

KAZAKHSTAN

FREEDOM OF THE MEDIA AND POLITICAL FREEDOMS IN THE PRELUDE TO THE 1999 ELECTIONS

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SUMMARY

The 1999 presidential and parliamentary elections in the Republic of Kazakhstan will shape its political life for years to come. The October parliamentary elections approach amidst a marked deterioration in respect for freedom of speech, assembly, and association that will prevent citizens from making free and informed decisions on voting day. This report focuses on increasing restrictions on the exercise of these basic civil and political freedoms that call into question whether the elections can be free and fair; it does not set out to investigate the election process itself.

On October 8, 1998, Kazakhstan's parliament voted to move up presidential elections scheduled for December 2000 to January 10, 1999, shortly after President Nursultan Nazarbaev signed into law a series of constitutional amendments bearing directly on his own continued tenure in office. These eliminated the sixty-five year age limit on officeholders (he himself will turn sixty-five in July 2005), increased the president's term from five to seven years, and removed the 50 percent minimum participation barrier for presidential elections. Nascent opposition groups had anticipated the move, rumored since earlier in the year, and presumed it to be an effort by President Nazarbaev to ensure his continued rule through a period in which economists forecasted the country's economic crisis would deepen. Nazarbaev, who ran against two little-known government officials and the Communist Party leader, won reelection with more than 79 percent of the vote.

Even before the announcement of early elections, the government began with increasing vigor to obstruct the formation, registration, and activities of groups of citizens to intending to organize support of opposition candidates or to participate in the upcoming vote as monitors. Authorities charged five prominent opposition leaders with administrative offenses—the equivalent of misdemeanors—for forming a group called the Movement For Honest Elections. Amendments to the Law on Elections passed in May 1998 allowed the government to disqualify prominent members of the opposition from standing. Former prime minister Akezhan Kazhegeldin was excluded for having been convicted of "participation in an unregistered association," as were two other well-known political leaders. Heavy-handed government efforts to ensure the incumbent's success narrowed citizens' choice of their chief executive even further, when directors of hospitals, schools, and other publicly-funded institutions coerced their employees and students into signing petitions in support for President Nazarbaev's candidacy.

The major media in Kazakhstan devoted little attention to opposition to President Nazarbaev. A series of closed broadcast frequency auctions had shut down much of the independent radio and television companies in 1997. Remaining independent voices in the media came under increasing pressure to ignore or censor any criticism of the government—or the president—during the election campaign. Five privately owned weekly papers known for their ties to the opposition were suspended or closed under various legal pretexts.

After the January 1999 presidential elections, Kazakhstan yielded to pressure from the Organization for Security and Cooperation in Europe (OSCE) and other intergovernmental organizations critical of the presidential vote, changing some provisions of its electoral law, lowering fees required of potential candidates, and repealing the bar on participation in unregistered groups. It added ten seats to parliament to be selected from the slates of registered national parties. The major legal obstacles to full and equal opposition participation in political life by those not backing President Nazarbaev remained intact, however. After parliament set the date for legislative elections as September 17 and October 10, for the upper and lower house, respectively, efforts to block the candidacies of prominent opposition leaders continued. Government agencies responsible for registering public associations continued to block or delay the registration of political parties, obstructing their ability to organize. Media critical of Nazarbaev's government continue to be subject to legal and extra-legal harassment.

RECOMMENDATIONS

To the Government of Kazakhstan:

- Immediately accede to the International Covenant on Civil and Political Rights and its additional protocols;
- Immediately cease all harassment of the independent print and broadcast media; abolish restrictions in law and practice on the right to freedom of expression. All currently licensed newspapers should be allowed to resume publishing immediately; judicial review of pending libel suits against the news media should meet the highest procedural standards;
- Repeal provisions in the Law on National Security that impinge on the right to freedom of expression and that allow the procuracy to revoke registration of media outlets without judicial review; ensure that application of the law does not otherwise impinge on free speech rights guaranteed in the Kazakhstan constitution and in international law;
- Enforce provisions of the constitution on the media forbidding censorship and interference in the professional duties of a journalist;
- Repeal articles 318 and 320 of the criminal code, which provide for criminal penalties for offending the “honor and dignity” of the president and other official persons;
- Uphold the right of all individuals to freedom of association, in consonance with international standards, including the right to form and to join public associations and political parties. Ensure that the legally prescribed process of registration of those groups is applied consistently and fairly;
- End onerous restrictions on public meetings and peaceful demonstrations and permit, in a consistent manner, such activities to be carried out by political parties, public associations, and others, in accordance with international human rights standards on freedom of assembly;
- Repeal amendments to the Law on Elections disqualifying candidates for all administrative offenses;
- Enforce provisions of the Law on Elections forbidding government officials from acting in support of particular candidates.

To the OSCE:

- Condition future observer missions to monitor elections, or pre-election assessment missions on clear, measurable, good-faith efforts by the government of Kazakhstan to bring its laws and practices regarding fundamental freedoms into full conformity with its OSCE commitments;
- The OSCE Special Representative on Freedom of the Media should continue his useful engagement in the region. Future travel to and reporting on Kazakhstan should carefully monitor the state of the media. In the future, the ODIHR should include the special representative in debates to determine whether the ODIHR will monitor elections in Kazakhstan.

To the European Union and Member States:

The Partnership and Cooperation Agreement (PCA) signed with Kazakhstan, which entered into force this year, specifies that respect for human rights and democratic principles are an essential element of the agreement.

- The European Parliament should use the periodic reviews of the PCA with Kazakhstan to urge the government of Kazakhstan to bring its laws and practices with regard to the exercise of freedom of expression, association, assembly, and political participation into compliance with international standards. The parliament should request that the E.U.- Kazakhstan Cooperation Council issue a public report regarding the state of Kazakhstan's

compliance with these international standards, and should make clear that continuation of the PCA is contingent on specific and measurable progress in observation of these standards.

To the Council of Europe:

- Postpone all consideration of associate member status for Kazakhstan until it has implemented the recommendations elaborated above.

To the U.S. Government:

- Continue to urge the government of Kazakhstan to end its arbitrary interference in the exercise of the rights to free expression, peaceful assembly, freedom of association, and political participation;
- Review all assistance, including export guarantees, to Kazakhstan in light of these findings, keeping in mind that section 498A of the Foreign Assistance Act of 1961 requires that the president "take into account not only relative need but also the extent to which that independent state is acting to...[Section 498A(a)(1)]: "make significant progress toward, and is committed to the comprehensive implementation of a democratic system based on principles of the rule of law, individual freedoms, and representative government determined by free and fair elections."

To the European Bank on Reconstruction and Development:

Article 1 of the Agreement Establishing the European Bank for Reconstruction and Development states that its purpose is to promote development in "Central and Eastern Europe countries committed to and applying the principles of multiparty democracy, pluralism and market economics." In light of this statutory commitment, the Bank should consider the findings contained in this report in the context of its annual country assessment for Kazakhstan and signal that the nature and level of future assistance will be contingent on substantial progress in implementation of the recommendations listed above.

BACKGROUND

Kazakhstan's Post-Soviet Political Process, 1992-1997

Since independence, the Kazakhstani government has repeatedly obstructed citizens' participation in government, despite a formal electoral process, while facilitating the exaggerated growth of presidential power and the breaking down of important judicial and legislative checks on the power of the executive branch.

The citizens of Kazakhstan have never had the opportunity to select their chief executive in a democratic, freely contested election. The current president, Nursultan Abishevich Nazarbaev, had served as chairman of the Kazakh Soviet Socialist Republic's Council of Ministers when the Communist Party of the Kazakh S.S.R. appointed him first secretary in June 1989; subsequently, the republic's Supreme Soviet conferred upon him the title of republican president in April 1990. In December 1991, official election results confirmed Nazarbaev the victor in an uncontested race, with 98 percent of the vote, in which 80 percent of the electorate was said to have participated. His only potential opponent reportedly failed to collect the 100,000 signatures required to appear on the ballot. One month after the disbanding of parliament in April 1995 (see below), a popular referendum was organized to ratify President Nazarbaev's proposal to do away with the scheduled 1996 presidential election and to allow him to remain president

until the year 2000.¹ The government claimed 91 percent of the citizenry participated in this poll and 95 percent approved the measure; unofficial estimates confirmed only 20 to 30 percent voted.²

As President Nazarbaev sought to ensconce himself in power, he also sought to weaken and manipulate parliament. Presidential pressure had forced the Supreme Soviet to disband in December 1993, but not before almost 200 of its 350 deputies resigned late that year as a sign of protest at the impending measure.³ In March 1994, Kazakhstan held a parliamentary election that created the first post-independence national parliament (until that election, the republican Supreme Soviet deputies elected in 1989, despite its disbanding, remained in office). Seventy-two of the new 177-member lower house were directly tied to the president, whose Union of Popular Unity (SNEK) won 30 seats, while candidates from a presidential list filled forty-two of the seats. OSCE observers called the elections unfair, noting inflated voter turnout reports.⁴

When this parliament, notwithstanding the flawed elections, proved too independent and critical (a majority supported a vote of no-confidence in May 1994), the government exerted pressure to have it disbanded. The Constitutional Court ruled in March 1995 that the 1994 general elections that had created the parliament were unconstitutional; in response, parliament voted to suspend the Constitutional Court. Within days, President Nazarbaev dissolved the parliament, and ruled for the rest of 1995 by presidential decree.⁵ Also in March 1995, purportedly "in order to strengthen the fight against organized crime," but providing additional legal means to prevent organized opposition to the disbanding of parliament, the president decreed several amendments to the administrative code. Among the amendments was one outlawing any participation in an as yet unregistered public association (article 188) or an association that has been suspended or closed. Penalties included administrative arrest for up to fifteen days, or fines of from five to ten times the minimum monthly wage.⁶

¹The referendum was of questionable constitutionality, as the 1993 constitution, then in force, required that the president consult parliament before calling a referendum. Chapter 13, article 78, paragraph 7, The Constitution of the Republic of Kazakhstan, adopted January 28, 1993. The Commission on Security and Cooperation in Europe (CSCE) of the U.S. Congress noted that this referendum, as well as the constitutional referendum held in August, were "marred by irregularities." CSCE, *Political Reforms and Human Rights - Uzbekistan, Kyrgyzstan and Kazakhstan*, March 1998, p. 28.

²Credible sources, including the Russian Federation's Federal Assembly, the upper house of Russia's parliament, alleged that one head of a local village administration was assassinated on the day of the referendum for refusing to falsify official results. Human Rights Watch, *World Report 1996*, (New York: Human Rights Watch, 1996), p. 222. _____

³Evgenii Zhovtis, "K al'ternativnomu proektu konstitutsii Respubliki Kazakhstan," Kazakhstan-American Bureau on Human Rights (KABHR), 1995, p. 3.

⁴OSCE Parliamentary Assembly, *Report on Parliamentary Elections in Kazakhstan*, December 5 and 6, 1995.

⁵Under the 1993 Law on the Temporary Delegation to the President of the Republic of Kazakhstan and Heads of Local Administrations Additional Powers, the president can pass or amend any law by decree.

⁶Decree of the President of the Republic of Kazakhstan with the Force of Law on Changes and Amendments to Several Laws of the Republic of Kazakhstan, March 17, 1995.

Yet another referendum in August 1995 produced a result in which 89 percent of voters allegedly supported a draft constitution vastly expanding presidential powers. Nazarbaev gained the authority to dissolve the parliament for, among other things, its failure to approve the president's nomination for prime minister.⁷ The new constitution demoted the last significant potential barrier to complete presidential rule, the constitutional court, to a consultative body, enabling Nazarbaev to effect any constitutional changes unchallenged. At the same time, the new constitution preserved the two-term limit and five-year term of the previous, 1993 statute. It also mandated that no one over the age of sixty-five could hold elected office, that officeholders must have "a perfect command of the state language," (Kazakh) and, significantly, instituted a 50 percent participation barrier for presidential and parliamentary elections to be considered valid.⁸ A second round of voting would be held if any candidate failed to gain 50 percent of the vote; a simple majority would carry the second round.⁹ Though no international observers monitored the referendum, local voting monitors found ample evidence that results were falsified.¹⁰

After ruling without a legislature for nine months, President Nazarbaev scheduled the elections for December 1995, which created the currently sitting parliament. International and Kazakhstani observers maintained that fraud and intimidation marred that process as well. While official figures maintained a 90 percent turnout, local observers who monitored 186 of the several thousand polling stations found an average turnout, even taking into account common practices such as "family voting," of only 30 percent. At one Almaty polling place, independent observers documented that 186 percent of the number registered to vote at the station cast ballots.¹¹

Nazarbaev continued to use the 1993 "temporary" statute allowing the president to change or institute any law by decree to guarantee the inviolability of presidential power.¹² A December 1995 decree further increased presidential authority even beyond that enshrined in the August 1995 constitution, allowing the president to order parliamentary elections at will and to annul any existing law.¹³

Yet, throughout this period President Nazarbaev rarely retreated from his rhetorical public commitment to building a democratic system of governance. Even as he disbanded parliament in 1995, Nazarbaev insisted that it was the Constitutional Court, not he, that demanded its dissolution. "The law is the law, and the President is obliged to abide

⁷Article 63 of the 1995 Constitution states, "The President of the Republic of Kazakhstan may dissolve Parliament in cases of the Parliament's role of no confidence in the Government, the Parliament's second refusal to approve the nominee for Prime Minister, or of a political crisis resulting from an insurmountable disagreement between the Chambers of Parliament or between Parliament and other branches of state power."

⁸On the state language, see Section III, Article 41, point 2, Constitution of the Republic of Kazakhstan, adopted by referendum August 30, 1995.

⁹Article 41, point 5 reads: "Elections shall be deemed valid if more than fifty percent of the citizens entered into the voter registration lists participate in the voting."

¹⁰Almaty Helsinki Committee, *Human Rights in Kazakhstan Annual Report 1996* (Almaty, 1997), p. 42. According to this report, one election committee official lost her job after the district prosecutor charged her with "undermining the state order" for reporting presumably accurate vote counts—62 percent against the referendum and 37 percent for.

¹¹Almaty Helsinki Committee, *Ibid.*, p. 42. Several years after Kazakhstan's independence, the government changed the name of the original capital of the republic from Alma-ata ("father of apples") to Almaty. In 1998, the government shifted the capital from the southern city of Almaty to the north-central steppe town of Astana. Astana acquired its name, which translates as "capital" in Kazakh, in 1998, before which it was called Akmola ("white grave" in Kazakh), and even earlier, Tselinograd ("city of virgin soil" in Russian, a reference to its origins in Khrushchev's virgin soil campaign of the late 1950s).

¹²Law of the Republic of Kazakhstan on the Temporary Delegation of Supplementary Authority to the President of the Republic of Kazakhstan and Heads of Local Administration, December 10, 1993.

¹³"Decree of the President of the Republic of Kazakhstan with the Force of Constitutional Law on the President of the Republic of Kazakhstan," signed December 26, 1995, *Kazakhstanskaia pravda* [The Truth of Kazakhstan] (Almaty), December 28, 1995; Bhavna Dave, "Another decree on strengthening presidency in Kazakhstan," *OMRI Daily Digest*, no. 240, part I, December 28, 1995. New powers in 1995 include the power to "annul or suspend completely or partially the effect of the Government's acts and those of the *akims* [governors] of the oblasts, major cities and the capital," as well as to introduce legislation.

by the constitution ... otherwise, how will we build a rule-of-law state?"¹⁴ He noted that the decision to cancel scheduled 1996 presidential elections was made by the Kazakhstan Peoples' Assembly, a national consultative body; "They appealed to me," he claimed.¹⁵ However, the president did argue for Kazakhstan's special circumstances to blunt criticism of his decision, stating that "Western schemes do not work in our Eurasian expanses."¹⁶

Kazakhstan's Media, 1992-1997

¹⁴"Democracy is a goal we must attain," *Trud* [Labor] (Moscow), April 27, 1995, p. 1, cited as FBIS-SOV-95-081.

¹⁵*Ibid.*

¹⁶*Ibid.*

Until 1998, Kazakhstan enjoyed the reputation of a state with a relatively free press. This reputation stemmed in part from the government's strides in permitting the creation of a wide array of private media outlets, both print and broadcast. Both the 1993 and 1995 constitutions, as well as the Law on Mass Media, guarantee freedom of expression and forbid censorship.¹⁷ In 1995 this law was amended, abolishing the Ministry on the Press and creating in its place the National Agency for the Press and Mass Information. In October 1997, the agency was again given ministerial status, as the Ministry of Information and Public Accord. Privately owned papers, television, and radio stations were for several years to publish and broadcast investigative journalism and opinions critical of a relatively wide array of government policies. Nonetheless, government critics were tried and sentenced for criminal libel or defamation, including offending the honor and dignity of the President and of other government officials. Functionaries had other means of retaliating against media critics—the head of the Almaty city government shut down the printing press that published the newspaper *Karavan* after it criticized him in 1994. *Karavan* later resumed publication outside of the country.¹⁸ Other media organizations were forced out of rented office space under pressure from authorities.¹⁹

With the disbanding of Parliament in 1995 the government intensified its efforts to rein in the media.²⁰ Several journalists served prison time for their criticism of local authorities, while libel suits nearly closed two papers. The media law's provision against sowing inter-ethnic discord served as the pretext to close down other independent papers.²¹ The Kazakhstan International Bureau for Human Rights and the Rule of Law (KIBHR) alleged that pervasive self-censorship marred Kazakhstan's putative press freedom, with journalists and editors well aware of taboo subjects: "inter-ethnic relations, direct criticism of the President, how foreign credits and loans are used,...discussion of corruption in the higher echelons of power..."²²

¹⁷The Law on Mass Media was passed in June 1991, and governed relations between the state and the press until the president signed the new Law on the Mass Media on July 23, 1999.

¹⁸Human Rights Watch, *World Report 1995* (New York: Human Rights Watch, 1995), p. 213. Subsequently *Karavan's* owners again began printing the paper inside Kazakhstan. The *Karavan* group also controlled radio and television broadcasting companies until 1998.

¹⁹KABHR, *Spravka o situatsii s pravami cheloveka v Kazakhstane za 1993 god i pervye tri mesiatsa 1994 goda*, Almaty, April 1994.

²⁰Human Rights Watch, *World Report 1996*, p. 222.

²¹This provision forced the editors of the Kazakhstan edition of the national *Komsomolskaia pravda* to issue an apology for printing an article by Russian writer Aleksandr Solzhenitsyn in which he claimed that the northern territory of Kazakhstan rightfully belongs to Russia.

²²KIBHR, *The Human Rights Situation in Kazakstan, January-October 1996* (Almaty, 1996).

By late 1996, it was evident that the government intended to shut down independent television and radio companies by depriving them of their broadcast licenses. In 1993, the Ministry of Information had begun to grant licenses to private commercial broadcast companies; it issued licenses at a minimal cost to all applicants, 200 in all. Of those, forty-seven stations operated in 1996. The stations purchased equipment and paid for the services of state-owned transmitters.²³ In December 1996, the Ministry of Communications abruptly announced that in January 1997 a closed bidding process would decide the fate of frequencies for which licenses had been granted to private companies, despite the fact that the period for which many licenses had been issued would end only in spring 1998. Starting bids would be U.S.\$150,000 for television stations and U.S.\$50,000 for radio, a massive sum by local standards.²⁴ Thirty-one stations were effectively prevented from retaining their licensed frequencies in the closed bidding process; the ministry shut down their broadcasts immediately after each auction.²⁵ Many of the stations closed had broadcast news and opinion programming critical of the government. One member of the presidential administration reportedly told employees of one closed station, TV M, "that it was being shut down because its output was 'too politicized.'"²⁶

By 1998, a persistent economic downturn continued to depress newspaper readership. Government publications continued to dominate Kazakhstan's print media, both on the national and regional levels. Several privately owned weekly papers, however, published in Almaty and Astana, and enjoyed print runs in the tens of thousands: *Karavan*, *Nachnem s Ponedel'nika* [Let's Begin with Monday], *Vremia po*, and *Panorama*, among others.²⁷ In addition, each provincial capital had at least one or two privately owned papers, with varied editorial positions vis-a-vis the government.²⁸ Throughout 1998, a handful of new privately owned papers emerged both in Almaty and in the regions: among them were the Russian-language *Provintsia*, *Region iug*, *Soroko*, *Tsentr*, and *XXI Vek*, among others, and the independent Kazakh-language newspaper *Dat*.²⁹ Some were begun from scratch, while some assumed licenses from publications faltering financially. It was widely reported that these publications had links to former prime minister Akezhan Kazhegeldin.³⁰

As with broadcast companies in 1997, observers assert that the recent sales of privately owned newspapers has been accompanied by an editorial shift more favorable to the government. Reliable sources claim that the paper *Novoe Pokolenie* (New Generation), along with the popular and widely-distributed *Karavan*, were sold to businessmen associated with the government in mid-1998.³¹

²³The president of Totem, one of the closed stations, recalled that the government censored Totem's broadcasts during the crisis surrounding the 1995 disbanding of parliament by switching off its access to the transmitter. Human Rights Watch interview with Rozlana Taukina, Almaty, December 2, 1998.

²⁴The average monthly income in Kazakhstan in January 1997 was 7,677 tenge or U.S.\$101.69. TACIS, Economic Trends Quarterly Issue, Kazakhstan, January-March 1999, May 1999, Brussels, p. 105.

²⁵European Institute for the Media, "Media Coverage of the Presidential Elections in Kazakhstan," Dusseldorf, February 1999, pp. 18-19. Human Rights Watch, *World Report 1998* (New York: Human Rights Watch, 1998), p. 264. According to Kazakhstani lawyers, only a court action can revoke licenses. Many of the stations deprived of their licenses under the umbrella of the Association for Independent Media of Central Asia (ANESMICA) are involved in an ongoing lawsuit against the Ministry of Communications. Human Rights Watch interview with Alla Dmitrievna Ryzhkova, Director, Sherwod and Mackenzie, Almaty, December 6, 1998.

²⁶Human Rights Watch, *World Report 1999* (New York: Human Rights Watch, 1999), p. 264.

²⁷Thanks to the well-known practice of sharing newspapers among many adults, readership is presumed to exceed print runs several times over.

²⁸Andrei Sviridov, "SMI v SNG: Sumerki svobody," in *Scripta manent: napisannoe ostaetsia* [What is Written Remains], (Alma-ata: 1998), pp. 136-7.

²⁹*Provintsia* [Province] was published in Aktiubinsk; *Region iug* [The Southern Region] in Taraz; *Soroko* [The Magpie], in Karaganda; *Tsentr* [Center]; in Astana, *XXI Vek* [The 21st Century]; and, *Dat* [Let Me Speak], in Almaty.

³⁰Human Rights Watch interview, Almaty, December 12, 1998. Editors and journalists generally avoided naming Kazhegeldin as their financial backer outright, but did not deny it when asked.

³¹Human Rights Watch interview with Tamara Kaleeva, op cit.; the sale of *Karavan* (whose owners also divested themselves of the broadcast company they owned) is cited in U.S. Department of State, *Kazakhstan Country Report on Human Rights Practices for 1998*, February 26, 1999. *Karavan* had repeatedly experienced increasing pressure in 1997, including attacks on its telephone communications, a mysterious fire at its warehouse, which destroyed its stores of paper, and the cut-off of its electricity.

FROM "DEMOCRATIZATION" TO SNAP PRESIDENTIAL ELECTIONS

Late in 1997, President Nazarbaev unveiled a long-term vision for Kazakhstan's development, the Kazakhstan 2030 program. Increasing democratization did not figure in the seven strategic priorities it outlined. It called instead for the creation of an "effective and modern corps of civil servants in Kazakhstan who are committed to their work and able to act as the people's representatives... ." ³²

Late in 1997 an official of a purportedly nongovernmental organization that received state credits sued the paper for libel, in response to an article about his activities that it printed in 1994. "They are trying to shut us down again," *Karavan*, January 30, 1998, pp. 1-2, cited in FBIS-SOV-98-048.

³²N. Nazarbaev, *Kazakhstan 2030; Poslanie Prezidenta strany narodu Kazakhstanu* (Almaty, 1998), p. 33.

Six weeks after the Russian financial crisis, however, Nazarbaev drastically increased his rhetorical commitment to democracy. His September 30 speech, widely disseminated by Kazakhstan diplomatic agencies abroad, outlined a series of extensive measures to introduce more public participation in government, while concentrating for the most part on planned economic measures intended to head off the Russian contagion.³³

Unnamed diplomats and other international sources interviewed in Kazakhstan indicated that throughout 1998, and particularly after parliament adopted amendments to the Law on Elections in May, there were persistent rumors in the country that the government would call early presidential elections.³⁴ The amendments prohibited anyone from standing for election (to any post) who had been found guilty in the previous year of any violation of anti-corruption legislation, or who had been found guilty by a court of any administrative violations. They also added the requirement that potential candidates submit to the Central Electoral Commission documents certifying their mental health.³⁵

Western sources initially reported being "encouraged" by Nazarbaev's seemingly categorical denials that elections would be speeded up. Those denials softened decisively when Nazarbaev stated publicly in early October that though holding early presidential elections would contravene the constitution, "there is a grain of rationality in this suggestion."³⁶ After meeting with lawmakers in an all-day closed-door session on October 7, 1998, President Nazarbaev signed into law constitutional amendments eliminating the sixty-five year age limit on officeholders (he will turn sixty-five in July of 2005), increasing the president's term from five to seven years, and removing the 50 percent minimum participation threshold for presidential elections established in the 1995 constitution.³⁷

The next day, October 8, Parliament appealed to President Nazarbaev to shorten his term in office (scheduled to expire in 2001) and to hold new elections in January 1999.³⁸ International observers remarked politely that this call, like previous ones, seemed "staged." The same day, Nazarbaev signed the provisions into law, setting elections for January 10.

³³"President of Kazakhstan Announces Bold Economic and Democratization Reform Program," government press release, Astana, September 30, 1998.

³⁴*Karavan*, March 27, 1998; Agence France Presse, October 7, 1998; Human Rights Watch interview, Almaty, December 5, 1998.

³⁵"On Amendments and Additions to the Decree of the President of the Republic of Kazakhstan with the Force of Constitutional Law on Elections in the Republic of Kazakhstan," *Kazakhstanskaia pravda*, May 8, 1998.

³⁶Agence France Presse, October 6, 1998.

³⁷Law of the Republic of Kazakhstan on the Introduction of Changes and Amendments to the Constitution of the Republic of Kazakhstan, *Kazakhstanskaia pravda*, October 8, 1998.

³⁸Resolution of the Parliament of the Republic of Kazakhstan on Curtailment of the Term in Office of the President of the Republic of Kazakhstan, Nazarbaev N.A., on the Calling of Presidential Elections in the Republic of Kazakhstan, *Kazakhstanskaia pravda*, October 9, 1998.

Some Kazakhstani commentators have questioned the legitimacy of the parliamentary and presidential actions under Kazakh law on the grounds that they violated the legal status of referenda. When the April 1995 referendum canceled the presidential vote scheduled for early in 1996, it set the date for the next presidential election as December 2000.³⁹ According to chapter IV, article 35, paragraph 2 of the Presidential Decree with the Force of Constitutional Law on Republican Referenda, issued in November 1995:

Inconsistencies between decisions taken by referenda, the Constitution, constitutional laws, laws and other normative legal acts of the Republic are to be eliminated by changing the Constitution, constitutional laws, laws and other normative acts to bring them into correspondence with the decisions taken by referenda.⁴⁰

³⁹ The text of the referendum asked voters to agree or disagree to “extend the term in office of the President of the Republic of Kazakhstan N.A. Nazarbaev, who was elected nationwide on 1st December 1991, until 1st December 2000.” *Kazakhstanskaia pravda*, April 11, 1995. The Central Electoral Commission reported official results that 91.2 percent of registered voters cast ballots, 95.46 supported the measure and 3.76 were against. Moscow, Interfax, May 5, 1995.

⁴⁰ Signed into law November 2, 1995. *Vesti Kazakhstana*, November 4, 1995.

In other words, no laws passed by the Parliament or the president could take legal precedence over decisions mandated through a referendum. Referenda can be changed or amended only through other referenda. Many opposition leaders called for a new popular referendum ⁴¹

Nevertheless, no constitutional challenges to the new provisions were brought, and plans for elections went ahead. President Nazarbaev, Communist Party leader Serikbolsyn Abdildin, and former prime minister Akezhan Kazhegeldin immediately announced their intention of running for president. On October 16, the Central Electoral Commission (CEC) issued instructions setting out the procedures for candidates' registration, mandating that persons should put forward their candidacy or be nominated by November 10, and, after their eligibility is established by the commission, should submit all materials required for registration by November 30.⁴² Regulations set that date as the start of the official campaign.

By that date, the CEC had registered four candidates: the incumbent president, Communist Party leader Abdildin, and two political unknowns, General Gany Kasymov, head of the State Customs Committee, and Senator Engels Gabbasov, a writer. After a campaign characterized by international organizations as "falling far short" of international standards, and by the U.S. State Department as "disappointing," Nazarbaev won reelection with more than 79 percent of the vote. Election officials claimed that 86.28 percent of eligible voters cast ballots.⁴³

VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION

⁴¹Appeal to the people of Kazakhstan, October 12, 1998, signed by eighteen public figures, including leaders of the opposition movement Azamat, the Communist Party, the Russian Community, leading journalists, and human rights and environmental activists. See also reports on a press conference given by Azamat, October 9. Moscow Interfax in English, October 9, 1998.

⁴²"Informatsiia tsentral'noi izbiratel'noi komissii Respubliki Kazakhstana o poriadke vydvizhenie i registratsii kandidatov v Prezidenty Respubliki Kazakhstana," *Kazakhstanskaia pravda*, October 16, 1998.

⁴³Heather Clark, "Nazarbaev wins crushing re-election, promises democratic reform," AFP, January 11, 1999. The CEC moderated initial results giving Nazarbaev an 81 percent victory downward to 79.78 percent. Itar-Tass, January 16, 1999. The OSCE refused to send a full observer mission to monitor the vote, judging that the legislative framework for the elections, as well as access to the ballot and to the media for opposition candidates, fell short of Kazakhstan's OSCE commitments. OSCE/ODIHR Election Assessment Mission, Republic of Kazakhstan 1999, Preliminary Statement, Almaty, January 11, 1999.

As plans for early presidential elections developed through the summer and early fall of 1998, state authorities began a campaign to curb critical media. The government began with vague threats to prosecute independent media through the courts for political offenses in April and May. Perhaps in reaction to international scrutiny, it found ways to stymie the publication and distribution of unsympathetic newspapers that did not require overtly political measures. The independent electronic media had already been brought under state control in 1997.⁴⁴ Nonetheless, particularly in the period from September through December, the government succeeded in halting or suspending the publication of at least three non-state publications, and seriously complicating the work of many others.

⁴⁴This section addresses distinct violations of the right to freedom of expression documented by direct testimony in November and December 1998. It does not attempt to address the overall conduct of political campaigns in Kazakhstan's media. Other investigators who surveyed television coverage in the weeks before the election have shown that television showed a clear bias toward President Nazarbaev, who garnered the vast majority of air time and the most laudatory coverage. European Institute for the Media, "Media Coverage of Elections in Kazakhstan," February 1999. The government of Kazakhstan, in an attempt to counter this impression, widely distributed a videotaped sample of television coverage of the three opposition candidates, as well as a full English language transcript of the program. Letter from Ambassador Bolat Nurgaliev, December 28, 1998. Testimony gathered by Human Rights Watch confirmed that the government-run media, including television and radio broadcasters, routinely violated provisions of the election law which provides for the start of official campaigning only after the registration of candidates has been completed. Written statement by V.B. Bondarenko, member of the Organization of Russians, Karaganda, November 11, 1998.

The government of Kazakhstan called upon the use of four methods to hamper the independent print media in the nine months preceding the January 1999 presidential vote. Authorities brought criminal charges against individuals and publications, accusing them of engaging in criminal speech. Other law-based measures included confiscating papers on grounds of alleged violations of the Law on the Mass Media, as well as bankrupting papers through massive libel damages awarded to government officials. The second method involved disruption of the papers' activities by various state agencies—including the tax inspectorate, customs agents, and state printing and distribution networks.⁴⁵ Third, government officials and editors of state media outlets alike engaged in formal and informal censorship, sometimes outright forbidding journalists from using material, and sometimes resorting to less obvious types of pressure. Finally, it is alleged that in at least one incident, violence was used to thwart publication of a critical newspaper.

These actions, whether undertaken directly by state employees, or by others under the active or tacit sanction of government officials, clearly contravene Kazakhstan's domestic and international legal obligation to protect freedom of expression.⁴⁶

⁴⁵The OSCE High Representative on Freedom of the Media underscored these measures in a report to the OSCE Permanent Council. He stated: "Kazakhstan...has not fully recovered from pre-election crackdown on the media. ... The pressure on Kazakhstan's independent media would appear to be mostly indirect. The Government apparently seeks to influence media coverage through licensing requirements, tax inspections and the occasional shut-down. I understand that pressure on the media somewhat alleviated after the election, but there are concerns that this kind of pressure might resurface in the days leading up to the parliamentary and local elections scheduled for later this year." The OSCE Representative on Freedom of the Media, Report to the Permanent Council on the Media Situation in Central Asia, Vienna, May 25, 1999.

⁴⁶Kazakhstan, though not a signatory to the International Covenant on Civil and Political Rights nor to the Optional Protocol, as a member state of the OSCE and United Nations, is bound by OSCE standards, as well as by the principles of the Universal Declaration of Human Rights (UDHR) proclaimed by the U.N. General Assembly in 1948. Article 19 of the UDHR states that:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

The Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, signed in Copenhagen June 29, 1990 (hereafter the OSCE Copenhagen Document) binds Kazakhstan, as a member of the OSCE, to the standard outlined in article 9.1, which clearly mandates that the right to freedom of expression "will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers." Under bilateral agreements

Restrictions in Criminal and Civil Law Inhibiting Free Speech
Indictment of the Kazakh Media

as well, Kazakhstan committed itself to respect freedom of expression. The Final Report of the United States-Kazakhstan Joint Commission “reaffirmed their adherence to the principles of a free and democratic society, including...freedom of speech and assembly, and media independence, in accordance with their commitments as participating states in the OSCE.”

Kazakhstan’s own constitution enshrines the right to freedom of expression in article 20, which states that “the freedom of speech and creative activities shall be guaranteed,” and that “censorship shall be prohibited.” Likewise, the Law on the Mass Media repeats these provisions, and furthermore forbids interference in the work of mass media organizations by government officials.

Late in April 1998, President Nazarbaev scathingly criticized Kazakhstan's media during a cabinet session and made several threatening remarks about "well-deserved" punishments the media could face.⁴⁷ These remarks came on the eve of a conference on the broadcast media in the new capital, Akmola, sponsored by the U.S. Information Agency, and of the publication of a half-page article by former prime minister Akezhan Kazhegeldin in one of the leading privately owned papers, *Karavan*. Several days later, the Procuracy General issued a press release announcing criminal charges against numerous private media outlets for 270 alleged violations of Kazakh law, including "abuses of freedom of speech, incitement of national enmity...aimed at instigating disputes and controversy over the country's history and sovereignty." Though the procuracy denied that the charges were intended "to prevent the professional activity of print and electronic media, or citizens' expression of their opinions, convictions and ideas," the announcement clearly aimed to silence critical voices. It said that the charges stemmed from the media's "non-objective, insulting statements directed at government organs, officials and ordinary citizens."⁴⁸

The procuracy initially named no concrete violators; but later, the Interior Ministry gave the names of four publications.⁴⁹ Ultimately, it did not press any charges against any media outlet. But Kazakhstan's media outlets had been served notice that state authorities were watching them closely, and were prepared not only to intimidate them, but to take more serious action.⁵⁰

The Law on National Security

On June 26, 1998, Kazakhstan's parliament passed the Law on National Security of the Republic of Kazakhstan (henceforth, the Law on National Security), which contained several broadly formulated provisions that have the potential to chill freedom of expression.⁵¹ The law defines threats to "national security" as any action giving rise to, among other things, "the heightening of socio-political tensions, resulting in inter-ethnic or inter-confessional conflict, mass disorders, unsanctioned meetings, demonstrations, pickets and strikes." Article 22 defines measures to protect "informational security": part six gives the procurator general the power to close any media outlet judged to "pose a risk to national security," without specifying what agency can make that determination. This provision contradicts the existing 1991 Law on the Mass Media, which in article 13 empowered only a court or the publishers themselves to shut down a media outlet. Moreover, the new law forbids "releasing any official or other information pertaining to state interests" (article 22, section 5, part 3). Other provisions forbid distributing any foreign media source containing information that "threatens national security (article 22, point 4)," and outlaw foreign ownership of more than a 20 percent stake in any media outlet (article 22, point 4). Ironically, the law was passed on June 26, only two days before journalists' professional holiday, "Press Day."

International law in general permits restrictions on expression, for the protection of national security or of public order, or public health or morals, and it is understood that such restrictions must not jeopardize the right to free

⁴⁷*Delovaia nedelia* [Business Week] (Almaty), June 24, 1998.

⁴⁸*Kazakhstanskaia pravda*, May 5, 1998.

⁴⁹Though it did not name *Karavan*, the procuracy's press release contained language that clearly referred to the controversial March article by Petr Svoik, published in *Karavan* (see below). Sviridov, *Problemy svobody i kachestva kazakhstanskikh SMI, 1995-98* (Alma-Ata, 1998), p. 166. Nearly a month after the initial announcement, Interior Minister Qayirbek Suleymenov named *Karavan*, *Kazakhstanskaia pravda*, *Rabochaia zhizn'* [Workers' Life], and *Biz-my*, among others, as under investigation. *RFE/RL Newslines*, May 22, 1998.

⁵⁰The independent press reacted sharply to the procuracy's announcement, decrying this step backward towards censorship. Even the official state paper, *Kazakhstanskaia pravda*, perhaps realizing the furor this had caused, ran an editorial with the headline "Calm down, Procurator!" Andrei Sviridov (the leading chronicler of media freedoms in Kazakhstan), op. cit., p. 166. Later in May the International Helsinki Federation sponsored a seminar on civil rights in Almaty, which drew international attention to the situation. Only in August did the procuracy announce that its investigation did not yield any evidence of criminal action by the major newspapers named; having dropped the action against the paper *Karavan*, it continued to press its suit against the author of the offending article, Petr Svoik (see below). Sviridov, op. cit., p. 174.

⁵¹In article I, the law defines national security as consisting of three components: external security, military security, and information security, or "protection of state information resources and also the rights of the individual and the interests of society in the information sphere." Published in *Kazakhstanskaia pravda*, June 30, 1998, p. 3.

expression. The Law on National Security fails to justify its overly broad categories of restrictions in terms of specific national security interests. In at least one case, the authorities exploited the law's vagueness in order to cripple an independent newspaper during the campaign period.

The procurator general issued an order on October 25, 1998, closing TOO Big-L, the company that published the paper *XXI Vek*. The Almaty City Department of Justice notified the company's owner and editor-in-chief, Bigeldi Gabdullin, of the order, allegedly in writing, but Gabdullin said he was unable to obtain a copy of the actual order, or to find out on what grounds the procuracy had moved against his firm. Gabdullin first appealed to the procuracy in person to obtain a copy of the order, but was refused. He then tried to file a suit in an Almaty district court to force the procuracy to provide a copy of the order, to no avail—the court refused to accept the case.⁵² Finally, approximately one month after the order was issued, a journalist working for *XXI Vek* said he learned from an unnamed source within the procuracy that the procurator general based his action on the paper's alleged violations of the Law on National Security.⁵³ The same source reported that an article that the paper published in September comparing Kazakhstan with its neighbor, Uzbekistan, was alleged by the procuracy to have ignited national enmity.

The paper's bank accounts were frozen; early in November electricity in the building where its offices are located was briefly cut off in what appeared to be a punitive measure. Using private funds, the paper continued to publish, until its accounts were un-frozen in January 1999. Shortly after the presidential election on January 10, the procurator general issued an order rescinding his original decision on the closure of TOO Big-L.⁵⁴

Impugning "Honor and Dignity" Violations

Kazakhstan's criminal code contains several provisions limiting freedom of expression: it establishes a penalty of up to three years of imprisonment for "impugning the honor and dignity of the President of the republic" (article 318), or for "slander of official persons," and up to four years of imprisonment for "incitement of social, national [ethnic], clan, racial or religious enmity" (article 164). These provisions encroach on legitimate freedom of expression in Kazakhstan, because they are used against those who forward legitimate criticism of state officials that is fully protected political comment and opinion under international human rights standards. Two opposition politicians were charged with this offense in 1998, the threat of which is a significant means of intimidation. One was sentenced to a year in prison; the investigation against another was allowed to flag, though the charges were not formally dropped.

On February 27, 1998, without presenting a procurator's sanction as mandated by Kazakh criminal procedure, police detained Madel Ismailov, chairman of the opposition "Workers' Movement," holding him incommunicado for several days before informing relatives of his whereabouts. "They didn't even show any identification," according to Ismailov, who was beaten at the time of his arrest.⁵⁵ An Almaty court convicted Ismailov on April 7 of insulting the honor and dignity of the president, in connection with a pejorative term he allegedly used in addressing the president during a peaceful opposition demonstration in Almaty in November 1997.⁵⁶

The Karaganda paper *Soroko* was also threatened with being charged with offending the honor and dignity of the president. If committed through the mass media, this offense carries a maximum penalty of three years of imprisonment.⁵⁷ After the confiscation of *Soroko's* October 29 edition, the Committee for National Security (or KNB, formerly the KGB) summoned an expert commission of lawyers, political scientists, and other scholars, which

⁵²Human Rights Watch interview with Bigeldi Abdullin, Almaty, December 12, 1998.

⁵³Ibid.

⁵⁴Ibid.; telephone interview with Bigeldi Gabdullin, August 3, 1999.

⁵⁵Human Rights Watch interview, Madel Ismailov, Moscow, April 16, 1999.

⁵⁶Article 318 criminalizes "public insult to or other infringements on the honor and dignity of the President of the Republic of Kazakhstan." *Ugolovnyi kodeks Respubliki Kazakhstan* (Almaty, 1997), p. 452. Ismailov served his one-year sentence in a general-regime labor camp in Kazakhstan's northern province, and was released on February 25, 1999. Human Rights Watch interview, Madel Ismailov, April 16, 1999. Evgenii Zhovtis, Chairman of the KIBHR, confirmed the basis for the suit. *Testimony at the hearings of the U.S. Congressional Commission on Security and Cooperation in Europe*, May 6, 1999.

⁵⁷*Ugolovnyi kodeks respubliki Kazakhstan*, Almaty, 1997, p. 452.

determined that *Soroko* had in fact not violated article 318. Soon after that determination, however, a court halted *Soroko*'s publication on other grounds (see below).

"Inciting National Enmity"

The government charged Petr Svoik, co-chairman of the opposition political party Azamat (Citizen), with slander, offending an official, as well as "inciting national conflict" through an article published in *Karavan* in March, entitled "Kazakhstan and Russian: Will They Enter into a New Union?"⁵⁸ Procurator General Iurii Khitrin named the article specifically in his May speech before parliament on violations of law by the media, but did not file charges until October.⁵⁹ Svoik learned of the accusations while in the Almaty jail serving a three-day administrative sentence for participation in the founding meeting of the Movement For Honest Elections (see below). "Right away in the holding cell two investigators came to me and informed me that the criminal case had been opened," Svoik recounted.⁶⁰ Upon receiving the news of the charges, which potentially carried combined penalties of up to seven years of imprisonment, Svoik suffered heart pains and was transferred to a hospital, from which he was released several days later.

Karavan editors prefaced the article, which appeared under the rubric "Hyde Park," by noting that it was sure to be controversial, even to arouse the ire of the government, and that they could not agree with many of its arguments, but that nevertheless Kazakhstan's constitutional guarantees of free speech "make it possible for citizens who hold all kinds of political convictions to express themselves in print."⁶¹ In it, Svoik analyses the long history of Kazakh-Russian relations, outlining some of the major factors complicating Kazakhstan's efforts to establish independence from its northern neighbor.

⁵⁸ "Kazakhstan I Rossiia: Byt' li v novom soiuze?" *Karavan*, March 20, 1998, pp. 36-37. The charges finally leveled against Svoik were of violating article 164, part 2 (incitement of national hatred committed by a leader of a social organization), article 129, part 3 (slander, and accusing a person of committing a felony), and article 320, part 2 (offending an official) of the criminal code. Senior Investigator of the Department of Internal Affairs, Lieutenant Colonel P.Iu. Tepsaeva, Decree of Criminal Charges, October 17, 1998.

Svoik served from 1993 to 1996 as chairman of the State Anti-Monopoly Committee, a ministerial agency. He was dismissed in 1996 after a policy conflict with the government, which answered his criticism with criminal charges against him. The investigation against Svoik, for allegedly misappropriating \$13 million in government funds, was allowed to languish, but the charges, according to Svoik, were never formally dropped. Azamat was established in 1996, after Svoik was forced out of his government post. The party advocates the parallel pursuit of political and economic reform in Kazakhstan.

⁵⁹ *Karavan*, May 29, 1998.

⁶⁰ Human Rights Watch interview with Petr Svoik, Almaty, December 3, 1998. Unless otherwise noted, information about Svoik's case is drawn from this interview.

⁶¹ *Karavan*, March 20, 1998, p. 36.

Authorities claimed that several statements in the article, which they interpreted as denigrating the Kazakhs as a people, could serve to incite ethnic hatred. The charges claimed that Svoik's assertion that government officials were often corrupt and incompetent amounted to "knowingly, publicly, and in the media insulting government representatives." Finally, the investigator made the claim that Svoik's characterization of Kazakhstan as poor and provincial:

[has] harmful and dangerous consequences for the preservation of political stability in the Republic, because it fuels the chauvinistically-minded part of the Russian-speaking population in their conviction that Kazakhs, as a nation, are deficient or "intellectually poor."⁶²

On November 20, a group of nearly thirty ethnic Kazakh intellectuals issued an open letter refuting the idea that Svoik in any way supported ethnic chauvinism. The letter also called into question the timing of the charges, coming as they did at the beginning of the presidential election campaign.⁶³

⁶²Senior Investigator of the Department of Internal Affairs, Lieutenant Colonel P.Iu. Tepsaeva, Decree of Criminal Charges, October 17, 1998, p. 4.

⁶³To the Senior Investigator of the Department of Internal Affairs, P.Iu. Tepsaeva, Appeal in the Case of P.I. Svoik, November 20, 1998.

During the following six weeks, six different investigators summoned Svoik for questioning. Though he continued to publish articles and to organize Azamat, the threat of imprisonment, Svoik explained, was "...stressful. Though [the accusations] are odious, are a caricature, nevertheless they could put me in prison without batting an eye."⁶⁴ By early December, Svoik ceased to be called in for questioning; he was given to understand that the investigation had lapsed but that the charges had not been formally dropped.

The Press and Media Law

Courts used the press law arbitrarily to halt publication of papers whose content seemed favorable to the opposition. The weekly Karaganda newspaper *Soroko* had published six issues when, on October 23, their entire print run of 30,000 was first seized at the Russian-Kazakh border, then removed from private distribution (see below).⁶⁵ In fact, article 22 of the Law on the Media states that "Obstructing the lawful distribution of media products, including the confiscation of print runs in whole or in part, is not permitted, except on the basis of a court order." After the confiscation of the October 22 issue, on October 27 the Karaganda regional procurator's office did issue an order halting the publication of *Soroko* for six months, based on alleged violations of article 18 of the Law on the Media.⁶⁶ The procuracy accused the paper of not printing in each issue the hour the issue went to press, the price of the paper, and the address of the editorial office and printing press. In fact, this charge is certainly motivated more than by the fact that *Soroko* has links to former prime minister Kazhegeldin than by vigilant defense of the law: article 18 of the law does not require that the hour of publication be shown (this was usual in Soviet times for daily papers; *Soroko* is a weekly). With regard to the sale price, privately owned Kazakhstan papers usually state on their cover pages that they are sold according to "free" or "market" price (*tsena dogovornaiia*), as did *Soroko*. And in fact, as Junusova stated:

In every issue of the paper we give the detailed address, and we even have a map of how to get there. We don't have a printing press....All of the national newspapers, in other words, pro-presidential ones, give only the name of the press where they are printed, without the address. *Karavan* writes only that they are printed by the *Daur* printing press; they don't even name the city.⁶⁷

The district court in Karaganda did not respond to a protest against the procuracy's order lodged by the editor and publisher of *Soroko*. On the same day that the procuracy issued the order, the publisher was informed that the court would hear the case, although the judge had received neither a summons nor a copy of the charges.

The court did not inform the editors of the decision to confiscate the papers. When the October 29 issue went to press in Novosibirsk and reached the Kazakh border, customs officials again sequestered the entire print run, this time of eight thousand. Only after a few days did the editors receive a letter from the customs department, informing them that because the customs agency believed that the paper violated article 318 of the Kazakh criminal code (offending the

⁶⁴Human Rights Watch interview with Petr Svoik, Almaty, December 3, 1998.

⁶⁵*Soroko* is printed in Novosibirsk, Russia.

⁶⁶Article 18 of the Law on the Media states: "Each issue of a print periodical must contain the following information: (1) the name of the publication; (2) its founder or publisher (*uchreditel'*); (3) last name and initials of the editor-in-chief; (4) registration number and the name of the agency which issued the registration; (5) schedule of publication (weekly, monthly); (6) the number and date of the issue; (7) periodical index number, for periodicals distributed by mail; (8) print run; (9) price (if the publication is distributed commercially); (10) the publisher; (11) the printing house; (12) the address of the editorial board, publisher and printing house."

⁶⁷Human Rights Watch interview with Jumabekir Junusova, editor of *Soroko*, Karaganda, December 10, 1998.

honor and dignity of the president—see above), the papers had been transferred to the KNB, the agency responsible for making this determination. Neither the customs agency nor the KNB, however, indicated to the editor the grounds for this suspicion, which apparently was fabricated in order to prevent the further distribution of *Soroko* before the Karaganda district court made a formal ruling on the article 18 charges.

When the Karaganda district court did hear the article 18 charges on December 4 and 7, *Soroko's* editors represented themselves, as the lawyer they had hired had been pressured not to represent the paper, according to principal editor Jumabekir Junusova. Several other lawyers refused to take the case. The court upheld the procuracy's charge in part, but as Junusova recounted, "the judge did not take into account the fact that all of the violations had been corrected in the October 29 issue."⁶⁸ The court upheld the decision to halt publication of the paper, but for only five weeks, until January 8—that is, two days before the presidential election. Junusova told Human Rights Watch:

They counted out the days; they were working with the calendar in their hands. We were read the decision aloud, and both the director and the editor signed it. I said to the judge, "Elena Ivanovna, I understand that the decision has already been taken, but let me just ask, why are you forbidding exactly five issues? Why not ten, or two?" She glared at me and said, "Because I said so!"⁶⁹

Criminal Libel

On September 10, 1998, an Almaty district court awarded an enormous award to the head of the government-funded Kazakhstan-1 television channel in his libel suit against the newspaper *Dat*. *Dat* had made a practice of publishing articles on government corruption. In this case, however, the paper merely re-printed an account of a July 7 press conference in which a former employee of the television channel claimed that the station misused government funds. The head of the station sued *Dat*, arguing that it had caused him material and moral harm, and demanding 35 million tenge (approximately U.S.\$457,000) in compensation.⁷⁰ Soon after the first Almaty court rendered its decision in favor of the plaintiff, police seized *Dat's* computer equipment and other property, and froze its bank accounts.⁷¹ Finally, after the paper's appeals were rejected, another court ruled in early December that the paper was bankrupt, and closed it.⁷²

State Agencies

Printing Presses and Distribution Services

Beginning in May 1998, and with increasing frequency after September, state-owned and private printers and distribution networks canceled contracts with independent newspapers, often with little notice and without citing any grounds for cancellation. This impeded publication of the papers by forcing them to seek alternatives, often at short notice, and to foot higher costs for transportation from distant printing presses, often outside of Kazakhstan.

⁶⁸Ibid.

⁶⁹Ibid.

⁷⁰Human Rights Watch interview with Sharip Kurakbaev, editor-in-chief of *Dat*, December 13, 1998; Human Rights Watch interview with Saia Isa, journalist, December 4, 1998. The whistle-blower in question, Ernek Tursunov, was arrested by KNB officers on July 3, but released after a public outcry two days later. No charges were ever brought against the officials he alleged to have misappropriated the funds; however, Kazakhstan-1 station officials never refuted the allegations. See Nuri Muftakh, "Golos pravdy prrovetsia; pochemu zakryli gazetn 'Dat'?" *XXI Vek*, December 10, 1998, pp. 1-2.

⁷¹*RFE/RL Newslines*, October 23, 1998.

⁷²*RFE/RL Newslines*, December 3, 1998.

Most of Kazakhstan's printing facilities are government owned. One privately owned press, Almaty's "Franklin" printing house, broke its contract with the opposition newspaper *XXI Vek* on September 9, 1998, reportedly without explanation.⁷³ In May, both Franklin's Astana branch and another printing press in the capital told the publisher of *Lad* (Concord), the newspaper of the Slavic movement, that "we don't have the technical capacity to print your paper," despite having concluded contracts to do so only one month earlier. Another provincial paper, *Irtys*, had its state publishing house contract suddenly cancelled on September 25, 1998; the printing press would not supply any grounds for the cancellation. According to its editor, this step came in retaliation for *Irtys*'s decision to print a public appeal by the Movement For Honest Elections.⁷⁴ *Lad* also had several printing contracts cancelled late in 1997 and early in 1998, before finding a small Almaty printing house that agreed to publish the paper. In July 1998, after *Lad* printed an article by Petr Svoik, then under investigation for allegedly inciting ethnic hatred (see above), police raided the printing house in search of materials from *Lad*. A private press continued to clandestinely print the paper until December, after which the paper ceased publication.⁷⁵

Newspapers whose printing presses have canceled contracts and have been refused printing services in Kazakhstan have turned to presses outside the country, in Kyrgyzstan or in Russia. *Tsent* turned to a printing press in Novosibirsk, Russia.⁷⁶ The editors of *Soroko*, aware of problems with other independent papers, including *Tsent*, made the decision from the beginning (the first issue appeared September 25, 1998) to print the paper in the Russian city of Novosibirsk. The Kazakh-language paper *Dat* was also forced to use printing services in Russia.

After papers are printed, publishers must find ways of putting them in readers' hands. The state-run distribution service, Daus, the successor to *Soiuzpechat*,⁷⁷ has the widest network of distribution points, and functions essentially as the sole truly national press distribution network. In addition, only through Daus can readers subscribe to publications for home delivery. In September, Daus refused to distribute *XXI Vek*.⁷⁸

Aside from the state-owned national distributor, small private news agents contract directly with publishers to ship papers from printing presses to kiosks and paper-sellers nation-wide. Publishers of several independent papers, including *Dat*, *XXI Vek*, and *451 po Farengaitu*, reported that from September on, unidentified agents in civilian clothes questioned and intimidated private distributors of those papers. Typically, paper sellers on the streets would be approached by one or two men who would ask about the origin of the publications, who brought them, and at what time. Sometimes, the sellers would be threatened with confiscation of the papers and warned against distributing them.⁷⁹

Customs Police

Turning to printing houses in the "near abroad," as an alternative to printing within Kazakhstan, posed new obstacles: the importation of whole print runs were blocked. The editor of *XXI Vek*, which is printed in Russia, reported that in October 1998, customs officials confiscated several editions of the paper from private distributors who were shipping it by train across the country. Jumabekir Junusova of *Soroko*, which is also published in Russia,

⁷³Human Rights Watch interview with Bigeldi Gabdullin, editor-in-chief, *XXI Vek*, December 12, 1998. Only through the state distribution agency is it possible to subscribe to the newspaper for delivery.

⁷⁴Fax communication from Kairat Ibraimov, editor of *Irtys* (named after the river on which Semipalatinsk, the city in which the paper is based, is situated), October 7, 1998. Reportedly, authorities seized print runs of the newspaper *Provintsiia*, and blocked distribution of *Region iug* in mid-October for the same reason. Written statement, Ivan Kurenkov, deputy editor of *Tsent*, February 15, 1999.

⁷⁵Human Rights Watch interview with Vladimir Mikhailov, Washington, January 27, 1999.

⁷⁶Human Rights Watch interview with Liudmila Shatalina, editor, *Tsent*, Astana, December 8, 1998.

⁷⁷*Soiuzpechat* was the Soviet-era media distribution monopoly.

⁷⁸Human Rights Watch interview with Bigeldi Gabdullin, Almaty, December 12, 1998.

⁷⁹Human Rights Watch interviews, anonymous distributors, Almaty, December 5 and 7, 1998. At the request of the interviewees, Human Rights Watch does not reveal their identity.

described the confiscation by customs officials of the October 22 and 29 editions of the paper at the Kazakh-Russian border:

When customs department agents came to our editorial offices, they began to read the paper to find out what it was that we were writing. They had been looking long and hard for some sort of incriminating material, when suddenly one of the agents said "they published a statement by Kazhegeldin!" They looked upon this as a criminal act...and they were so happy to find something...⁸⁰

⁸⁰Human Rights Watch interview with Jumabikir Junusova, Karaganda, December 10, 1998.

After the first confiscation, customs agents were forced to return the papers, as they had no legal sanction to hold the materials. Four hours after releasing the first issue, customs agents returned to the headquarters of the paper and confiscated the remaining 1,650 copies, which had not yet been sold to press agents. The very next day, they removed the paper from all state-run press agents and private newsstands. When owners of the private kiosks, which had purchased the papers, protested, the regional government in Karaganda ordered their copies returned to them (not all received them). The October 29 issue was again halted by customs agents at the border, and submitted to the KNB in an investigation of whether or not materials violated the “presidential honor and dignity” statute of the criminal code (see above). Customs police, and then officers of the Ministry of Internal Affairs, confiscated the November 4 edition of *Dat*, claiming that it had been illegally transported across the border (when in fact editors presented them with the customs declaration two hours after the police arrived at *Dat*'s offices).⁸¹

Tax Police

On October 19, 1998, several officers of the state tax police appeared at the editorial offices of the Astana newspaper *Tsentr*, and presented an order signed by the head of the local tax administration, dated October 16, authorizing an audit. According to lawyers for the paper, the order did not indicate the time period for which the audit was to be conducted, as is the usual practice. The paper's bank accounts were frozen and financial records confiscated by the officers. Ten days later, the editors of *Tsentr* pleaded in person to the head of the tax department to conclude the audit. They received no reply until December 22, nearly two months later, when they were informed that the audit would continue (and their documents and bank accounts would continue to be sequestered) until January 12, 1999—two days after the scheduled presidential election.⁸²

In its June 26, 1998 issue, *Dat*, which began publication in April, ran an article reporting that Rakhat Aliev, head of the state tax police and President Nazarbaev's son-in-law, used government resources to organize a hunting trip for rare antelopes in the Chilii province. On July 22, 1998, seven uniformed agents of the state tax police came to the paper's editorial offices and presented an order from the tax administration authorizing them to perform an audit. According to *Dat*'s editors, the agents rifled through office records over the course of four hours, making video recordings, and confiscating not only financial documentation but editorial records as well. The officers also repeatedly took all of the paper's cash, with which it was to pay authors' salaries and honoraria, and also sequestered all 20,000 copies of the latest edition of the paper, delivered that day from its printer in Russia. The following day another nine officers from the tax police appeared for a second search, and removed all of the office's computer equipment, which was used to edit and lay out the paper. In neither instance did the officers draw up an official report of their search or an official record of the property they removed.⁸³

During the second search, on July 23, according to Editor-in-Chief Sharip Kurakbaev, one of the officers presented him with company stationery and stamps from three companies, registered in Almaty, New York, and Moscow, which were, allegedly, completely unfamiliar to him. The officer said that the paper and stamps were “found” during the previous day's search; Kurakbaev surmised that authorities planned to charge the paper with violating the Law on National Security (passed one month earlier), which forbids foreign ownership of more than a 20 percent share in any

⁸¹*Dat* press release, as reported by the KIBHR, November 11, 1998.

⁸²Written statement by Ivan Kurenkov, deputy editor, *Tsentr*, February, 1999. *Tsentr* published two more drastically reduced editions during that period, using privately donated funds and an underground printing press. I. Kurenkov, L. Shatalina, “Za chto ‘arestovali’ *Tsentr*?” *Spetsvypusk Tsentr*, November 25, 1998. Human Rights Watch interview, Liudmila Shatalina, editor, *Tsentr*, December 8, 1998.

⁸³Human Rights Watch interview, Sharip Kurakbaev, editor-in-chief, *Dat*, December 13, 1998.

domestic media outlet. *Dat* was forced to close for several weeks; ultimately, perhaps due to the domestic and international outcry, the tax inspectorate declined to charge the paper with any violations.⁸⁴

⁸⁴Protests by the KIBHR spread the news of the action against *Dat* quickly. Press release, July 26, 1998.

Formal and Informal Censorship

State ownership of the major media allows officials to censor unflattering or critical material, as does pressure by state agencies on the privately owned media.⁸⁵ In an example of the latter, it is alleged that private television companies issued explicit lists of forbidden topics to their reporters.⁸⁶ But in the face of formal censorship, Kazakh journalists have in both the state-owned and private media long adapted to the need for preemptive self-censorship. When journalists transgress, stepping over the line between permitted criticism and material judged to be too threatening, they face retaliation. "Invitations" to discuss material with security agencies are a constant feature of editor's lives, and result in editorial "recommendations" that are far from voluntary.⁸⁷ Human Rights Watch spoke with several journalists and editors whose careers were placed in jeopardy—or ended—in the pre-election period. Most were unwilling to risk further endangering their careers by speaking for attribution.

In January 1998, Rozlana Taukina was fired as the director of radio programming for the media conglomerate *Karavan*. Her dismissal followed closely after the broadcast of her radio call-in program featuring Serikbolsyn

⁸⁵Andrei Sviridov reported several incidents in his late 1998 volume, *Scripta manent: napisannoe ostaetsia*. In May, the private Almaty television station *Shakhar* (City) pulled a program off the air after it reported on a tax police raid on a factory owned by the then-proprietor of the news conglomerate *Karavan*. Reportedly, the tax police issued an unofficial but persuasive warning to the owners of *Shakhar* that their own businesses would come under intense scrutiny if they did not take more care with their material (p. 166). Later that month the deputy mayor in Taldy-Kurgan responsible for "monitoring of the media" warned all local news organizations not to report on the demonstration of truck drivers protesting the arbitrary actions of the local highway patrol, including alleged extortion practices. After one independent local television station broadcast a report on the demonstration, the deputy mayor called in the head of the station to threaten retaliation (p. 168). The Moscow-based Glasnost Defense Foundation reported that during the presidential election campaign, local government authorities in the southern city of Shymkent insisted on exercising pre-publication censorship, pulling materials from local newspapers, including two private ones; one of the censored articles was an open letter by former prime minister Kazhegeldin. Glasnost Defense Foundation press release, January 25, 1999.

⁸⁶Human Rights Watch interview with Rozlana Taukina, president of the Association for Independent Electronic Media in Central Asia (ANESMICA), Almaty, December 2, 1998. The Vienna-based International Press Institute decried the practice of officials visiting independent media offices and warning journalists and editors not to cover the opposition candidates, or to publish negative stories against the president, his policies, or his family. The Institute also reported that according to its sources, officials told one unnamed independent radio station that its stories must be cleared by an "advisor" before being broadcast, and the director of one independent television station told his reporters to consider themselves part of "the president's team." Press release, November 11, 1998, as reported by *BBC Monitoring Service*, November 17, 1998.

⁸⁷Human Rights Watch interview with Valentin Makalin, journalist, *Nachnem s Ponedelnika*, Moscow, December 4, 1998.

Abdildin, head of the Kazakhstan Communist Party. Abdildin, discussing the possibility of speeded-up presidential elections with listeners, sharply criticized both the current government and the owners of the *Karavan* conglomerate.

The station's explanation of her dismissal to Rozlana Taukina left no doubt that it came in retaliation for the outspoken interview. "And after that they fired me without any discussion, [asking]'How could you have allowed him to say that!'," Taukina related.⁸⁸ Nonetheless, the president of *Karavan* invited her to resume her previous position at the station in July 1998.⁸⁹ "They asked me to return to *Karavan*. The radio station had taken a serious dive; they wanted me to improve the programming and to make it popular again." She accepted the offer. The following month, in her capacity as head of ANESMICA, Taukina addressed a forum on journalism in Moscow with her own critical remarks on the state of media freedoms in Kazakhstan. Soon after her return, the station's chief called her in, and stated that she could remain at the station only under three conditions: if she left her position as president of ANESMICA, if she ceased to make public statements criticizing the government, and if her association dropped the lawsuits it was pursuing in order to reinstate the broadcasting frequencies confiscated during the 1996 tender process to its member stations. Taukina refused, and left her position at *Karavan* radio.

In early November 1998, Tamara Kaleeva, a staff writer for the government paper *Kazakhstanskaia pravda*, wrote an article critical of President Nazarbaev's decision to dismiss several judges of the Supreme Court and of district courts. Although the article had already gone to press, the editor struck it from the proofs as the issue went to print on November 5.

I wrote that this was done in the heat of the battle against corruption, and that it contradicted the law. I cited the precise legal statutes which were violated in this whole procedure. The editor wouldn't allow the article to be printed, although I didn't write anything in the article that was against the president....He halted it while he clarified the situation. When he found out what was going on with the case, he said that I wanted to cause a confrontation between him and the president, and that if the article would have appeared he would have lost his job.⁹⁰

Kaleeva then submitted the article to the opposition newspaper, *451 po Farengaitu*, which published it.

After that, I was told [by the assistant editor] that "you are not allowed to publish in an opposition newspaper," that "this is a challenge to presidential power and authority," and that "the Minister of Information and Social Accord was highly displeased." They said I at least should have used a pseudonym....After the article appeared, the editor-in-chief [of *Kazakhstanskaia pravda*] told me that I would have to resign. I said I had no plans to resign, and that if he wanted to get rid of me he would have to fire me. But he had no grounds...⁹¹

After telling her to resign, according to her own account, the editors would not grant Tamara Kaleeva leave to attend a professional conference on freedom of speech in Moscow; she went ahead regardless. They made inquiries with the Kazakhstan embassy in Moscow, which not only confirmed that she had attended, but reported that Kaleeva "made statements at the Congress which negatively characterized the state of freedom of the press in Kazakhstan."

⁸⁸Human Rights Watch interview with Rozlana Taukina, president of ANESMICA, Almaty, December 2, 1998.

⁸⁹In June 1998, ownership of the *Karavan* conglomerate changed hands, with observers alleging that the government pressured founder Boris Giller to sell the media wing of the company to figures close to the Nazarbaev family. Sviridov, *Scripta manent*, p. 171.

⁹⁰Human Rights Watch interview, Almaty, December 11, 1998. Tamara Kaleeva is a Kazakh correspondent for the Russia-based press freedom group, the Glasnost Defense Fund, and has reported extensively on human rights issues in the Kazakhstan press.

⁹¹Ibid. The editor who forbade Tamara Kaleeva from publishing in this opposition paper did not cite any contractual exclusivity restriction governing her employment with *Kazakhstanskaia pravda*; Kaleeva had in the past often submitted articles to other publications.

Kaleeva received an official warning on her employment record. She ceased submitting articles for one month after this incident and thereafter has intentionally not submitted any controversial materials for publication.⁹²

State broadcast media also had an interest in blocking critical views during this period. Writer and radio talk-show host Vladimir Ivanovich Litvinov broadcast the program *Zemliaki* (Compatriots) on Karaganda provincial radio for seven years. After the announcement of presidential elections in January, he said he noted a distinct change in radio programming:

⁹²Ibid.

I do not at all understand why during election campaigns everything must be painted in rosy colors, or hidden. Right after the parliament made the decision to move up the elections, one deputy whom I will not name asked to appear on the air with me. We began our conversation asking why it was necessary to hold early elections when people aren't receiving their pay? When the factories are standing idle...So I recorded this interview and submitted it to be broadcast that very day. A week went by, then two, but the program wasn't aired...You can't call this censorship, this is just cowardice, because the very same week the paper *Industrialnaia karaganda* [Industrial Karaganda] published an interview with this provincial deputy...of course there he was told that he shouldn't be quite so outspoken on the topic of elections.⁹³

Like Tamara Kaleeva, after the incident Litvinov ceased submitting controversial material. He told Human Rights Watch, "[my programs] did not refer any more to the elections. It's too much work and stress on my nerves."⁹⁴

Even self-censorship could not avert consequences for Vladimir Litvinov: the Karaganda provincial broadcast company fired him in early December, despite the popularity of his program, stating that "due to severe cutbacks in financing we are forced to annul your employment contract."⁹⁵

Violence and Threats

A firebomb seriously damaged the editorial offices of the Almaty-based newspaper *XXI Vek* on September 26, 1998. The paper, which has been linked to former prime minister Akezhan Kazhegeldin, began publication in early 1998. Almost since its inception, the paper had been plagued with evident government interference: printing presses refused to produce it, agencies refused to distribute it, and officials threatened it with libel charges (see above). On Friday evening, September 26, the day that its editor-in-chief, Bigeldi Gabdullin, returned from a trip to the United States, several attackers threw ignited bottles of flammable material into the editorial offices, located on the second and third floors of an Almaty commercial building. Two of the bottles landed outside the building, where security guards saw them and put out the fires; the third destroyed Gabdullin's archives in his office.⁹⁶ Police blocked Gabdullin's entrance to his offices for at least three days after the fire.⁹⁷

Subsequently, Gabdullin was invited for several "discussions" with officers from the KNB who allegedly warned him that, "You spoiled things for yourself with this trip to America. You talked too much there."⁹⁸

In the spring of 1998, the government organized an association of political and social groups, the Round Table in Support of Reforms. Vladimir Petrovich Mikhailov, head of the registered Slavic movement *Lad* and editor of its newspaper of the same name, was invited to participate. After the announcement of early presidential elections, in late October, President Nazarbaev himself took part in the forum, in which Mikhailov criticized the public activities in support of Nazarbaev's candidacy as "a comical farce." Mikhailov, who had earlier protested the calling of elections as a violation of the constitution and of the law on referenda, presented the president with a sharply critical list of ten policy recommendations, which he later published in the newspaper *Lad*.

On November 6, an unidentified man armed with a metal pipe attacked Mikhailov as he was on his way to work, striking him three times on the head before Mikhailov could defend himself. Mikhailov suffered a broken arm, finger, a concussion, and cuts to the head. The police initially did not react to phone calls reporting the attack; only after Mikhailov's acquaintances called the department of social organizations of the KNB did police arrive on the scene, three hours after the attack. Mikhailov himself searched the city's bazaars for his attacker; after a few days Mikhailov identified the man whom witnesses confirmed had for the five days preceding the attack repeatedly come to the building

⁹³Human Rights Watch interview with Vladimir Litvinov, Karaganda, December 10, 1998.

⁹⁴Ibid.

⁹⁵Human Rights Watch interview, KIBHR representative Iurii Gusakov, Karaganda, December 10, 1998.

⁹⁶Human Rights Watch interview with Bigeldi Gabdullin, editor-in-chief, *XXI Vek*, December 12, 1998.

⁹⁷*RFE/RL Newslines*, September 29, 1998.

⁹⁸Ibid.

where Mikhailov worked.⁹⁹ Police detained the suspect, who was transferred to a psychiatric facility; the Minister of Internal Affairs has publicly denied government involvement in the attack, according to Mikhailov.

⁹⁹Human Rights Watch interview with Vladimir Mikhailov, Washington, January 27, 1999.

STATE VIOLATIONS OF THE RIGHTS TO ASSEMBLE, TO FORM ORGANIZATIONS, AND TO PARTICIPATE IN POLITICAL LIFE

Throughout 1998, both before and during the registration period for candidates and during the presidential campaign, government authorities took pains to limit citizens' ability to gather freely, to demonstrate to express their political grievances publicly, to form organizations to advance their political interests, and to participate directly in public life.

Two major procedural and legal obstacles effectively block freedom of association and assembly in Kazakhstan. First, the state can manipulate the procedures for registering nongovernmental organizations through the Ministry of Justice. No truly independent procedure exists to appeal denials for registration or for permission to stage a demonstration, since the courts, where all decisions on registration must be appealed, are subject to political pressure.¹⁰⁰

The second obstacle is the Catch-22 posed by article 188 of the administrative code, which, beginning in March 1995, outlawed participation in unregistered organizations: the Law on Public Associations allows nascent groups to meet an unspecified number of times within one month in order to form their governing board and draw up bylaws, while the administrative code at the time forbade activity by groups not yet registered. Potential participants could not afford to ignore this provision if the ministry decided not to register their groups or if it stalled in registering them, as they faced administrative sanction if they did so. Even if the penalties, including administrative arrest for up to fifteen days, or fines of from five to ten times the minimum monthly wage were not high, many potential participants (e.g., pensioners, fixed-income workers) are in such penury that even such a fine was severe punishment.¹⁰¹

During the presidential election campaign, state officials prevented would-be officeholders and private citizens alike from exercising their right to take part in the government of their country, directly or through freely chosen representatives, in two ways. In the first, authorities set out to limit contestation in the election by blocking access to the ballot for opposition candidates, by harassing activists, and by preventing the formation of various political groups and coalitions. The second involved furthering the candidacy of the incumbent by coercing support from ordinary citizens using the authority of the state—with the implied or explicit threat of the loss of jobs, stipends, or other benefits.

Human Rights Standards

¹⁰⁰The *U.S. Department of State Kazakhstan Country Report on Human Rights Practices for 1998* states that “government interference and pressure compromised the court system’s independence throughout the year—a situation codified in the Constitution’s establishment of a judiciary fully under the control of the President and executive branch.”

¹⁰¹Decree of the President of the Republic of Kazakhstan with the Force of Law on Changes and Amendments to Several Laws of the Republic of Kazakhstan, March 17, 1995. Article 188 was later repealed. See below.

Kazakhstani authorities have unreasonably restricted freedom of assembly, blocking citizens' attempts to form nongovernmental associations, and punishing them with administrative offenses when they have tried to do so. It has also blocked the peaceful expression of political views and grievances. International human rights standards and most notably the Universal Declaration of Human Rights (UDHR) in its article 20 recognize the right to peaceful assembly and association.¹⁰² The patterns described above involved cases that clearly posed no threat either to public order or to the rights of others. The OSCE Copenhagen document underlines the requirement to protect the right to association, calling on states to "ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in nongovernmental organizations which seek the promotion and protection of human rights and fundamental freedoms." Both the Movement for Honest Elections and the Pensioner's Movement Pokoleniie (Generation) sought to promote basic human rights.¹⁰³

Demands that citizens pledge support for candidates during the registration phase precluded their support for other potential candidates. This calls into question the free and fair nature of the election, as the slate of available candidates was engineered through this official pressure on citizens. The government directly excluded several candidates on grounds that in themselves constitute violations of freedom of speech and assembly, such as the restriction on participation in an unregistered public association. This exclusion also violated the right to participation of those individual candidates and the right to genuine participation enjoyed by those citizens who might have voted for them. The rights to political participation enshrined in the UDHR and the Copenhagen Document constitute necessary elements of a fair and free political campaign process, a further obligation of OSCE signatories.¹⁰⁴

The Registration of Nongovernmental Organizations

Kazakhstani authorities can revoke or obstruct the registration of any type of nongovernmental organization, including political parties, at will.¹⁰⁵ The actions against newly-formed nongovernmental organizations in 1998, both in the center and the provinces, have a clear precedent in the earlier treatment of *Azamat*:

About a year after we created the movement [1996] and began to organize branches in the provinces, we had started quite a few of them when the authorities took quite energetic steps to prevent us from becoming a

¹⁰²Even though Kazakhstan is not a party to the ICCPR, it is widely understood that international law permits restrictions on this right only in narrow circumstances, on the grounds of protecting public order, safety, health, or the rights and freedoms of others.

¹⁰³OSCE Copenhagen Document, article 10.3.

¹⁰⁴OSCE Copenhagen document, articles 7.5, 7.6 and 7.7.

¹⁰⁵Within two months of its formation, a public association must submit the following documents to the appropriate branch of the Ministry of Justice for registration: an official request for registration, the organization's bylaws, the minutes of the founding meeting that confirmed the bylaws, the founders' official personal data and that of the board members, documents confirming the status and the legal address of the organization, as well as the registration fee. Law of the Republic of Kazakhstan on Public Associations, adopted May 31, 1996, Section 1, article 13 (hereinafter, the Law on Public Associations). The Ministry must then review the application and give an answer within fifteen days, including a written explanation of the reason for denial of registration. Decree of the President of the Republic of Kazakhstan with the Force of Law on the Registration of Juridical Persons, April 17, 1995, article 6.

national organization...They stopped registering us, and began to come up with ridiculous pretexts for denying registration...There were some pretty absurd situations, such as in Kustanai—the provincial Ministry of Justice called up the chairman our branch there and said “we made a mistake on your registration certificate, could you give it back to us so we can correct it?” They gave it back—and that was it.¹⁰⁶

¹⁰⁶Human Rights Watch interview with Petr Svoik, Almaty, December 3, 1998.

Authorities used a similarly transparent pretext to de-register the Civic Forum movement (Dvizhenie grazhdanskii forum) in Karaganda province. Registered on December 22, 1997, Civic Forum united members of the Worker's Opposition, Pokoleniie (see below), and the Communist Party in this northern industrial city. One month later, on January 23, 1998, a municipal district court revoked the registration, on the grounds of a complaint made by an official involved in the privatization of the firm where the Civic Forum had rented an office, and the address of which was listed as the group's headquarters. The head of the Civic Forum, Lidia Blizniuchenko, maintains that she was not present during the January hearing because she had received no notification that it would take place. Blizniuchenko appealed this decision on February 11, well within the month provided for such appeals; the judge took the appeal from her personally. On February 24 the judge ruled not to consider the appeal. Rulings not to consider cases must be appealed within ten days. However, a copy of the ruling was not made available to Blizniuchenko in time for her to file an appeal. Blizniuchenko went regularly to the court in an attempt to learn the outcome of the case until April 18, when she received the decision not to hear her appeal by mail (postmarked on April 16). She maintains that according to the court's own registry, no such document appears until April 15.¹⁰⁷ "After that," Blizniuchenko explained, "everyone in the group was afraid of article 188, so we couldn't meet."¹⁰⁸

In September 1998, as rumors of early presidential elections reached a peak, a group of opposition political and public leaders agreed to form a coalition to promote fair election procedures, called the Movement for Honest Elections (Dvizhenie za chestnye vybory). They held their first meeting in Almaty on September 8, and submitted documents for registration to the Ministry of Justice on September 30. On October 2 and 3, one week before parliament issued its call for early elections, they held another gathering, which was addressed by former prime minister Akezhan Kazhegeldin; though monitored by the police, the meeting proceeded without interruption.¹⁰⁹ On October 14, however, a district court in Almaty notified several participants in the meeting that they were charged with violating article 188(2) of the administrative code, or participating in the meeting of an unregistered public organization. On October 15, the Medeu district court in Almaty sentenced Petr Svoik, leader of Azamat, and Mels Eleusizov, leader of the Tabighat (Ecological) organization to three days of administrative detention; former prime minister Kazhegeldin, Irina Savostina, leader of Pokoleniie, the pensioners' movement, and Dos Koshim, a political activist and writer, were fined.¹¹⁰

¹⁰⁷Undated statement of L. Blizniuchenko to the Karaganda Bureau for Human Rights and the Rule of Law (May 1998); Decision of the Lenin court district in the Soviet district of Karaganda, presiding judge E.I. Suslina, in case no. 2-240 of January 23, 1998.

¹⁰⁸Human Rights Watch interview with Lidia Mikhailovna Blizniuchenko, Karaganda, December 12, 1998. The group had intended to mobilize its members to monitor the April 1998 local council (*maslikhat*) elections.

¹⁰⁹Activists report that police and representatives of the KNB are empowered to be present during any gathering of any nongovernmental organization, and that this function is usually carried out by members of the police department on *sviaz' s obshchestvennostiu*, or public relations. Human Rights Watch interview with Irina Savostina, chairperson of Pokoleniie (Generation), Almaty, December 3, 1998.

¹¹⁰*RFE/RL Newslines*, October 16, 1998. Both Eleusizov and Kazhegeldin appealed the convictions, on the grounds that the courts misinterpreted the Law on Public Associations, which allows the governing board of the organization being founded to conduct whatever meetings are necessary during the pre-registration period. Eleusizov also bases his appeal on the fact that he did

In compliance with the Law on Public Associations, which allows groups intending to form associations to meet within the two months before applying for registration, the movement's members submitted a complete application on September 30. According to the organization's counsel, Vitalii Voronov, president of the Almaty Legal Association, as of February 1999 the Ministry of Justice had not responded to the organization's application for registration, even though the law mandates that applications must be reviewed and ruled upon within fifteen days of their submission.¹¹¹

not have a chance to obtain counsel. Complaint addressed to the Almaty Municipal Court from Mels Kh. Eleusizov, October 23, 1998.

¹¹¹Moscow Interfax in English, February 8, 1999.

Authorities in Pavlodar, Ural, and Atyrau provinces allowed provincial branches of the organization known as Elections-2000, to register, according to Vitalii Voronov.¹¹² In Kazakhstan's other eleven provinces, local departments of the Ministry of Justice blocked, delayed, or denied registration under various pretexts. In Kostanai, local Ministry officials claimed that the organization's goals did not correspond to that of a nongovernmental organization, but were those of a political party. Kazakhstan's Law on Political Parties defines a political party as "a voluntary association of citizens of the Republic of Kazakhstan, acting to express their political will through participation *via their representatives in the exercise of state power*."¹¹³ Elections-2000 was not fielding candidates, however, and had no other attribute of a political party, as defined under the Law on Political Parties. The local department refused to register Elections-2000 because, according to Kazakh law, only the central Ministry of Justice can register political parties.¹¹⁴

Suspiciously, on November 4, 1998 the Ministry of Justice registered as a nongovernmental organization the "Public Committee for Control of the Elections for President of the Republic of Kazakhstan" (PCCEPRK), two days after its founding meeting in Astana. According to its chairman, Academician Bakytzhan Zhumagulov, chairman of the Republican Labor Party, and president of the Engineering Academy, the idea arose to form PCCEPRK among leaders of several organizations, including the Youth Union (formerly the Komsomol, or Communist Youth League), the People's Unity Party, the People's Cooperative Party, and his own Labor Party, all of which openly supported the policies of the incumbent president.¹¹⁵ The organization stated its goals in a front-page appeal to citizens, as "Carrying out public monitoring of the correct implementation of electoral procedures within the framework of elections for President of the Republic of Kazakhstan, as well as studying and expressing public opinion regarding the conduct of the election campaign."¹¹⁶

Zhumagulov explained the rapid registration of the group, with the unspoken comparison to the unregistered Movement for Honest Elections, by citing his long experience registering several other public associations, and resulting familiarity with the necessary procedures, such as "how to bind the leaflets, where to put the stamps..."¹¹⁷

Impeding Public Demonstrations

Under the presidential decree issued in the wake of the disbanding of parliament in March 1995, local government executives must grant permission for any form of public protest, march, picket, or open-air meeting of any size. Organizers must submit a written request ten days in advance of the planned date, and must indicate the form, place, and time, the estimated number of participants, and the purpose of the gathering. Authorities must rule on the applications at least five days before the planned event; they can instruct organizers to hold the event in another location or take another route for a march. There are no provisions for appeal in cases where permission to hold such meetings

¹¹²Moscow Interfax in English, February 8, 1999.

¹¹³Law of the Republic of Kazakhstan on Political Parties, entered into force July 2, 1996. Emphasis added.

¹¹⁴Department of Justice of Kostanai Province, Order no. 2422, "On the denial of government registration to the Kostanai provincial public association 'Vybory-2000,' October 14, 1998.

¹¹⁵In mid-October, the fourth congress of the Republican Labor Party adopted a statement announcing its support for the president's decision to stand for re-election, calling him "a far-sighted reformer, made wise through vast experience, and with unquestioned authority in our own country and in the international arena." *451 po Farengaitu*, November, 1998.

¹¹⁶"Obrashchenie 'Obshchestvennyi komitet po kontroliu za vyborami Prezidenta Respubliki Kazakhstan' k grazhdanam strany, politicheskim i obshchestvennym organizatsiiam," *Kazakhstanskaia pravda*, December 2, 1998.

¹¹⁷Human Rights Watch interview with Academician Bakytzhan Zhumagulov, Almaty, December 5, 1998; "Obrashchenie 'Obshchestvennyi komitet po kontroliu za vyborami Prezidenta Respubliki Kazakhstan' k grazhdanam strany." Zhumagulov, when asked to speculate on the reasons for the denial of registration to the Movement for Honest Elections, first cast aspersions on the organizers, saying "people are talking about this commission 'For Honest Elections.' What do they mean, that we're for dishonest elections? If they don't get registered, it's not because they're the most honest. I don't think that organization has the most honest people!" He then advanced the theory that "they didn't present one of the necessary documents...Maybe they just don't get it about what documents are required, but then are going around crying and yelling in order to earn some kind of image."

is denied, nor are authorities required to justify their refusals on public order grounds.¹¹⁸ The routine denial of permits for demonstrations places an unreasonable restriction on the freedom of assembly and expression of the population.

¹¹⁸Decree of the President of the Republic of Kazakhstan with the Force of Law on Procedures for Organizing and Conducting Peaceful Gatherings, Outdoor Meetings, Marches, Pickets and Demonstrations in the Republic of Kazakhstan, No. 2126, Almaty, March 17, 1995.

In the months before the presidential election, the pensioners' movement became a particular target of official harassment. Authorities broke up demonstrations and arrested pensioners' leaders, to some extent keeping this manifestation of the dire situation of the nation's retired people out of public view during the campaign period. Kazakhstan's pensioners are among its most politically active citizens; they are also among its poorest. Particularly after utilities charges were raised by the state in 1997, state pensions are insufficient to meet basic needs.¹¹⁹

The nongovernmental pensioners' organization Pokoleniie was registered by the Ministry of Justice in 1992. Pokoleniie has urged its membership to vote, and to act as volunteer vote-count monitors in past elections and referenda. Since May 1998, Pokoleniie has called pensioners to gather peacefully in central squares on the 30th of every month to call attention to their plight. Pokoleniie's national chairwoman, Irina Alekseevna Savostina, was convicted on October 15, 1998 of participation in an unregistered public association in connection with the board meeting of the Movement For Honest Elections, and fined (see above). On October 30, police in Almaty physically assaulted several women pensioners as they detained them during a demonstration. In addition to the alleged use of unreasonable force in arresting the women, police were alleged to have used the threat of detention in a cell with tuberculosis-infected prisoners to induce the women to sign statements promising not to participate in future public meetings. According to Savostina, the women were released on this condition after several hours.¹²⁰

In early October, the local Pokoleniie leader in Karaganda, Klavdia Ivanovna Svintsova, was subjected to persistent police harassment for a week before she was arrested. Karaganda's mayor (*akim*) had repeatedly tried to persuade the pensioners' group not to hold their monthly demonstration during the month of August. In September, he proposed to Svintsova that instead of holding the regularly scheduled meeting on September 30 (the day that President Nazarbaev would make a major address to the nation on democratization), a few pensioners could meet indoors with representatives from the municipal administration, and the meeting would be broadcast on television. On September 28, Svintsova was called in to the mayor's office three times and warned that during the session, scheduled for September 29, officials would respond only to written questions. Svintsova agreed, but only on the condition that the meeting be broadcast in full. On September 29, the pensioners found that mayoralty officials used the two-hour meeting to make speeches, and did not respond to the questions they had submitted. The television broadcast, according to witnesses, did not include pensioners' demands or information they shared about the dire conditions of some of their number.¹²¹

As a result of this broken agreement, Karaganda's Pokoleniie organization called out their members at 10:00 a.m. on September 30. Approximately eighty pensioners gathered, but were met by sixty police blocking the government

¹¹⁹Human Rights Watch interview with Irina Savostina, chairwoman, Pokoleniie, Almaty, December 3, 1998. Savostina served seven days in administrative detention in May 1997, for organizing a demonstration in Almaty in which thousands of pensioners protested these increases. On August 31, President Nazarbaev raised the minimum pension of 2,440 tenge (approximately U.S. \$30 in the last quarter of 1998) by 56 tenge (U.S. \$0.67). The government of Kazakhstan defines the poverty line as incomes less than U.S. \$50 per person per month. *U.S. Department of State Kazakhstan Country Report on Human Rights Practices for 1998*.

¹²⁰Interview with Irina Savostina, *Argumenty i Fakty Kazakhstan* [Arguments and Facts Kazakhstan] (Almaty), no. 45, November 1998.

¹²¹Human Rights Watch interview with Klavdia Svintsova, chairwoman, Karaganda provincial branch of Pokoleniie, Karaganda, December 10, 1998.

buildings on the central square. The demonstrators lingered for almost one and a half hours, and then dispersed without incident. When Svintsova returned home, she found that the electricity in her apartment had been turned off. At 9:00 p.m., three police officers came to her apartment and ordered her to open the door. When she did not answer they left, but returned twice during the evening. On the morning of October 1, Svintsova, with the help of her neighbors, summoned eight Pokoleniie members to stand guard outside her apartment. The police reappeared several times during that day, and also approached neighbors' apartments to search for Svintsova. Several Pokoleniie members were dispatched to the mayor's office, where they received assurances on October 2 that Svintsova would not be arrested.

Police, however, continued to come several times daily and beat on Svintsova's door; from the evening of October 2, she noticed an unmarked car with several men parked outside her building during the night. On October 8 the visits and surveillance stopped; she received a telephone call ordering her to come to the procuracy at 10:00 a.m. the following day. Svintsova remained in her home until 8:15 a.m. on October 9. When she emerged to walk her dog, two police officers grabbed her and brought her by car to the district police station, where she was held for three hours; no warrant for her arrest was presented, nor was she allowed to make a telephone call to contact a lawyer. Police then brought her before a judge, who convicted her of participation in an unsanctioned demonstration and fined her 6,600 tenge, twice her monthly pension (approximately U.S. \$80), to be deducted from her pension over several months.¹²²

On November 30, approximately forty police officers blocked access to Karaganda's central square in anticipation of the pensioners' demonstration. The pensioners, who had been warned they would be arrested, did not appear.

Other protest movements were also intimidated through organizers' arrests. Though a court convicted Workers' Movement leader Madel Ismailov of violating the honor and dignity of the president based on an epithet he allegedly addressed to the president during a 1997 demonstration, the timing of his arrest suggests a different motivation. Arrested on February 27, 1998, Ismailov had planned to lead a demonstration the next day to protest raises in utility fees. The previous year, Ismailov served three and a half months in pre-trial detention after organizing a similar public rally.¹²³ On the day of his arrest, Ismailov had been elected the deputy chairman of an opposition coalition.

The Right to Participate in Political Life

Exclusion of Opposition Candidates from the Ballot

In order to appear on the ballot, the Law on Elections requires presidential candidates to pay a nonrefundable fee equaling one thousand times the minimum monthly wage (in October 1998 roughly U.S.\$30,000), that they pass an exam in the state language, and that they gather signatures of 2 percent of the adult population of the republic endorsing their nomination; or 170,000 persons, in at least two-thirds of the Republic's provinces.¹²⁴ In addition, the May 1998

¹²²Human Rights Watch interview with Klavdia Svintsova, Karaganda, December 10, 1998; Human Rights Watch interview with Iurii Gusakov, Karaganda representative, Kazakhstan International Bureau for Human Rights and the Rule of Law, Karaganda, December 10, 1998. Mrs. Svintsova receives a monthly pension of 3,300 tenge.

¹²³Human Rights Watch interview with Madel Ismailov, Moscow, April 16, 1999. Ismailov was tried and sentenced to one year of corrective labor, which he was allowed to serve at his own place of work. Human Rights Watch, *World Report 1998*, p. 263.

¹²⁴Information from the Central Electoral Commission of the Republic of Kazakhstan on the Nomination and Registration of Candidates for President of the Republic of Kazakhstan, *Kazakhstanskaia pravda*, October 16, 1998.

amendments to the election law barred candidates convicted in the previous year of any administrative offense from standing for office.¹²⁵

Three potential candidates—Akezhan Kazhegeldin, Mels Eleusizov, and Asylbek Amantai—were prevented from running for president in the January elections on the latter ground.¹²⁶ The Central Electoral Commission (CEC) ruled in early November that Asylbek Amantai could not stand for election, as he had been convicted in February 1998 of violating administrative statutes governing the convening of public meetings and demonstrations;¹²⁷ the CEC applied the amendment to the Law on Elections retroactively to him.

¹²⁵The law also excludes those persons who have been charged (but not yet convicted) with a criminal offense, or those who have not yet served out sentences conferred as a result of criminal convictions.

¹²⁶A fourth opposition candidate, writer Karishal Asanov, formally withdrew his candidacy the day before the close of registration, criticizing the election as a “farce.” *RFE/RL Newsline*, December 1, 1998.

¹²⁷*RFE/RL Newsline*, November 16, 1998.

Kazhegeldin and Eleusizov were both convicted of participation in an “unregistered public organization,” in connection with the October 2 board meeting of the Movement for Honest Elections. Both appealed these convictions, without success. The CEC formally rejected Eleusizov’s application for candidacy on November 19, citing his October 15 administrative conviction. At a press conference, Eleusizov condemned the elections as undemocratic, and called for a popular referendum on the need for early elections.¹²⁸

Attorneys for Akezhan Kazhegeldin filed a further appeal of his conviction with the Almaty municipal court, which on October 27 not only upheld the district court’s ruling but found him in contempt for failure to appear. Kazhegeldin, who was abroad at that time, claimed that he requested several times that the court postpone this hearing date. On November 2, the CEC ruled him ineligible to stand for election. Kazhegeldin contested his disqualification in a November 7 Supreme Court appeal, in which he also challenged the legality of the May 1998 amendments to the Law on Elections, on the grounds that they infringed constitutional rights to freedom of assembly. President Nazarbaev, under intense international scrutiny, stated that he would welcome Kazhegeldin’s participation in the election, and requested the Supreme Court to review the case.¹²⁹ The court, however, rejected the suit on November 24, effectively barring Kazhegeldin’s candidacy.¹³⁰

Harassment of Opposition Candidates and their Associates

Authorities used physical force and harassment, as well as legal pretexts, to hinder opposition attempts to participate in the elections. On October 10, as Kazhegeldin was about to appear at a press conference to announce his candidacy in the presidential elections, KNB and police officers detained him for several hours—and served him with the summons to appear in court in connection with the meeting of the Movement for Honest Elections. Kazhegeldin reported that two shots were fired at him on October 13, in what he claims was an assassination attempt.¹³¹ Shortly after being fired at, Kazhegeldin left the country. He returned on October 21 and traveled to Astana to submit documents to the CEC; he alleged that security forces held him under constant surveillance. As he departed the country a few days later, border control officers attempted to confiscate his passport.¹³² His subsequent return to Kazakhstan on November 17 was also met with overt surveillance by state security officials, who continued to monitor his movements during his stay in the country.¹³³ Fifty thousand copies of the Russian-language edition of his book, *Kazakhstan: Meeting the Challenges Ahead* were confiscated and burned in September, while publication of the Kazakh-language edition was halted.¹³⁴

¹²⁸Human Rights Watch interview with Mels Eleusizov, Almaty, December 2 1998; *RFE/RL Newslines*, November 17, 1998.

¹²⁹Both the US. Department of State and the OSCE issued several statements in November criticizing the government’s conduct of the registration campaign. *RFE/RL Newslines*, November 18, 1998.

¹³⁰*RFE/RL Newslines*, November 24, 1998.

¹³¹AFP, October 14, 1998.

¹³²Press release, November 4, 1998.

¹³³Preliminary Report on Contempt Charges Against Presidential Candidate Akezhan M. Kazhegeldin, Baker and Hostetler LLP, Yablonsky, Both and Edelman, counsel to Mr. Kazhegeldin.

¹³⁴Human Rights Watch interview with Akezhan Kazhegeldin, New York, October 30, 1998. *Nezavisimaia gazeta* [Independent Newspaper] (Moscow), September 11, 1998.

Kazhegeldin's associates did not escape similar harassment. His press secretary, Amirzhan Kosanov, was approached near his home in Astana by four masked men on the evening of August 29. They reportedly asked him whether he was Kosanov, and upon hearing confirmation, reportedly beat him to the pavement.¹³⁵ In mid-October, university officials reportedly fired Elena Nikitenko, the manager of a public relations agency contracted by Kazhegeldin, from her job as a lecturer at a state university, after having proposed that she cease her political activities in order to retain her post. According to her account, early on the evening of October 24, an unidentified man approached Nikitenko, as she walked toward her home in Almaty. After asking her if she was indeed Elena Nikitenko (as with Amirzhan Kosanov), and hearing her affirmative reply, he struck her in the face, and continued to beat and kick her as she fell to the pavement. Nikitenko suffered a broken nose and other injuries, for which she was hospitalized.¹³⁶

Another of Kazhegeldin's aides, Mikhail Vasilenko, was reportedly harassed and detained as he attempted to deliver copies of Kazhegeldin's proposed draft amendments to Kazakhstan's election laws to legislators in Astana on September 17. At the offices of the upper house of parliament, by his account, guards denied him permission to leave copies of the documents in the senators' boxes, and requested his identification documents, from which they copied down information. He left the building without incident, but police later stopped him in his hired car, which was parked outside another government building. Claiming that the car had been stolen, police ordered the driver, along with Vasilenko, to follow them to police headquarters. After detaining him for approximately seven hours, police reportedly informed Mikhailov that they were charging him with an unspecified administrative offense; he was prevented from notifying his family or counsel. The following day a judge found him guilty of "hooliganism" in a closed proceeding, and sentenced him to three days of administrative detention. He was released on September 21; police reportedly did not return the documents Vasilenko had been charged with delivering.¹³⁷

Authorities in various provinces of Kazakhstan also harassed activists supporting the candidacy of Communist Party leader Serikbolsyn Abdildin. In Karaganda in early December, a member of Abdildin's campaign staff addressing Sunday shoppers at a local market was arbitrarily detained for several hours by police. Police chased others attempting to gather signatures in support of Abdildin's candidacy from public buildings and threatened them with administrative arrest for unspecified offenses.¹³⁸

¹³⁵*U.S. Department of State Kazakhstan Country Report on Human Rights Practices for 1998.*

¹³⁶*451 po Farengaitu*, fall 1998, no. 5(37), p. 1, p. 3.

¹³⁷When Vasilenko's son called police headquarters to report his father missing, he was reportedly told nothing of his father's detention. All information on Mr. Vasilenko's case emanates from the Report on the Matter of Vasilenko Mikhail Ivanovich, Baker and Hostetler LLP, counsel to Akezhan Kazhegeldin, September 25, 1998.

¹³⁸Human Rights Watch interview with Lidia Mikhailovna Blizniuchenko, Karaganda, December 10, 1998. Abdildin himself claimed that the harassment of his supporters only intensified after he was registered as a candidate. He also stated that officials routinely denied him permission to hold meetings with voters or to address them at their places of work or study, citing a secret order requiring the approval of the head of the local (district, municipal) administration to hold such gatherings. Human Rights Watch interview with Serikbolsin Abdildin, Almaty, December 7, 1998. On November 12, Valerii Zemlianov, one of two communist deputies in the parliament, tried to criticize the conduct of the registration campaign before the parliament. The

Candidate Registration and Campaigning

Under apparent government supervision, state employees functioned in essence as the incumbent president's extended campaign staff. The Law on Elections specifically forbids the conduct of any pre-election agitation by any "government agencies, local government bodies as well as their employees in the course of carrying out their official duties" and specifically "members of electoral commissions."¹³⁹ However, citizens allege that local government officials and heads of publicly funded institutions routinely worked to drum up support for the incumbent.

speaker, Marat Ospanov, cut him off, and then turned off his microphone, as other deputies jeered. Human Rights Watch interview with Deputy Valerii Ia. Zemlianov, Astana, December 9, 1998.

¹³⁹Law on Elections, chapter five, article 27, point 3(1) and 3(3).

The CEC, which is empowered by Kazakh law to set and to regulate procedures for the registration of candidates for office and for the conduct of campaigns, declined to enforce these provisions or to pursue allegations of violations.¹⁴⁰ The president controls the composition of the CEC by nominating members who are then confirmed by parliament; members of the local electoral commissions are appointed by regional governors, who are themselves appointed by the president.¹⁴¹ In direct contradiction to the law they were entrusted to enforce, electoral commission officials publicly announced their intention to campaign on behalf of President Nazarbaev.¹⁴²

Pro-Nazarbaev Rallies

In mid-October, students at one Almaty private university reported that professors informed them that the last class of the day was canceled, and that they were all instructed to assemble on Almaty's central square for a rally in support of President Nazarbaev's candidacy. Students claimed that officials from the dean's office came to the classrooms of professors who refused to interrupt their classes.¹⁴³ The city education department likewise reportedly instructed high schools and elementary schools to send from twenty to fifty teachers out to central locations in October to participate in pro-Nazarbaev rallies. "They appointed people to speak out in support of President Nazarbaev... They even took teachers out of class, which is a violation of labor discipline, so that they could go out to the rally."¹⁴⁴ According to the same source, school directors canceled classes in order to carry out these instructions, and made clear to their teachers that their attendance was not optional.¹⁴⁵

Signature Gathering

Under the Law on Elections, within five days after potential candidates submit statements to the CEC declaring their intention to stand for office, the CEC must determine whether they meet all of the general criteria established in the constitution (lack of criminal or administrative violations in the previous year, physician's mental health attestation, state language competency). At that time, the CEC issues certified, numbered sheets, on which members of the candidates' campaign organization should gather the 170,000 voter's signatures supporting the candidacy. All signatories must provide their full name, the number of their identification document (internal passport), which they must present to the campaign worker, their date of birth, address, and signature. Persons gathering signatures must be empowered to do so by one of the candidate's twenty-five authorized deputies, who must sign each numbered sheet.

After the announcement of early presidential elections, candidates hurried to compile the necessary signatures in order to meet the November 30 deadline for registration.¹⁴⁶ Human Rights Watch established that heads of publicly funded enterprises and institutions, reportedly following orders transmitted by provincial and local governments, routinely pressed their employees to give their signatures in support of President Nazarbaev's candidacy. As citizens could support only one candidate, such compulsion in effect blocked the signatories' ability to freely express their political preference.¹⁴⁷

¹⁴⁰See Law on Elections, chapter 2, article 12.

¹⁴¹Decree of the President of the Republic of Kazakhstan with the Force of Constitutional Law on Elections in the Republic of Kazakhstan," chapter two, articles 10-20, September 28, 1995. The *U.S. Department of State Kazakhstan Country Report on Human Rights Practices for 1998* notes that "the legislature cannot exercise oversight over the executive branch."

¹⁴²As reported in the official local government newspaper, *Kostanaiskie novosti*, October 14, 1998, p. 2. Thanks to Evgenii Zhovtis for this citation.

¹⁴³Human Rights Watch interview, student, name withheld, Almaty, December 13, 1998. This student said he had heard of this practice from other students. His report is highly credible, however, because it resembles reports Human Rights Watch received from witnesses in similar circumstances.

¹⁴⁴Human Rights Watch interview, teacher, name withheld, Almaty, December 6, 1998. This interview is without attribution to protect the interviewee's security.

¹⁴⁵*Ibid.*

¹⁴⁶Information of the Central Electoral Commission of the Republic of Kazakhstan on the nomination and registration of candidates for President of the Republic of Kazakhstan, *Kazakhstanskaia pravda*, October 16, 1998.

¹⁴⁷These reports concern coercion to sign petitions in support of candidacy for the office of president. Some respondents interviewed by Human Rights Watch indicated that employers at the same time pressured their subordinates to cast their votes for the incumbent president as well. The Chimkent branch of the Kazakhstan International Bureau for Human Rights and the Rule of

Law reported several complaints from parents whose children had been instructed by their teachers to bring in signed statements, complete with passport information, guaranteeing that the parents would vote for President Nazarbaev. Southern Kazakhstan Provincial Branch report, December 12, 1998.

The impression that all public workers were required to support the incumbent also deterred some opposition supporters from campaigning in public institutions: one Communist Party canvasser in a provincial city related how her initiative group members decided that “there was no sense in going [to sign up supporters in] local government-run factories, after being told that the workers had already been threatened into signing for Nazarbaev.”¹⁴⁸ Communist Party head Serikbolsyn Abdildin also asserted that the government strictly controlled access to public institutions to produce a desired political outcome. Abdildin stated that government officials approached him in late November, fearing that he would not collect the required number of signatures to gain a spot on the ballot, to offer him assistance in gathering signatures in government institutions.¹⁴⁹ Abdildin posited that as the only opposition candidate in the race, his continued pursuit of the presidency was important to provide legitimacy to the elections, since the other two contenders, Senator Engels Gabbasov and General Gani Kasymov, were politically unknown state functionaries.

At universities, schools, marketplaces, hospitals, laboratories, and factories, students and employees told similar stories: their professors or supervisors would bring the lists into the workplace and tell them that they should sign. Most indicated that, strictly speaking, this was a voluntary act. But subordinates understood, without needing to be told, that if they were to refuse, or even more unthinkable, to point out that such actions by public employees, rather than members of registered campaign groups violated the law, their positions would be in jeopardy.

Some interviewees reported that their immediate superiors proffered the sheets; others were told to sign by the heads of their institutions. A doctor told of being instructed to sign by her department supervisor: “It was lunchtime...[The department supervisor] came to us, gathered us and she said, ‘The signature gathering is now under way and you have to give your signature right away. I’m warning you, this is voluntary!’” The head of the entire hospital came to the department shortly afterwards to reiterate that they should sign the petitions.¹⁵⁰

Most of the respondents related that they did not resent their superiors for pressuring them into signing, as they understood that their superiors were, in turn, only following orders from higher authorities. A nursery school teacher said that her director told her she had received a quota for the number of signatures she had to gather from the city government’s education department; another teacher reported that the heads of municipal district administrations were present during the education department meetings where the signature quotas were assigned.¹⁵¹ Traders in an Almaty bazaar also reported that the managers of the bazaar related that they were responsible for a “plan” of 1,000 signatures.¹⁵² A human rights activist reported a conversation with one provincial governor who grumbled at an order

¹⁴⁸Human Rights Watch interview with Klavdia Ivanovna Svintsova, Karaganda, December 10, 1998.

¹⁴⁹Open letter of Serikbolsyn Abdildin, “On the illegal activities of the current regime in the signature-gathering process,” November 26, 1998.

¹⁵⁰Human Rights Watch interview, doctor, December 6, 1998 (name withheld).

¹⁵¹Human Rights Watch interview, teacher, December 6, 1998 (name withheld). To protect the interviewee’s security, we have suppressed her name and the city where she works.

¹⁵²Human Rights Watch interview with bazaar trader, December 6, 1998 (name withheld).

from the central government to gather signatures in support of one of the alternative candidates whose own efforts had been unsuccessful.¹⁵³

¹⁵³Human Rights Watch interview, Evgenii Zhovtis, Director of the Kazakhstan International Bureau for Human Rights and the Rule of Law, December 4, 1998. The candidate, General Gany Kasymov, served as head of the State Customs Administration when he announced his intention to run for president on the last possible day to submit documents. The CEC registered his candidacy on November 10. His campaign featured gruff and colorful antics, such as throwing a vase of flowers at a television interviewer, reminiscent of Russian Duma Deputy Vladimir Zhirinovskiy. Many observers assumed from his failure to criticize the incumbent (he repeatedly stated his full support of President Nazarbaev's Kazakhstan-2030 program) that he was encouraged to run to foster the appearance of a contested election. He garnered 4.61 percent of the vote. See "Vosmoi pretendent," *451 po Farengitu*, no 41, 1998.

Signature gatherers used a mix of coercion, deception, and inducements to carry out their instructions. A student in one of Kazakhstan's state-run universities reported that students were threatened with the loss of their stipends if they refused to sign petitions in favor of Nazarbaev's candidacy.¹⁵⁴ According to this source, administrators stopped them in the halls and told them to write down their student identification card numbers and then give their signatures. Some students demurred, saying that they forgot their identification cards. However, administrators approached them repeatedly during the course of a week. In other university departments, students were reportedly paid two to three times the average monthly stipend in return for their signatures, and for agreeing to agitate with other students.¹⁵⁵ An Almaty pensioner reported that canvassers promised her groceries and money in exchange for her signature.¹⁵⁶

At other times, signature gatherers did not bother to ask permission, but simply wrote down passport information and instructed employees to sign, as in one Almaty hospital laboratory.¹⁵⁷ This practice was repeated in Karaganda, where local government workers warned those not interested in signing to "think about their future job security."¹⁵⁸ Some persons used subterfuge: one Almaty pensioner related how a young man and woman came to her apartment in early November, claiming to be from the local housing department. They asked her to write down her passport information and to sign a blank sheet of paper for use in "housing surveys," which she did, hoping to obtain repairs for her dilapidated living space.¹⁵⁹ After speaking with neighboring pensioners, she realized that her signature would be added to the candidate petitions. Others were simply given no choice but to sign. A doctor interviewed by Human Rights Watch noted that workers from the personnel department of her hospital simply wrote down the passport information from those of her colleagues who did not sign the sheets initially, then came to them and told them to sign.¹⁶⁰

Threats against those who hesitated to sign were made indirectly, or implied. A director of an Almaty bazaar, according to a trader there in her early thirties, instructed the market traders to bring their passports the following day to present when signing the sheets. When several of them asked why they should, he reminded them that they enjoyed very good spots for their stalls. They explained their decision to sign the sheets, fearing the loss of their livelihood. "People get nervous," one explained.¹⁶¹ Another bazaar trader in her mid-thirties noted that as the manager went around the market presenting the sheets for people to sign, he noted down the number of the stall they rented. "They didn't force us [to sign], but it wasn't voluntary."¹⁶² In other cases, authorities issued more explicit threats:

¹⁵⁴Human Rights Watch interview, student, Almaty, December 13, 1998 (name withheld). This student was not threatened, but related incidents recounted by other students. Similar incidents were reported in the Almaty newspaper *Panorama*, December 5, 1998.

¹⁵⁵Human Rights Watch interview, student, Almaty, December 13, 1998 (name withheld).

¹⁵⁶Human Rights Watch interview with pensioner, December 3, 1998 (name withheld).

¹⁵⁷Human Rights Watch interview with doctor, December 6, 1998 (name withheld).

¹⁵⁸Written statement of Viktor Borisovich Bondarenko, member of organization of Russians, Karaganda, November 3, 1998.

¹⁵⁹Human Rights Watch interview with pensioner, December 3, 1998 (name withheld).

¹⁶⁰Human Rights Watch interview with doctor, December 6, 1998 (name withheld).

¹⁶¹Human Rights Watch interview, anonymous #3, December 4, 1998 (name withheld).

¹⁶²Human Rights Watch interview, anonymous #4, December 4, 1998 (name withheld).

They brought the sheets to the school and said, "You have to sign for the presidential candidate." Only a few people signed. Then the director called a staff meeting and said, "What are you doing?! You are undermining me! We need X-number of signatures from the school!" ...When we tried to object, saying, "it's not 1937 after all!" the director told us about the meeting at the *akimat* [mayor's office]. The mayor put it bluntly: "If you don't carry this out, then we'll have to do a review, and see if you are really qualified for the positions you occupy."¹⁶³

¹⁶³Human Rights Watch interview, teacher, December 6, 1998 (name withheld).

Some of those interviewed remarked that they signed not only out of fear but from sympathy for those who took their signatures; others related that fear of losing a sympathetic boss (who might face dismissal for failing to obtain the required number of signatures) prompted them to sign. "Usually the directors say something like, 'let's all pitch in, otherwise it's our school that will suffer,' etc."¹⁶⁴ If a school could not compile the number of signatures required from its own personnel, teachers were instructed to call in parents of their pupils to give their signatures. Those teachers interviewed by Human Rights Watch reported that they understood which parents were most cooperative, and only in rare cases did these parents, anxious not to prejudice their child's standing in the class, not come in to add their signatures to the lists.¹⁶⁵

Citizens rarely protested forced signature gathering. In the town of Stepnogorsk, Karaganda province, however, public officials registered many instances of public displeasure with the practice. A group of deputies of the elected city council or *maslikhat* submitted a complaint to the provincial branch of the Kazakhstan International Bureau for Human Rights and the Rule of Law against the actions of the local executive (*akimat*).¹⁶⁶ They reported that workers from local factories, government offices, and the police department came to these deputies dissatisfied with being made to sign for Nazarbaev. The deputies also reported that workers from the local construction materials plant told them that the plant had been given a signature quota to fulfill, and that they had been threatened with the loss of their jobs if they did not sign.¹⁶⁷ The group of deputies had complained first to the local electoral commission, which stated that without statements from concrete witnesses they could not investigate the claimed violations.¹⁶⁸

THE COMING ELECTIONS

In the wake of the January 10 presidential election, international pressure brought about some changes in Kazakhstan's electoral laws and procedures. On April 6, 1999, President Nazarbaev signed into law amendments to the administrative code and to the Law on Elections, which addressed some of the criticism received during the presidential campaign, but left intact major obstacles to free participation in political life. He abolished article 188-2 of the administrative code, which had outlawed participation in an unregistered public association, but retained the provision of the Law on Elections disqualifying candidates with forty misdemeanor offenses. The Law on Elections amendments add ten seats to the lower house of parliament, and introduce the principle of electing members to those seats from party lists. Other changes reduce the registration fees required of parliamentary candidates, and make them refundable if

¹⁶⁴Ibid.

¹⁶⁵Human Rights Watch interview, teacher, December 11, 1998 (name withheld).

¹⁶⁶The *maslikhat*, according to the Kazakhstan constitution, is a popularly elected body on the town or provincial level which carries a mainly consultative function. The *akimat* is the office of the local executive or *akim*, the governor of a province or district or mayor of a town.

¹⁶⁷Written statement of B. Gnirtsev, Stepnogorsk town councilman and chairman of the council's committee on law and order, November 12, 1998.

¹⁶⁸Telephone interview with B. Gnirtsev, Astana, December 11, 1998.

candidates poll at least 7 percent of the vote.¹⁶⁹ Problems with the Law on Elections remain: the upper house, or Senate, seats are not filled through direct popular election, but are nominated and elected by members of provincial *maslikhats*; candidates for Senate seats, of which there are two for each province, must be supported by 10 percent of the electors from that province.¹⁷⁰

¹⁶⁹While the April 6 amendments reduced registration fees for parliamentary candidates from one hundred to fifty times the minimum monthly wage, changes introduced on June 28 lowered them further to twenty-five times the minimum monthly wage. Constitutional Law of the Republic of Kazakhstan on Revisions and Amendments to the Decree of the President of the Republic of Kazakhstan Having the Force of Law on Elections in the Republic of Kazakhstan, Astana, April 6, 1999 and June 28, 1999.

¹⁷⁰Constitution of the Republic of Kazakhstan, 1995, article 50(2). Elections for the new *maslikhat* deputies are to be held on the same day as the lower house elections, October 10, meaning that the new Senate will be chosen by electors at the very end of their terms.

Despite these changes, conditions for parliamentary elections in October 1999 have been affected by the same legal and political conditions that marred elections for president.¹⁷¹ Both freedom of expression and the freedom to take part in political life continue to face serious government-imposed obstacles.

Though a long-awaited new law on the mass media came into force on July 23, government authorities have continued their campaign against the independent media primarily through intimidation and crippling libel suits.¹⁷² On July 20, officers of the KNB invited the editor of the independent newspaper *XXI Vek*, Bigeldi Gabdullin, to “discuss” materials he planned to print in late July. The officers advised Gabdullin not to run the materials in question, testimony by opposition politicians and activists before the U.S. Congressional Human Rights Caucus, warning him that they had compromising materials against him. They showed Gabdullin a videotape of himself as he received funds from a man he recognized as one of the paper’s investors. The following day, the state-owned television station KTK showed the tape on its evening news broadcast, showing only the hands of the man who gave Gabdullin the funds; the text of the report implied that Gabdullin had taken money from foreign security services.¹⁷³

The electronic media have not escaped manipulation. The Supreme Court continues to delay hearings on the suits brought against the Ministry of Communications by the Association of Independent Electronic Mass Media (ANESMICA). In late July, the head of that association, together with another journalist and activist associated with the opposition, purchased a controlling interest in an operating radio station, Radio Rik, allowing them to assume management of the station. Their new programs were broadcast for just two days—the last two days of July—before being shut down on August 1; authorities cited “technical repairs to the transmitter” as the official reason the station was switched off.¹⁷⁴

The municipal court in Aktiubinsk halted for two months the publication of the weekly independent newspaper *Diapazon* [The Gamut] on May 28, 1999. Published since 1996, *Diapazon* stood accused of “igniting national enmity.” The paper’s editors have asserted that the court refused to consider their substantive challenges to the finding of a

¹⁷¹On July 7, 1999, President Nazarbaev issued a decree setting dates for the next parliamentary elections: the upper house vote will be held on September 17, and the lower house will be elected on October 10. Press release, Embassy of the Republic of Kazakhstan, July 12, 1999.

¹⁷²The new law does not include the provision featured in the draft, allowing for the procuracy to close down any media outlet, which garnered much criticism. However, the procuracy retains this power as provided for by the Law on National Security. Law of the Republic of Kazakhstan on the Mass Media, *Kazakhstanskaia pravda*, August 6, 1999. Even the speaker of the currently sitting parliament criticized the new law as “undemocratic.” *RFE/RL Newslines*, August 13, 1999.

¹⁷³Human Rights Watch telephone interview with Bigeldi Gabdullin, August 1, 1999.

¹⁷⁴*Bulletin of the Independent News Agency Politon*, August 7, 1999. Sergei Duvanov, who assumed management of Rik together with Mrs. Taukina of ANESMICA, writes that unbeknownst to them, Rik had actually lost its broadcasting frequency to the Dala Broadcasting Company in one of the closed auctions of 1997, but that Dala allegedly concluded an agreement with the station to allow them to continue using the frequency. When the management of Rik was transferred, however, Dala rescinded this agreement.

court-appointed commission, whose “expert opinion” is the basis for the charge. Its publication halted for two months, the paper faces several libel suits—one of which, brought by a local official, seeks damages of one million tenge. The higher court has refused the paper’s request to review the municipal court decision.¹⁷⁵

¹⁷⁵*Bulletin of the Independent News Agency Politon*, June 7, 1999; decision of the Aktiubinsk Municipal Court in case no. 2-2827, May 28, 1999. Sergei Uspenskii, “Zapret na dva mesiatsa: v Aktiubinske priostanovlen vypusk gazety ‘Diapazon,’” *Nezavisimaia gazeta*, June 9, 1999, p. 5.

A court in Almaty suspended publication of the independent newspaper *Nachnem s Ponedel'nika* and froze its bank accounts on June 24. The popular weekly, in publication since 1993, had published articles in previous weeks about ties between government and criminal structures. The paper faces a libel suit brought by the head of the Almaty subway construction agency, which sought 50 million tenge (approximately U.S. \$308,000) in damages. Reacting to a public and international outcry, the Minister of Information and Public Accord called the ruling "a misunderstanding." Three days later the court reversed itself, allowing the paper to resume publication until a final ruling on the libel suit. Finally, early in September the paper was effectively closed by the Almaty municipal court's finding that it was guilty of libel for its criticism of the municipal and Supreme Courts. Reportedly, the court awarded five million tenge in damages, or approximately US \$37,600; according to the paper's editors, a total of eleven suits have been brought against the paper.¹⁷⁶

Obstruction of freedom of association likewise has hardly lagged. Authorities continued to delay registration of the political parties that had tried to organize during the presidential election campaign, seriously impeding their ability to participate in the October parliamentary race. After Akezhan Kazhegeldin was barred from the presidential election, he directed his energies towards forming a political organization (the Republican People's Party) that could take part in the parliamentary elections. On December 17, 1998, the Republican People's Party held its founding congress in Almaty; police surrounded the building where it was held and filmed the participants.¹⁷⁷ One of the party's advisors was threatened with legal actions for "attempting to block police access."¹⁷⁸ Although the party's organizers submitted a completed application for registration to the Ministry of Justice in Astana on January 19, the fifteen-day period within which the ministry must rule on applications passed without any reply being issued. Legal advisor Vitalii Voronov was informed orally that the head of the agency responsible for registration had issued an order suspending the time limit, in order to audit the membership lists submitted by the party.¹⁷⁹ On February 18, Voronov learned that the agency could find no grounds to challenge the legitimacy of the lists, but would raise several objections to the charter. Finally, after the charter was amended, the Ministry of Justice's agency for the registration of real estate and juridical persons issued the party its registration certificate. While local departments of justice in the Kyzyl-Orda, Karaganda, and Eastern Kazakhstan provinces and the city of Astana blocked registration, the Republican Peoples' Party announced on July 16 that after stalling on the part of provincial authorities, it had obtained its registration in the necessary nine provinces and would submit its slate to the CEC, barely meeting the deadline to do so.¹⁸⁰ On September 9, the CEC finally approved the party slate of five candidates, which did not include the party chairman, Kazhegeldin.¹⁸¹

¹⁷⁶*RFE/RL Newswire*, June 25 and June 30, 1999; Glasnost' Defense Foundation press release, June 27, 1999; Khabar TV, Almaty, June 29, 1999 as reported by BBC Worldwide Monitoring, July 1, 1999. On July 28, the paper printed testimony given by Irina Savostina, leader of Pokoleniie, before the United States Congressional Human Rights Caucus. On the final verdict against the paper: e-mail correspondence from Rozlana Taukina, September 16, 1999; "Direktor gazety Ramazan Esergepov, gl. redaktor Valeria Marchenko: 'V sviazi s sudebnym bespredelom my vyrazhaem nedoverie vsei sisteme vlasti.'" *Nachnem s ponedel'nika*, September 15, 1999.

¹⁷⁷*RFE/RL Newswire*, December 17, 1998.

¹⁷⁸*RFE/RL Newswire*, December 28, 1998.

¹⁷⁹Electronic communication from Republican Peoples Party of Kazakhstan, April, 1998.

¹⁸⁰Human Rights Watch interview with Gaziz Aldamzharov, executive chairman, Republican People's Party of Kazakhstan, Washington D.C., July 16, 1999.

¹⁸¹*Kazakhstanskaia pravda*, September 11, 1999.

Former deputy minister of information and journalist Seydakhmet Kuttykadam began to form his Orleu (Progress) party in December of 1998. After submitting an application for registration in January, Kuttykadam received the party's registration certificate for its Almaty branch only in March. However, in order to take part in elections for the ten parliamentary seats to be chosen from party lists, parties are required to be registered in nine of Kazakhstan's fifteen provinces. Orleu has not been able to register in enough provincial branches to advance a party slate.¹⁸² Aside from state efforts to thwart opposition parties, authorities also used coercion to build up pro-presidential groups. According to Pokoleniie, some of its members have been coerced by local government authorities into joining the pro-Nazarbaev political party, Otan (Fatherland). Other information received by Human Rights Watch indicates that administrative personnel in government offices have been signed up as party members without their consent.¹⁸³

As with opposition parties, individuals associated with the opposition who might potentially stand for election to parliament continue to be convicted of administrative offenses or charged with criminal acts, and thus disqualified as candidates. Several prominent figures associated with the Republican Peoples' Party have been fined for misdemeanors, offenses which they deny, since the party began its registration process.¹⁸⁴ Former prime minister Kazhegeldin, who at one time headed the list of candidates the party planned to submit, faces charges of tax evasion purportedly initiated in October 1998, and charges of "abuse of office" (article 307(1) of the Kazakhstan criminal code) brought against him on June 16, 1999.¹⁸⁵ The CEC finally rejected Kazhegeldin's candidacy on September 9; however, official harassment continued. On September 10, Russian authorities, in response to an extradition request from Kazakhstan, detained Kazhegeldin at a Moscow airport, and held him for more than three days before finally refusing Kazakhstan's request. Several days later, Kazakhstan's General Procurator Iurii Khitrin announced that he was withdrawing the order for Kazhegeldin's arrest.¹⁸⁶

¹⁸²*Panorama* (Almaty), March 26, 1999.

¹⁸³Human Rights Watch interview with Irina Savostina, New York, June 11, 1999; e-mail correspondence, July 4, 1999. The chairman of Otan, former prime minister Sergei Tereshchenko, managed President Nazarbaev's re-election campaign, and formed the party on the basis of the campaign organization. The party was registered within days of its application to the Ministry of Justice. Tereshchenko has stated that "the Otan party will support no other candidate but Nazarbaev"; Nazarbaev has accepted the post of honorary party chairman. Moscow Interfax in English, January 13, 1999.

¹⁸⁴Human Rights Watch interview with Sergei Duvanov, journalist and commentator, Washington D.C., January 27, 1999.

¹⁸⁵Kazhegeldin's attorneys contest the claim that tax evasion charges were formally initiated at that time, since he was not notified of them at that time, nor were they cited by officials who disqualified him from running for president. His attorneys also note that he was served with an order to appear before the court on the abuse of office charge the same day that parliament decriminalized participation in an unregistered social organization (the charge which served as the basis for his disqualification). Legal memorandum, Yablonski, Both and Edelman, June 23, 1999.

¹⁸⁶Human Rights Watch press release, September 11, 1999; *RFE/RL Newslines*, September 15, 1999. Reportedly, police

arrested several Republican Peoples' Party activists who demonstrated in front of the Russian embassy in Almaty on September 14. At least six were found guilty of administrative offenses and fined. Ibid. On the day after the arrest warrant for Kazhegeldin was withdrawn, Kazakh papers printed a statement by Kazakhstan's National Security Committee accusing Kazhegeldin of involvement in the sale of MiG fighter aircraft to North Korea. The sale, which became known in July, has created tension between Kazakhstan and the United States, Japan, and South Korea. *RFE/RL Newsline*, September 16, 1999.

On July 28, Seydakhmet Kuttykadam, leader of Orleu, announced that the government had opened an investigation against him for allegedly impugning the honor and dignity of the president. The charge is based on a speech Kuttykadam made before a rally in February 1999, in which he recommended that the president resign.¹⁸⁷ Kuttykadam was nonetheless able to register as a candidate in a single-mandate district in Almaty in August.¹⁸⁸ The CEC initially disqualified Vladimir Chernyshev, chairman of the Kostanai branch of the Communist Party and an outspoken member of Kazakhstan's first parliament disbanded in 1993, from running for a seat in October. They based this decision on Chernyshev's November administrative sentence for participating in an unsanctioned public demonstration. According to unofficial sources, the Supreme Court upheld Chernyshev's appeal and allowed him to register as a candidate soon before the September 9 deadline.¹⁸⁹ Madel Ismailov, leader of the Worker's Opposition who hoped to run for parliament on the Republican People's Party slate, was not so fortunate. The CEC announced on September 7 that it would not accept his candidacy. Ismailov was released from prison, where he served a one-year sentence for offending the honor and dignity of President Nazarbaev, on February 24.¹⁹⁰

In April and May, authorities repeatedly denied Irina Savostina, leader of the influential political movement Pokoleniie, an exit visa, before finally granting her permission to travel on an official U.S.-government exchange trip. In late June Savostina received an administrative "warning" for her participation in an unsanctioned demonstration from an Almaty court. She had gathered with other pensioners in Almaty on April 30 to protest non-payment of pensions. On May 20, Savostina was served with a court summons on charges of organizing an illegal demonstration, which she denied. The prosecutor based his charge that she had organized and addressed the rally on evidence from two students at Kazakhstan's national university, whose written testimony, according to Savostina, had been coerced.¹⁹¹

¹⁸⁷*RFE/RL Newswire*, July 29, 1999.

¹⁸⁸Khabar TV, Almaty, August 24, 1999, as reported by BBC Worldwide Monitoring, August 24, 1999. On August 20, Interfax-Kazakhstan reported that key members of Kuttykadam's party were being persecuted, and gave the example of two prominent members who were fired from their jobs. As reported by BBC Worldwide Monitoring, August 22, 1999.

¹⁸⁹Written statement of Vladimir Chernyshev, September 1, 1999; e-mail communication, September 10, 1999. A court in Kostanai also reportedly found Chernyshev guilty of "hooliganism" (an administrative offense) in April for laying flowers before a monument to Lenin.

¹⁹⁰E-mail communication from the Republican People's Party of Kazakhstan, September 7, 1999; Amnesty International, *Concerns in Europe: January to June, 1999*.

¹⁹¹Human Rights Watch interview with Irina Savostina, New York, June 11, 1999; Sluzhan Ismailova, "Odin neobkhodim kak neizbezhnost', a drugoi, kak neobkhodimost'," *451 po Farengaitu*, July, 1999; Elena Brusilovskaia, "V Amerike ee nagradili, a v Kazakhstane posadili na skam'iu podsudimyykh," *Argumenty i fakty Kazakhstan*, July, 1999.

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