood at 1,129 people. The mission of CIS observers was made up of 448 observers from six countries. The Shanghai Cooperation Organization sent 13 observers; 137 observers from seven foreign countries were also accredited and 71 observers from international organizations monitored the election. In this election, 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 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.”

2012 Elections

The 2012 elections were the third consecutive national elections to be called early. According to the Constitution, if the Majilis is dissolved, the Senate, in the interim, assumes the responsibility to pass laws. As a result, laws may be passed by a body not carrying the direct mandate of the people.

The calling of early parliamentary elections for 15 January 2012 by the President followed an appeal by 53 deputies to dissolve the lower chamber of parliament (Majilis). They cited an expected global economic downturn in 2012, during which, in their opinion, the government should focus on solving economic challenges rather than on preparing for elections as one among other reasons for the dissolution. Ten political parties currently registered with the Ministry of Justice (MoJ). The MoJ has refused registration to several other political parties for a number of years. The Communist Party of Kazakhstan was suspended by court in October 2011 and thus could not contest these elections. The nomination process for these elections commenced on 16 November and ended on 5 December. Of the ten registered political parties, eight submitted candidate lists and all were registered by the CEC within the legal deadlines. The Rukhanyiatparty list was subsequently deregistered by CEC decision on 28 December, on the basis of
alleged violations of the prescribed rules for the nomination of electoral candidates. A
district court upheld the decision of the CEC upon appeal. The CEC confirmed that no
other parties have been subjected to probes into their nomination processes. A number of
candidates were deregistered by CEC decisions of 6 and 10 January, based on alleged
discrepancies in their tax declarations. These deregistrations took place on the basis of
the statements by the tax authorities, while the concerned candidates were not given the
opportunity to respond. The manner in which deregistration of a political party list took
place also raised questions whether due process was followed.

In these elections, NurOtano
tained 80.99 per cent of the votes and received 83
mandates (of them, 23 were awarded to female candidates), Ak-Jol received 7.47 per
cent and 8 mandates (2 to female candidates), and CPPK received 7.19 per cent and 7
mandates (1 female candidate). Of the remaining parties that were declared not to have
passed the seven per cent threshold, the OSDP received 1.68 per cent of votes, Auyll 1.19
per cent, the PPK 0.83 per cent, and Adilet 0.66 per cent.  

According to the Organization for Security and Cooperation in Europe (OSCE),
and the Council of Europe, parliamentary elections held in Kazakhstan did not meet
fundamental principles of democratic elections. The United States held that a variety
of issues caused the polling to fall short of the international standards to which
Kazakhstan has committed itself. The OSCE and the Council of Europe also noted
that Kazakh authorities did not provide the necessary conditions for the conduct of
genuinely pluralistic elections. They pointed out that several political parties were
barred from running and a number of candidates were de-registered without due
process. Moreover the vote counting process lacked transparency, with cases of
fraud reported.

1999 Presidential Election

In October 1998, the Parliament moved the presidential elections forward by one
year to 10 January 1999, which left the opposition with little time to organize.
Presidential race started with gun shots. Two shots were fired at Akezhan Kazahke
geldin, the former Prime Minister and chief opponent of the President, as Kazhe
geldin was riding on the horse. Mr. Kazhe
geldin, who abruptly left for Moscow, said his
bodyguards discovered a clip from a gun of foreign manufacture in the scene of the incident, saying that he did not believe anyone had the intention of assassinating him; the perpetrators’ main objective was likely to intimidate a potential rival.\textsuperscript{105}

This election followed the 1996 Russian example and consequently drew negative commentary from election observers.\textsuperscript{106} The elections were organized in such a way that many candidates did not have enough time to fulfill the strict procedural norms and special requirements for registering to run in the elections. In fact presidential elections were manipulated to ensure the victory of the incumbent.\textsuperscript{107} Despite protests, Nazarbayev was re-elected for a new, longer term of seven years.

The United States has expressed concern about the decision to deny registration as a Presidential candidate to President Nazarbaev’s main rival in this election.\textsuperscript{108} Judy Thompson and Vladimir Shkolnikov, who led a mission to Kazakhstan from OSCE in Europe, gave their views of the elections in Almaty. Judy Thompson pointed out, the mission had only evaluated the voting process, since the OSCE had earlier decided to ignore the election because of violations committed in Kazakhstan during the election campaign. Judy Thompson noted numerous violations in the period leading to the election, including, in her view, the use by the authorities of pressure and intimidation against alternative candidates and their supporters, insufficient access to the media, and mass propaganda favouring the incumbent President in the state-run news media.\textsuperscript{109} Consequently, the OSCE mission expressed concern about freedom of speech in Kazakhstan. Violations such as single person casting several votes (the most widespread violence) were encountered, as was discrimination against the observers on the part of local electoral commission members.

\textbf{2005 Presidential Election}

Through a constitutional ambiguity, the authorities again moved the presidential elections up from the originally scheduled date of December 2006 to December 2005. Nazarbayev won the presidential election of 2005 with more than 90% of the votes. The elections attracted negative commentary from the Organization for Security and Cooperation in Europe (OSCE), which claimed that they had not met international standards, citing failings such as campaign restrictions, interference at polling stations,
multiple voting, pressure on voters, media bias and restrictions on freedom of expression. While voting took place in a calm and organised manner serious shortcomings were observed in the vote count and tabulation process. Patterns of intimidation and harassment, as well as interference in the election campaign, including by state security and police forces, undermined the democratic conduct of these elections.

2011 Presidential Elections

Early presidential elections were held in Kazakhstan on 3 April 2011, having been originally scheduled for 2012. The elections were called after a plan for holding a referendum to increase President’s term limit to 2020 was rejected by the Constitutional Council. Nazarbayev was re-elected for a third term with 95% of the votes and 90% turnout, against three nominal candidates. The Organization for Security and Co-operation in Europe (OSCE) has complained about a lack of transparency and competition in the vote.

A referendum on extending presidential term limit was proposed to be held around March 2011. President Nursultan Nazarbayev's term was due to expire in 2012 and the referendum would have bypassed the next two scheduled elections. A Kazakh official stated that the move would "help save our efforts and resources since everyone knows the outcome of the elections beforehand." It would have been the second referendum on extending Nazarbayev's term in office, the first in 1995 having extended his term until 2000, whilst in 2007 parliament amended the electoral law to allow candidates to run without term limit. Although Nazarbayev rejected the proposal, it would still have gone ahead if 80% of the members of the parliament (100% controlled by his party) voted for it, or if a public petition obtained at least 200,000 signatures. Media reports suggested that a petition for the referendum had already been signed by 2,600,000 people.

On 31 January the Constitutional Council rejected the referendum proposal for a Constitutional amendment aimed at extending Nazarbayev's term till 2020 on the ground that the amendment did not specify for how long and how many times the
Presidential term could be extended. The Court therefore referred the matter to the President himself, as required by the Constitution of Kazakhstan. Nazarbayev agreed on putting aside the Constitutional referendum and immediately called for an early presidential election. According to analysts, Nazarbayev may have stepped back from the plan of term extension due to negative reactions by USA, EU and OSCE, and in order to buy five years’ time to settle succession issues. In these elections, the field of candidates was limited. Nazarbayev, who has been the leader of Kazakhstan since 1989, faced three challengers, who all expressed support for him. One of them, the environmentalist MelsYelesizov, even admitted to voting for Nazarbayev on election day.

Originally there were 22 presidential hopefuls. Strict registration requirements reduced their number dramatically. A few of the erstwhile candidates failed the rigorous Kazakh-language examination. Knowledge of the state language, which had been almost supplanted by Russian during the Soviet era, is a requirement to become President. Others could not manage to provide the required numbers of signatures to support their candidacy in the pre-election rush. The question of whether these standards were too stringent is moot; there were no clear rules for the evaluation of the language skills or the verification of the signature lists.113

The Constitution of Kazakhstan guarantees freedom of speech and press, and the government generally does not interfere in the activities of the opposition press. In its first years of independence, Kazakhstan's media developed rapidly. New television and radio stations emerged, and manifold newspapers were printed.

The first law on the press and other mass media, providing freedom of speech for citizens and fundamental rights for the media and journalists, was adopted in 1991. With this legislative act, the political censorship that existed during the Soviet regime was abolished. As a result, the country’s mass media began a period of rapid growth. Private publishing houses, television networks and radio stations began to appear for the first time. Around 500 media companies appeared in 1991-1995, printing and broadcasting in various languages and reflecting a variety of interests.114 From 1996 onward, however, the Kazakhstani government began placing increasingly strict regulations on the media,
limiting access and usage of media. In July 1997, a new Criminal Code was passed. It put restrictions on the freedom of mass media.

Nazarbayev also tightened control over state media by issuing decree on 4 April 1994. Following this decree, the Kazakhstan state television and Radio Company was closed. The new decree had given the President, the right to appoint the head of the new corporation and in line with this clause Nazarbayev had relieved the company’s head Sherkhan Murtaza of his post.

In 1999, Kazakhstan passed a new law on mass media, which restricted the registration and activities of television and radio stations and newspapers. As a consequence, access to frequencies became expensive and strictly controlled, and foreign ownership was restricted. While the Constitution guarantees freedom of the press and prohibits censorship (Art. 20), this media legislation provides for special protection of the President and his family. Art. 318 of the Criminal Code gives the government the power to dismiss reporters or shut down media outlets for insulting “the honor and dignity of a citizen or a state organ or other body.” Additionally, the law on state secrets outlines cases of criminal offence such as the release of any information about the health, finances, or private life of the president, as well as economic information about the country such as the volumes of national mineral reserves and the amount of government debt owed to foreign creditors. Furthermore, the criminal and civil codes contain articles establishing broad libel liability for media representatives. Owners, editors, distributors, publishing houses, and journalists are held responsible for the content of information conveyed and have the burden of proving its veracity, regardless of its source.

By the end of October 2000, the Government introduced a number of amendments to the law “On mass media”, and in May 2001 they were adopted. Among main amendments that worsen position of mass media is registration of web sites, establishment of limits on re-broadcast of foreign channels, and responsibility of authors for the publication of opinions and evaluative judgments. The journalists think that registration gives possibility for Government to control content of information about corruption of authorities and critic of the Government policy. It is done for the avoidance of several scandals, as it happened when web site “Eurasia” (supported by
opposition) had published an article of foreign and Russian media about acceptance of bribery by higher governing bodies of Kazakhstan with the President at the head, from gas-and-oil producing companies.¹²⁰

Limitation of foreign broadcasting will inevitably drive independent broadcasting companies into severe financial situation because of high cost of the creation of their own programs. It is easier for the Government to have some TV channels that are completely under its control, rather than having independent and uncontrollable television in each city, which re-broadcast and re-print Russian, European, and American mass media that could publish critic materials about situation in Kazakhstan. Thus, a kind of censorship for foreign media was ensured. And finally, according to another amendment, the author and respondent take responsibility for the publication of information, as well as, editor or owner of the media. Hence, media is forced to publish only those messages and opinions with which the Government agrees, or information that does not touch anybody’s interests, especially interests of authorities.¹²¹ These proposed changes were published in November 2000 and received a negative response from the public and journalists. The OSCE Representative on Freedom of the Media commissioned a legal review criticising many of the changes; however, his recommendations were not taken into account by Parliament. More than 300 journalists individually or on behalf of their publications signed an Appeal to Parliament Deputies urging them to vote against the proposed provisions. On 30 January 2001, prior to the session of Parliament where these proposals were to be discussed, nine Kazakh TV stations held a protest: they stopped broadcasting. Instead, they broadcast the reasons for this action and the phone numbers of deputies who should be appealed to support the media, and many viewers did call their parliamentarians. During the discussion, the majority of deputies declared that they would vote against the changes. However, after President Nazarbayev spoke on the state TV channel Habar stressing that these changes were needed and beneficial, almost all deputies, except three, approved them.¹²²

In the opinion of Victoria Kozina, journalist of *Argument & Facts Kazakhstan* newspaper, these amendments not only unleashed hands of the state officials in limiting of disagreeable newspapers and of electronic mass media, but also violated the rights of
ordinary citizens in receiving information about events within the country. These amendments strengthened self-censorship of Kazakhstan media more in pleasing direction for the Government agrees, or information that does not touch anybody’s interests, especially interests of authorities. As the U.S. Department of State's Bureau of Democracy, Human Rights, and Labour stated in their Country Report for Kazakhstan covering events in 2001, "Amendments to the media law, passed in March, strengthened libel laws, limited the rebroadcast of foreign-produced programming, classified Web sites as mass media, and introduced a requirement that journalists receive permission prior to taping interviews."

The tendency to adopt legal acts that undermined the media continued. On 30 January 2001, without any prior public discussion, the Administrative Code was adopted. The Code for the first time established non-constitutional sanctions such as confiscation of print-runs and equipment, declared responsibility (basically a ban) on certain types of publications. Here are some examples: article 345 deals with “Infringing on the Right to Refute Information,” article 346: “Influencing a Court of Law Through the Media,” article 350: “Violation of the Publishing of the Publication Data.” The Code prescribes approximately 40 administrative violations in the media field. For the first time in the history of independent Kazakhstan, the Code gives the right to prepare protocols for administrative violations to the Ministry of Culture, Information and Public Accord, turning it thus into an oversight and even into a repressive agency. The Code also allows the Ministry to close down a media outlet for three days and to submit a legal suit to a court during this period. In practice this could cause, especially for the print media, financial and readership losses. Since the beginning of 2006, the government once more tightened state control over local media outlets. Critical reporting media outlets experienced visits of security agencies, numerous tax inspections and regulatory lawsuits. Administration officials also influenced distribution by pressuring publishing houses and newspaper vendors not to work with independent media.

On 5 July 2006, the Statute of the Republic of Kazakhstan “On changing and amending some legislative acts of the Republic of Kazakhstan on matters of the mass media” was signed into law by the President of Kazakhstan. The law amends the Tax
Code, the Code on Administrative Offences, the Budget Code, and the Statute “On the Mass Media”. The Statute entered into legal force 10 days after its official publication, except for several provisions that entered into force on 1 January 2007.\textsuperscript{128} The amendments introduced in the Code of Administrative Offences (Article 342) strengthened liability measures for violation of the mass media legislation in two instances. First, the amount of fines for violation of such legislation shall be increased up to five times more. Consequently the largest amount of a fine shall come to approximately EURO 8000. Second, the strictest sanctions including suspension or even termination (in case of repeated violations) of a mass media activity shall be imposed for the non-compliance with the duty to re-register a mass medium in the cases prescribed by law.\textsuperscript{129} 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 through charges of defamation. Influential members of the government have successfully won libel suits against pro-opposition media. A compliant judicial system fully protects top members of the government as they render independent and pro-opposition media highly vulnerable. The environment for journalists remains litigious and hazardous. Under present provisions, any public criticism of officials is criminalized as slander. RominMadinov, a parliamentary deputy, recently demanded 300 million tenge (US$2.5 million) from the independent newspaper \textit{Taszharganin} a defamation case wherein the paper published an article blaming the deputy for economic problems, including the rising price of bread; Madinov argued the article was insulting to his dignity and honor. The court ruled “favorably” for the newspaper in that it was ordered to pay only 3 million tenge (US$25,000).\textsuperscript{130}

In late 2006, the Ministry of Culture and Information, the OSCE, and the independent media watchdog AdilSoz had set up a working group to prepare proposals for amending the Media Law. Meanwhile, the lower house of Parliament passed a bill in December containing minor amendments such as dropping language that had put the sole burden in court on the journalist to prove the accuracy of the information he or she had reported. However, it did not amend the stringent defamation clauses or take steps to decriminalize libel, as demanded by the OSCE and independent media watchdogs. Bloggers publishing items critical of the government had been charged under clauses
protecting the President’s “honor and dignity.” The opposition newspapers *Svoboda Slova*, *Vzglyad*, *Taszhargan*, and *Respublika* had also been subjected to numerous interventions ranging from tax audits to fire and safety inspections and encounter continual difficulties in finding printing houses. By demanding a review of the laws regarding internet materials, the Office of the Prosecutor General has ordered the removal of commentaries on internet blogs, which violate the norms of the Constitution, by the moderator of the site, who is responsible for its content.

The state-owned Kazakh telecom and its six subsidiaries have the monopoly on internet services and regularly block access to opposition Web sites and apply technical control. Kazakh telecom has been criticized by reporters and other independent media watchdogs for this blockade. By the end of 2008, about ten web sites were being investigated by the authorities for allegedly inciting inter-ethnic and religious hatred; prominent among these was *Russkie v Kazakhstane* (Russians in Kazakhstan). Internet use has not spread as fast as one would anticipate in a rapidly growing economy. About 55 percent of the country can access the internet from home. As Kazakhstan’s urban middle-class and student population increasingly turn to the internet to obtain news, the authorities have made various efforts to control the spread of information. Articles adulating Nazarbayev for the preservation of the socio-economic stability, ethnic peace, and growing prosperity of Kazakhstan proliferate in the media. Virtually every page in the state-owned *Kazakhstanskaya Pravda* and *EgemenKazakhstan* contains extracts from speeches by Nazarbayev. The state channels Khabar and Kazakhstan 1 continuously broadcast speeches from Nazarbayev and report his visits. In addition, 50 percent of the billboards in Astana contain photos, portraits, and posters of Nazarbayev extracts from his various pronouncements.

On February 6, 2009, Kazakhstan’s President Nursultan Nazarbayev signed into a law a set of amendments affecting the media. They simplify the registration process for the electronic media by dropping the requirement that they be registered by the Ministry of Culture and Information (which had been duplicative of some of the requirements of the licensing process) and dropping the requirement that media firms be reregistered in the event of a change in editor-in-chief or legal address. The measure reduces bureaucracy for electronic media, but does nothing to reduce bureaucracy or otherwise
liberalize the legislation for other forms of media. The amendments also made it possible for the media to appeal to court against denials of governmental information, and allowed media workers to use audio recorders and cameras to collect information without asking permission of an interviewee. Moreover, on July 10, 2009 President Nazarbayev signed yet another new law, a package of amendments dealing with the media and the internet.\textsuperscript{133} The overall effect of these amendments was to nullify the modest improvements brought about by the amendments signed in February 2009. The new law extends the potential scope of criminal libel to all forms of internet content - including websites worldwide, blogs, chat rooms, and the like - as they could be considered "internet resources." The law also prohibits the media from certain types of engagement in political matters, including “the use of the media in order to interfere with election campaigns; to obtain certain election results; to campaign when it is not allowed; to force someone to participate, or desist from participating in a strike; and to violate the law on conducting peaceful assemblies.” It also bars foreigners, foreign entities, and international organizations from using the media “to complicate or support the nomination or election of candidates, political parties, party lists.”\textsuperscript{134} The wording of these bans appears to target many forms of political discussion, and is so vague that it could easily give rise to arbitrary interpretations.

On 28 December 2011, when the Majilis was already dissolved, the Senate passed a new law “On Television and Radio Broadcasting”. The law raised concerns among national and international media experts as imparting broad control over broadcasting to the government.\textsuperscript{135} Vaguely formulated provisions leave room for indiscriminate or arbitrary refusal to register foreign and satellite TV stations. Furthermore, the law does not oblige the state and the broadcasting regulator to promote pluralism and editorial independence which could enable the public to receive information from a variety of sources. Just after the law was passed by the Senate, the OSCE called on the President to veto it.\textsuperscript{136} Various national media outlets and civil society representatives did the same in a separate initiative. The law was, however, signed by the President on 18 January 2012. Furthermore, the law “On National Security”, also adopted by the Senate in absence of the Majilis and signed by the President on 6 January, raises concerns as potentially providing the grounds for arbitrary
restriction on freedom of expression in vaguely defined circumstances considered as threats to national security.\textsuperscript{137}

The newly-adopted law on broadcasting does not envisage transformation of state-owned broadcasters into independent public service media outlets. Leading commercial TV stations affiliated with the ruling party. The resulting lack of editorial freedom makes political pluralism virtually absent. The few oppositional media outlets face serious restrictions. The website of the Respublika newspaper is constantly blocked. On 17 January 2012 and during the following days, 15 journalists with the online news portal Stan TV were interrogated by the National Security Committee. The editor-in-chief of the newspaper Vzglyad was detained on 23 January on the grounds that he had called for the forcible overthrow of the constitutional order in 2010. The OSCE called for his release. Despite legal restrictions and the blocking of access to websites by the authorities, the internet continues to display a degree of pluralism of opinions and news sources.\textsuperscript{138}

**Media Ownership in Kazakhstan**

Kazakhstani legislation does not regulate distribution of ownership in mass media sphere. In reality, the ownership of main Kazakhstani mass media is long ago distributed among big industrialists and the loyals to the President. These owners constitute strong financial-industrial groups that have big influence on the state.\textsuperscript{139} Moreover, they are a part of the system of power. The press in Kazakhstan is heavily biased in favour of the ruling party, President Nursultan Nazarbayev's Nur-Otan party. Most private newspapers also are biased in favour of the ruling party, since they in fact are not entirely "private." Government supporters very often provide some of the financing for the "private" press, making news tipped in favour of the President and the key government positions and views. The opposition press is likewise political, in that the newspapers associated with opposition party candidates present their party perspectives and criticize the President and his party. SolDat and XXI Vek (21st Century) are two independent weekly newspapers that have faced frequent harassment from the Nazarbayev regime. One private, biweekly newspaper, Vremya Po (The Globe), includes an English page in its issues. Like SolDat and XXI Vek, this paper also was
singled out for negative government attention in 2001. Nachnem s ponedelnikais a private opposition weekly published in Russian.¹⁴⁰

Nazarbayev’s daughter, DarigaNazarbayeva, and her husband, RakhatAliev, control major newspapers and broadcast channels by using “auxiliary companies that have majority stakes in nominally privatized newspapers as Vremya, Karavan, NovoePololenie, Argumenty i Fakty, Komsomolskaya Gazeta and television stations (Khabar and KTK).”¹⁴¹ Freedom House also reports that another son-in-law of Nazarbayev owns Panorama and DelovayaGazeta, two prominent Kazakhstani newspapers. This government control by proxy has led many independent journalists and publishers to engage in a kind of self-censorship. Freedom House reports that this internet trend is increasingly gaining popularity. Many of these websites are run by the opposition and they post Russian translations of articles critical of Nazarbaev’s regime. A couple of these sites are Eurasia (www.eurasianet.org) and Kazakhstan’s Democratic Forces Forum (www.forumkz.org).¹⁴²

At the beginning of 2006, DarighaNazarbayeva’s son, Nurali, born in 1985, became head of the Shahar media group, which controls the youth-oriented Hit TV. This move prompted speculation that a media dynasty was in the making.¹⁴³ Their monopoly in the information market allows the Presidential family’s to control other media as well. As of now, only media with ties to the President's family can win access to broadcast frequencies, satellite channels, and rights to operate national networks without participating in legally mandated tenders, or paying the permit fees for the use of those national resources.¹⁴⁴ As a result, many successful operating independent TV and radio stations have ceased to exist or were forced to broadcast on government-controlled frequencies.

As IREX noted in their report on the panel research they conducted in Kazakhstan in 2001, "Media ownership is not transparent at all, yet most people know the owners from rumors….As some panelists mentioned, 'the main thing media owners are non-transparent about is the fact that people close to the Presidential family own media outlets."¹⁴⁵ Citing the Freedom House Human Rights survey released in mid-2002, the Kazakhstan 21st Century Foundation noted that Kazakhstan received a failing grade from Freedom House for press freedom. The survey reportedly showed that the
Nazarbayev regime "ignores constitutional provisions for freedom of the press by dominating most newspapers as well as printing, distribution and broadcast facilities, and controlling Internet access," Noting that the President's elder daughter directly controlled printing and broadcasting outlets, that offending Nazarbayev can be considered criminal behaviour, that publishing truthful articles that upset the President can result in imprisonment.\textsuperscript{146} Freedom House summarized that "the government has repeatedly harassed or shut down independent news media."

\textbf{Attacks on the Media}

A climate of insecurity has been prevalent in Kazakhstan among the members of media under the Nazarbayev regime.\textsuperscript{147} In weeks before elections of March 1994, the Press suffered serious restrictions and was unable to criticize violations. Following an attack on electoral procedures, Max, a popular independent Television and Radio company was shut down. A number of newspapers were forced to stop printing because of paper shortage and mechanical problems at the state owned printing facilities. Reports of intimidation of independent journalists were heard in several cities.\textsuperscript{148} The Kazakh government stopped the printing and distribution of the Russian newspaper ‘KomosomolskayaPravad’ in Kazakhstan after it carried an article containing the views of the writer Aaleksandr Solzhenitsyn which the Prosecutor-General’s office said violated the Kazakh Constitution.\textsuperscript{149} On 11\textsuperscript{th} November 1998, the Kazakh authorities visited many independent media offices and warned journalists and media owners against covering the opposition candidates, or publishing negative stories against the President, his policies or his family. Additionally, an independent radio station had been told that any political stories must be cleared by an “adviser” before airing, and the director of an independent television station had told his news department to consider themselves part of the “President’s team”.

The private media were, as a result, reluctant to risk offending the authorities for fear that the language law may be invoked in retaliation. The threat of closure or expensive court litigation had a chilling effect on legitimate journalistic coverage of the election campaign.\textsuperscript{150} Journalists were also under threat of prison terms if any coverage
“insults” the President or a member of his family. Consequently, a significant number of articles were lost to self-censorship. Even the financially independent weekly paper *caravan* began in 1995 to moderate its critical stance after a fire which destroyed much of its newsprint and which occurred after the paper published acerbic commentary on Nazarbayev’s dissolution of Parliament. Though the official inquiry blamed the newspaper’s staff for failing to meet safety standards are initiated by the paper suggested sabotage.151

In February 2001 the apartment of TV journalist Guldzan Ergaliyeva was rendered and she was ordered to pay 100,000 USD. Although she gave the assailants all the money she had, her husband and son were beaten badly. Both ended up in hospital, her husband in intensive care, and her son received wounds to the head and suffered a concussion. Viewers knew Ergaliyeva because of her weekly programme Public Agreement on Almaty Channel 31. In this programme issues of concern to the public were often discussed.152 Both government and opposition representatives took part in it. The journalist also aired a program "Social Agreement" that criticized government policies.

In July 2001 there were three attacks on journalists. In December three reporters from the Almaty newspaper Karavan were badly beaten. On 17 December 2001, in Akoba the news editor of Diapazon newspaper and the radio station Rifma Marina Vasilyeva and its computer expert Alexei Mukhametov were robbed and beaten. It is believed that this attack was related to their professional duties. The two were assaulted by five people, they were badly beaten, their belongings, including money and documents, stolen. The Director of Rifma Vladimir Mikhailov and the editor of Diapazon Elena Getmanova wrote an open letter to the Minister of Interior, the State Prosecutor and the Head of the President’s Administration. They noted that the attack was part of a series of tragic events surrounding the two media outlets. A year earlier reporter Dulat Tulegenov from Diapazon died under mysterious circumstances. Even earlier, the newspaper’s deputy editor Eltai Davlenov was robbed and beaten, the assailants took his camera, tape recorder and notebook. All these cases remain unsolved. Threats of violence are also on the rise. In January 2001, the editor of the independent newspaper Respublika-2000 Lira Bayseitova wrote an 17 open letter to the Minister of Interior where she described the anonymous phone calls she received as well as the sight of suspicious individuals in the
vicinity of her editorial office. She believed that this was connected to her professional activities.\textsuperscript{153} The office of \textit{SolDat}, a leading independent newspaper, was burned, and computer equipment was stolen. By October 2001 \textit{SolDat}, financially unable to continue its operations was forced to close and consequently lost its license. A leading independent newspaper, \textit{Delovoe-ObozrenieRespublika} (\textit{Respublika} Business Review) received a decapitated dog at its door in May 2002 with an attached note reading, "There will be no next time," apparently in return for covering the Presidential scandal involving Swiss bank accounts. The head of the dog appeared two days later at the door of Irina Petrushova, a Russian citizen and the paper's editor-in-chief, who also found two funeral wreaths at her home during May.\textsuperscript{154} In another case, Lira Baisetova, a journalist for the same independent paper, published an article on the Swiss bank account scandal in \textit{SolDat}, since \textit{Respublika} had been shut down. Her article reported an interview she had conducted with Bernard Bertossa, the former Prosecutor of Geneva, Switzerland, who confirmed that Swiss authorities had frozen bank accounts owned by Nazarbayev and two former prime ministers of Kazakhstan; the Prosecutor could not say whether the accounts were funded illegally, since Kazakh judicial authorities reportedly were being uncooperative in the investigation. The news confirmed what many in Kazakhstan and elsewhere previously had heard of the scandal. By July, Baisetova was in hiding in a rural part of Kazakhstan after her 25-year-old daughter, Leila, who was reported on May 23 as having disappeared, died in a government hospital in June. Leila reportedly had been in a coma after her arrest on alleged heroin charges, and the journalist was unable to see her daughter who in the meantime died. Suspicions were that the daughter, whose body reportedly showed signs of torture based on photographic evidence, was murdered in retaliation for Baisetova's role in placing increased media attention on the Nazarbayev Swiss bank account scandal. Baisetova previously had been physically attacked in 2000 and 2001 and was harassed by anonymous phone calls. The same day Leila disappeared, the offices of the newspaper where Baisetova worked were fire-bombed.\textsuperscript{155}

In a Radio Free Europe/Radio Liberty report, journalist Bruce Pannier noted that \textit{SolDat}'s offices also were attacked two days before Leila Baisetova disappeared, with unknown persons entering the building, beating two journalists, and destroying equipment. Pannier added, "Other media outlets in Kazakhstan have reported crimes
against their personnel and property.” In May 2000 the US-based Committee to Protect Journalists placed Nazarbayev on its annual list of the Ten worst enemies of the press. The U.S. State Department remarked in 2001 in its human rights report on Kazakhstan for events occurring, "Although the media expressed views that were independent and occasionally highly critical of the Government, the Government used its influence to limit the media's content.” In May 2002 journalist Sergey Duvanov posted on the Internet a bold, lengthy statement accusing the President of criminal violation and Kazakhstan's people failing to stand up to government misrule and corruption. Entitled "Silence of the Lambs," Duvanov's Internet posting was expected to result in Dubanov's imprisonment. By July 2002 the President was accusing Duvanov of libel, following the June opening of a criminal defamation case against Duvanov by the Prosecutor-General's office. Duvanov allegedly had insulted the honor and dignity of the president, a criminal offense in Kazakhstan.

An independent journalist, Sergei Duvanov who documented an on-line article on the involvement of President Nazarbayev and his close associates in Kazakhgate, was arrested on fabricated charges of raping a minor and sentenced in January 2003 to 3.5 years in jail. Television stations and newspapers run into problems, particularly if they receive financial assistance from the people opposed to government. A March 9, 2002, articles entitled “Kazakh Government Clamps Down on Independent Media” on Eurasianet’s website led to six-month suspension for TAN-TV. The official reason for the suspension mentioned “a number of procedural violations including use of a faulty transmitter, improper registration of equipment, and poor sanitary working conditions”.

In April 2006, Journalist Aina Plyus was beaten unconscious by ten unidentified assailants. He suffered a broken jaw and nose, a concussion and heavy bruising. Aina Plyus was suspended several times by authorities for alleged technical violations, and had to republish under different names. It had repeatedly covered the ongoing Kazakhgate scandal. In 2007, freedom of press further deteriorated. The journalist Kazis Toguzbaev received a suspended sentence on charges of insulting the honor and dignity of President in January 2007. The charges stemmed from articles entitled “Mafia regime shadows the murders of Altynbek Sarsenbaev posted in April 2006 on website www.cub.kz. In March 2007, an international scandal broke out after Information and
Culture Minister Ertisbaev bared a team from Era TV from attending a press conference. Journalists opened a lawsuit against the Minister who had then publicly apologized. Even so in March 2007, OralgaishaZhabaktaikyzy, a journalist with Zakon – i - pravosudie newspaper went missing after having published articles about the Kazakh-Chechen clashes in southern Kazakhstan . In June and July 2007, journalists YernazarIbrayev and IlyarGafurov were murdered. Throughout the year, the state-owned Kazakhtelekom that holds the monopoly on the internet service providers exerted regular censorship over the independent websites. It limited the registration of new internet domain names, blocked access to websites in Kazakhstan, restricted the bandwidth and hampered access over proxy servers. In addition, the government stepped up their efforts to regain control over the information market controlled by the President’s family. In April 2006, Culture and Information Minister ErmukhametErtysbaev – in an effort “to ensure a high-quality state information policy” – did not exclude the restoration of “full control” over the Khabar media company, founded by DarighaNazarbayeva. In May 2007, the newspaper Karavan and the KTK TV channel, affiliated with RakhatAliev, had to suspend their activities after an Almaty court decision. kompromatkz.info, a website stopped publishing incriminating materials on independent journalists and critics of government. The President tolerated to an extent the influence of media outlets. Following Sarsenbaev’s killing and the Aliev bank scandal President tried to regain control over the information market. Re-ensuring the government’s control over the media suddenly become a top priority. The conviction of RamazanYesergepov, editor of the newspaper Alma-Ata Info was one sided. The newspaper had published an article that contained corruption allegations against the authorities in Taraz province, based on classified documents of the National Security Committee of Kazakhstan dated November 2008. Yesergepov was arrested on January 6, 2009 and charged with disclosing state secrets. On August 8, 2009 he was handed a three-year prison sentence in a closed trial. He did not have access to legal counsel of his own choice. MiklosHaraszti, the Organization for Security and Co-operation in Europe’s (OSCE) Representative on Freedom of the Media, urged the Kazakh authorities to “overturn RamazanYesergepov’s sentence,” arguing that “Criminal sanctions for ‘breach of secrecy’ should only apply to the officials whose job descriptions stipulate
the duty to protect sensitive information, but not to citizens who transmitted or published that information.”

On September 22, 2009, unknown assailants beat the journalist and Human Rights activist Ainur Kurmanov. He was hospitalized with serious head and hand injuries. His colleagues believed the attack was planned with the purpose of intimidation and was related to human rights protection and professional activity of the journalist.” In another example, authorities found no connection with professional activity in the murder of Sayat Shulembaev, a journalist with the video information portal Stan TV, who was killed in his apartment in December 2009. However, some of his colleagues stated that he was targeted because of his work. In 2009, bloody fighting erupted between law enforcement organizations, including the National Safety Committee (NSC), the finance police, and the Office of the Public Prosecutor. Journalists who covered this fighting faced raids, threats, and other forms of pressure; however none of these violations were recorded. Attacks on camera crews and photographers also grew, yet authorities did not investigate such occurrences. Sometimes, law enforcement bodies treat journalists aggressively. Panelists recalled that when staff of Stan TV covered mass riots in Sary Arka, police destroyed their equipment. A public apology from the head of the police station settled the case.

Thus in the prevailing climate of government-imposed media restrictions, coupled with hostile government attitudes and practices toward the press, situation in Kazakhstan is of what seventeenth-century English philosopher Thomas Hobbes described as the state of no government. In Hobbes "state of nature" people are left to defend themselves as no government regulates their selfish life resulting "a war of all against all" and life become "solitary, poor, nasty, brutish, and short." In Kazakhstan's case, it seems that life for journalists under the Nazarbayev regime ironically parallels Hobbes's depiction of life without government. The outlook similarly bleak for the readership of Kazakhstan's newspapers, considering their currently limited ability to access news representing a broad political spectrum where issues are debated in a journalistic style typical of that in democratic countries. Unless the international diplomatic community, foreign governments, and a wide-ranging, solidaristic, grassroots movement begins to exert pressure more concertedly on Nazarbayev and his ruling party.
to democratize the country and allow free expression, the future of objective journalism in Kazakhstan is black.

Civil Society

Civil Society assumes an important role in the development of any society. Civil Society reflects concerns and attempts to address issues. These issues may range from local to global and could be social, economic, environmental and cultural. At the very beginning of the transition period, there was a lack of understanding throughout the region of Central Asia of the role of NGOs (Non-Governmental Organizations) in the development of Civil Society – indeed, of their role in the development of society as a whole.\textsuperscript{166} In fact the collapse of the USSR fundamentally altered the conditions for development of Civil Society in the region. The process of creating new political structures and adopting new legal frameworks in Kazakhstan, combined with international assistance to help introduce democratic principles, offered new opportunities and challenges to the emerging NGO community.\textsuperscript{167}

According to the President’s official website (www.akorda.kz), there are about 5,000 registered NGOs in Kazakhstan, of which 1,709 are active. Most of these are quasi-governmental groups, propped up to compete with independent NGOs in obtaining grants, and fewer than 200 are able to make a positive impact. Official figures, which exaggerate the activities and contribution of the non-governmental sector, show that it consists of about 200,000 people—roughly 40,000 full-time employees, up to 50,000 temporary employees, and over 100,000 volunteers. This information is contradictory of other official sources. For instance, the website of Kazakhstan’s embassy in the United States claims that there are more than 25,000 nonprofit organizations, including 13,000 NGOs, in Kazakhstan, employing more than 550,000 people.\textsuperscript{168}

The 1998 Program of democratization of the country increased the role of Non-Governmental Organizations as a key element in the democratization of Kazakhstan society.\textsuperscript{169} The Law of 1998 ‘On Normative Legal Acts’ created an opportunity for NGOs to enhance their capacity to participate in law-making activity. In accordance
with this, lawmakers were given proposals by NGOs on drafting legal provisions.\textsuperscript{170} NGO representatives can also participate in cooperation councils, which advise the government on strategies for cooperation with Civil Society. In recent years, NGOs have helped to create and participate in Cooperation Councils operating in five Oblasts (provinces). In addition, at the national level, three NGOs—the Confederation of NGOs in Kazakhstan, Diabetic Association of the Republic of Kazakhstan, and Consumers Rights Protection league—were included in the National Council, the Advisory Board of the President. These councils represent an initial step toward creating a structure for long-term engagement of the state with civil society.\textsuperscript{171}

In 2001 the Law of the Republic of Kazakhstan "On not-for-profit organizations" was adopted and became a real step towards the recognition of the role and place of NGOs. Registration of the non-governmental organizations was greatly simplified. Similarly, the Concept of State support of NGOs was adopted in January 2002.\textsuperscript{172} It authorizes specified government branches to create conditions for their sustainable development and to strengthen their role in resolving socially important problems based on cooperation with, and support from, the government.\textsuperscript{173} Recognized leaders of the non-governmental sector, as well as representatives of international organizations (UNDP, TASIS and Counterpart Consortium) took part in the development of the Concept.

Development of the new Laws "On non-governmental organizations in the Republic of Kazakhstan" and "On the State Social Order" has begun. Laws aimed at the formation of the new model of relations in realization of the social policy in the Republic of Kazakhstan, creation of steady and effective system of relations between the state and public sector, maintenance the legal basis of activity of non-governmental organizations and carrying out of the State social order by them on a competitive basis.\textsuperscript{174} Ministries and departments have become more open to consulting NGOs and frequently involve them in working groups. The Government has hosted three high-profile Civil Forums in which President Nazarbayev outlined the importance of partnerships with NGOs and encouraged State entities to cooperate with the civil sector.\textsuperscript{175}
In July 2006, the government adopted the concept of Civil Society Development to guide future relationships between the government and NGOs. The registration fee for NGOs was reduced by nearly two thirds (from 169 USD to 64 USD), which made the creation of organizations more affordable. Ministries and State departments have become more open to consulting NGOs and frequently involve them in working groups. Several NGO support organizations, such as the network of the Civil Society Support Centers, foster community development activities and encourage the creation and strengthening of community-based organizations and self-help groups.\textsuperscript{176}

On 20 November 2007, a consultative body of the lower house of Parliament was established to make recommendations and proposals regarding pending legislative issues. The body consists of 30 public figures and experts, including a significant group of Members of Parliament who de facto guide the work of the Chamber. Two opposition parties declined an invitation to participate. The Civil Society members are highly professional and respected individuals, but the body is dominated by the Members of Parliament, particularly the Chairman. Because the Chamber is an ad hoc body, it only meets when called by the Chairman and lacks a formal agenda. It often does not focus on those issues that are of current importance. The meetings of the Chamber receive extensive press coverage, but to date have accomplished very little. For the most part, the Chamber has simply rubberstamped draft laws the Parliament passed.\textsuperscript{177}

**Financial Support of the Government**

Provisions of 1995 constitution explicitly forbade the “financing of social associations by the state.” Nonetheless, the government has supported NGOs, that were closely associated to the government or high-ranking officials.\textsuperscript{178} In 2004, the government established a fund for NGO activities. The Ministry of Environmental Protection, the Majilis, and the Ministry of Information have been the most active in supporting the systematic development of the non-governmental sector. Due to their better financial condition, international NGOs have been more successful in forming partnerships with the state. In May 2007, the government repealed the constitutional provision prohibiting funding of “social organizations,” thereby opening the door to greater public sector financial support of social services. The financial support provided
by the government to NGOs can be labeled as direct or indirect, ranging from the direct funding of activities to mere tax concerns. As part of its effort to steer the development of the “third sector,” the government has created a biannual Civic Forum to forge cooperation with NGOs. The stated goal of this mechanism 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. Although an amendment in 2007 authorizes the state to fund contracts undertaken by NGOs, the process of issuing contracts is not transparent, and government officials reportedly demand kickbacks. 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 that is free from governmental control. No more than 10 percent of NGOs are engaged in civil liberties, human rights, and minority protection issues, and the number of genuinely independent NGOs among these is extremely small.

International organizations working in Central Asia have played a major role in giving grants to local NGOs for the implementation of social projects. A number of international organizations provide training programmes for NGO leaders in such areas as planning and management. However, much of this training is built on the experience of Western organizations, and is not always relevant or meaningful to local people, whose traditions, culture and values differ considerably from those of the West. Eleven non-governmental organizations in Kazakhstan became winners of the 2010 World Bank Civil Society Social Development Fund grant competition. This grant program is the World Bank’s only annual program that directly funds small projects of nonprofit, nongovernmental, and nonacademic organizations in Kazakhstan. The goal of the Civil Society Social Development Fund is to promote better engagement of the Civil Society in the development and decision-making processes. In 2010, 77 non-governmental organizations from both urban and rural areas all of Kazakhstan participated in the competition, and eleven winners were selected after thorough evaluation by the Grant Committee.
The removal of limits on NGOs receiving state funding has primarily helped government-organized NGOs engaged in social and infrastructural development. While the Constitutional Council intervened in 2009 to annul amendments requiring all religious communities to reregister, existing laws place numerous restrictions on minority religious groups by labeling them “nontraditional” and “sects,” and grant the authorities considerable power to monitor the activities of religious congregations, opposition groups, and independent NGOs. Also in 2009, Human Rights activist Evgeniy Zhovtis was sentenced to four years in prison for vehicular manslaughter after a trial that was fraught with procedural violations.\textsuperscript{182}

The four-year prison sentence imposed on Evgeniy Zhovtis, Director of the International Bureau for Human Rights and Rule of Law of Kazakhstan, was a blow to Civil Society and NGO activists that further tarnished the country’s international reputation. A district court in the Almaty region convicted Zhovtis of manslaughter in September 2009, following an automobile accident. The trial was fraught with procedural violations, and the judge did not consider any of the mitigating evidence.\textsuperscript{183} NGO leaders who protested the sentence to Zhovtis were fined up to US$120 for failing to acquire permits for demonstrations.\textsuperscript{184} While the accident was unfortunate, the authorities demonstrably acted in unison to exploit it for a desirable political objective: Zhovtis’s four-year detention prevented him from traveling abroad and participating in meetings and conferences related to democracy and civil society issues.

Kazakhstan credits itself with being the most open, prosperous, tolerant, and democratic country in the Central Asian region, but in practice the policies and actions of the government are increasingly similar to those of other Central Asian states. Indeed, the country’s rising prosperity, liberal economic climate, and growing engagement with the international community have failed to create a hospitable environment for the development of Civil Society and democracy. The ruling elite is seeking to legitimize a patronage-based regime that is deeply fearful of and resistant to genuine democratization and civic activism. 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 basic civil liberties, the right to public assembly, remains severely curtailed in Kazakhstan, as any group of more than 20 people must secure permission from the Ministry of Internal...
Affairs to assemble. Citizens holding a public demonstration are required to notify the authorities 10 days in advance. The government uses its enormous power of patronage to target nascent NGOs and public associations for co-optation, aiming to promote its own 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 tend to be portrayed as either irresponsible, serving outside interests, or opposed to reforms and prosperity.

**Religious Groups**

While claiming commitment to promote “inter-ethnic 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. In March 2001, the Kazakh Parliament passed the amendments to the law on freedom of religion. The OSCE is concerned about the amendments because they have “masses of shortcomings” and run counter to international legal norms. In addition OSCE is against the amendments obliging Islamic organizations to register and join the Associations of Muslims of Kazakhstan. This restricts the freedom of choice. A 2006 presidential decree categorizes various minority religions as “sects” or “nontraditional” groups, suggesting that they are potentially subversive or extremist in nature. The roughly 20 minority religious groups in this category include Jehovah’s Witnesses, Hare Krishna devotees, and some independent Muslims whose alienations, beliefs, or practices are at variance with the approved version of Islam. Media campaigns were organized to spread fear of “nontraditional” religions and generate support for an amended Law on Religion, which seriously restricted freedom of thought, conscience, and religion. The Hare Krishna community (Society for Krishna Consciousness), which has acquired some following among young urban residents, is still struggling to acquire acceptable land on which to rebuild its temple and farm after a court order in 2006 demolished a previous Kazakhstan 261 temple and relocated near Almaty City to a less hospitable venue in the Almaty region.
Notwithstanding criticism by domestic religious groups and various international organizations, the parliament passed amendments to the Law on Religion in late 2008 that introduced strict requirements for re-registration of all religious communities within 18 months after the law took effect. The Constitutional Council rejected the amended law in 2009. However, many human rights activists in Kazakhstan have warned that a number of its objectionable features are likely to resurface as Kazakhstan completes its term as OSCE chair and gears up for parliamentary elections. While the security and intelligence services publicly portray themselves as combating terrorism, extremism, drug trafficking, and other regional and international security threats, many of the vast resources are diverted toward monitoring the activities of opposition groups, independent NGOs, media outlets, religious bodies, and foreign missionaries in the country.

It is emerged from this chapter that elections in Kazakhstan are not held in free and fair manner. The President has been using the power of registration of political parties to keep his political opponents away from power. Multiparty system is just an eye-wash since all the political parties are loyal to the President. There is only one hardcore party in Kazakhstan, People’s Party Democratic Choice of Kazakhstan, which is banned since 2005. The leadership in Kazakhstan is creating hurdle in the way of free development of mass media and civil society. Large number of restrictions has been placed on the mass media outfits and there is increasing number of violent attacks on the journalists. Nazarbaev have used various laws on media to curb the activities of media persons who are critical of his policies. Likewise, the government in Kazakhstan has been providing financial help to the NGOs making them remain loyal to him.

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