

IHF FOCUS: freedom of expression and media; peaceful assembly; judicial system and independence of the judiciary; fair trial and detainees' rights; torture, ill-treatment and police misconduct; conditions in prisons and detention facilities; religious intolerance; freedom of movement; asylum seekers and immigrants; death penalty; women's rights.

President Nazarbaev and his close circles retained a firm grip on power and had little incentive to use the republic's vast mineral and oil resources to improve the living conditions of the impoverished population. Citizens' rights were seriously curtailed and they had few possibilities to make their grievances heard or seek legal remedies. While the presidential family already exercised a virtual monopoly over the republic's media, new legislation was introduced that further deteriorated prospects for the operation of independent media outlets. The political opposition faced constant harassment and experienced great difficulties in influencing the decision-making process. However, a new political movement involving young, well-educated technocrats and businessmen who previously showed loyalty to the President, emerged as a challenge to the ruling elite in November. In a mass event of the kind unseen in the republic for years, the new movement staged a demonstration with thousands of participants to demand political change in Almaty in early 2002.¹ This development prompted President Nazarbaev to announce increasingly strict measures to secure stability in the republic.²

Freedom of Expression and Media

The situation regarding freedom of expression gave rise to serious concerns, as the Government remained strict against political opposition, and members of opposition movements were regularly subjected to harassment, including grave violence.

◆ In January, three unidentified persons broke into the apartment of the deputy chairman of the party Azamat (Citizen) and stabbed him; he was hospitalised as a result.³

◆ In February, unidentified assailants beat Alexander Shushannikov, a member of the Lad Slavic Movement, in the town of Ust-Kamenogorsk.⁴

◆ In September, former Prime Minister Akezhan Kazhegeldin, chairman of the opposition People's Republican Party and exiled in Western Europe since 1999, was tried *in absentia* on charges of corruption and tax evasion and sentenced to ten years in prison.⁵

In November, a number of senior officials and businessmen established a new political movement, the Democratic Choice of Kazakhstan (DCK). The new movement called *inter alia* for a stronger Parliament, a reform of the judiciary, popular election of regional governors and mayors, and a free media.⁶ In particular, the movement opposed the political influence enjoyed by Rakhmat Aliiev, the President's son-in-law, who together with his wife controlled most of the republic's media and in the summer secured a prominent position within the National Security Committee (NSC). Mr Aliiev was also largely considered to be the possible successor to the President. Shortly before the establishment of the DCK, President Nazarbaev seemed to respond to the criticism targeted at his son-in-law, as he temporarily halted the activities of several of Mr Aliiev's media holdings and pressed him to withdraw from his NSC position. However, the media outlets soon resumed their operations, and Mr Aliiev was appointed deputy head of the presidential security services.⁷ Meanwhile the DCK was denied registration due to "flaws" in the documentation it had submitted.⁸

The vast majority of all media in the republic belonged to the President's daughter, Dariga Nazarbaeva, and her husband Rakhmat Aliiev, including the publishing house

Khaban, the TV-channel KTK and the radio-station Karavan.⁹ Working conditions for independent media outlets deteriorated.

The President signed a bill in May introducing new restrictive provisions to the 1998 Media Law. According to the amendments, the re-transmission of foreign broadcasts was to be reduced to one half of all available airtime by January 2002, and to 20% by January 2003. An official monitoring body was to oversee that the new regulations were adequately applied.¹⁰ The Minister of Information, Altynbek Sarsenbayev, tried to justify the regulations by stating that they would bring an end to the domination of Russian TV- and radio-programmes in the republic and improve the quality of domestic journalism. However, critics feared that the regulations would have a negative impact on the diversity of information available, and that they would force many private media outlets to close down because they only had limited resources for producing their own programmes and therefore were heavily dependent on re-transmission of foreign programmes.¹¹ Several media outlets were reportedly fined for violating the new regulations in early 2002.¹²

The amendments to the Media Law also brought Internet sites under the control of the Government, thus enabling it to block on-line information deemed to be unfavourable, and envisaged fines for media outlets that distributed information from unofficial sources, or information that was demonstrably false or which could not be proven to be true.¹³

Numerous editors and journalists critical of the Government were threatened, physically attacked or faced politically motivated libel or defamation charges. In particular, criticism related to the problem of corruption or the activities of the President resulted in repressive measures.¹⁴

◆ In January, the staff members at *Respublika-2000* were intimidated after the newspaper featured an article on corruption. The previous year the Editor-in-Chief,

Lira Baisetova, was beaten following the publication of an article on the same topic.¹⁵

◆ In April, Yermurat Bapi, the Editor-in-Chief of the independent newspaper *SolDat*, was sentenced to one year in prison for publishing an article deemed to insult the honour and dignity of President Nazarbaev. The 2000 article focused on allegations according to which the President and other high-ranking officials had funnelled millions of Euro from Kazakhstan into Swiss bank accounts. In the same trial, the author of the article, Karishal Asanov, was found not guilty of slander since he initially wrote the article for an Internet site and not for the newspaper where it was republished. For several months prior to the trial all domestic publishing houses reportedly refused to print *SolDat*, which therefore had to be printed in Russia. The edition of the newspaper that contained the article at issue was confiscated at the border before distribution and therefore never reached its readers. Following the trial Mr Bapi was released under a general amnesty.¹⁶

◆ In April, the Prosecutor's Office reported that a legal case against Bigeldy Gabdullin, editor of the opposition newspaper *XXI Vek* (21st Century), had been closed. Mr Gabdullin had been charged with defamation after he published two articles accusing the President of involvement in corruption in October 2000. Reportedly, *XXI Vek* was forced to suspend its activities when charges were brought against its editor, and was unable to resume publication even once the charges were dropped.¹⁷

Peaceful Assembly

Article 32 of the Constitution established citizens' right to peaceful assembly. However, a 1995 Presidential Decree seriously curtailed this right by granting the authorities broad powers to ban and restrict demonstrations, rallies and pickets.¹⁸ Participants in unsanctioned meetings were punished with administrative sanctions,

such as fines or arrests, and were subsequently deprived of the right to hold public offices or run in elections.¹⁹

◆ In September, Ulmeken Saidova, one of the leaders of the Adilet movement, was arrested in South Kazakhstan Oblast on fraud charges. Ms Saidova had organized protest actions earlier in 2001 by dozens of women who demanded that they be paid child allowances dating back to 1996. After her arrest, on 25 September, a group of women from the Baidibek district of South Kazakhstan Oblast began a new protest outside the parliament building in Astana. They threatened to commit collective suicide if child allowances are not paid.²⁰

Judicial System and Independence of the Judiciary

The judicial system remained weak and dependent on the executive power. The 2000 Law on the Judicial System and the Status of Judges granted the President wide-ranging powers in terms of the judicial system: including *inter alia* the right to determine the organisation of the system of district and local courts, appoint and dismiss judges, adopt regulations guiding the work of the boards deciding on qualifications of and disciplinary measures against judges, suspend the authority of the Supreme Court Chairman and sanction the prosecution of judges.²¹

Courts at all levels frequently issued verdicts to reflect the interests of the President and his close circles, and in several cases the judicial system was used as a weapon in the fight against the political opposition.²² Corruption was also endemic within the judicial system.²³ However, in the spring, judges' salaries were increased significantly, a measure aimed at making them less vulnerable to bribes.²⁴

Fair Trial and Detainees Rights

The 1997 Criminal Code contained many features typical of the old Soviet system. The Code allowed police to detain

suspects for up to 72 hours without bringing any charges against them. With the prosecutor's approval, the duration of detention could be extended by a further ten days. In practice, suspects were routinely detained for several months although they were not formally charged with any crime. Local police typically acted on the basis of orders from above, i.e. the Ministry of Interior, rather than the provisions of law.²⁵

During trial, judges often applied laws that were in violation of the Constitution or outdated. The prosecutor's statements were generally accepted without critique, while the defendants were denied access to case materials and legal counsel. Complaints from the defendants that investigative methods were illegal or that they had been forced to confess were generally ignored. Cases were frequently returned for further investigation, and a considerable number of all court decisions were not implemented.²⁶

Torture, Ill-Treatment and Police Misconduct

The crime of torture remained undefined in the Criminal Code, but the widespread practice of torture and other forms of cruel treatment by law enforcement officials persisted. The torture methods used included *inter alia* beatings with truncheons, chairs, bottles and fists; suffocating with the help of gas masks or plastic bags; and forced stays in cold places after being soaked with water. The victims of such abuse included political opponents and members of religious and other minorities. The authorities often failed to effectively investigate allegations of torture and ill-treatment and to prosecute alleged perpetrators. The Ministry of Interior remained in charge of investigating allegations of abuse, although the agency itself was notorious for resorting to abuse. Only a few judges paid adequate attention to evidence suggesting that suspects were subjected to torture or ill-treatment in pre-trial detention.²⁷

Kazakhstan ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1998. After examining the first report submitted by Kazakhstan under the Convention in May, the UN Committee against Torture recommended *inter alia* that the Government promptly propose amendments to the republic's penal law so as to provide for a definition of torture consistent with the definition included in Article 1 of the Convention; establish an independent complaints mechanism, and ensure prompt, impartial and full investigations and prosecutions in cases of alleged abuses by law enforcement officials; guarantee in practice absolute respect for the principle of inadmissibility of evidence obtained under duress; initiate a review of cases where sentences allegedly have been passed on the basis of coerced confessions; and make relevant declarations under the Convention so as to allow the Committee to examine complaints by individuals or other state parties.²⁸

◆ In early 2001, Chechen citizen Magomed Msaskhodzhiev was arrested in the street and taken to a local police station in Uralsk in West Kazakhstan. During a search that was carried out in the police station, Mr Msaskhodzhiev allegedly possessed illegal drugs, which he claimed had been planted on him. The day after the arrest Mr Msaskhodzhiev was taken to hospital with a broken neck. The police reportedly said that he slipped and fell. Meanwhile his wife was denied access to him because she was unable to present a passport stamp proving their marriage. The injuries Mr Msaskhodzhiev sustained reportedly resulted in the paralysis of the left side of his body.²⁹

Conditions in Prisons and Detention Facilities

Prison conditions remained harsh. The rate of imprisonment was one of the highest in the world, and as of the end of the

year the number of prisoners totalled over 80,000, although a general amnesty was realized in the beginning of the year.³⁰ As a result, overcrowding and poor sanitation characterised most prisons. Access to medical care was limited and tuberculosis continued to flourish. Detention facilities were also overcrowded, and beatings of persons in custody was common.³¹

The authorities acknowledged the problems related to conditions in prisons and detention facilities, but claimed that a lack of resources made it impossible to take measures to improve the situation. However, some reform projects involving NGOs were initiated with financial assistance from the European Commission.³² Some progress in combating the spread of tuberculosis was also made in cooperation with the World Health Organisation.³³

◆ On 7 July, 21-year-old Ilhomzhon Abdmuralov, who had been serving a three-year prison sentence, was transported to hospital unconscious and with kidney failure in the city of Lenger. After he regained consciousness, he told his sister that several prison officers had abused him when he refused to act as an informant. The prison officers reportedly ordered him to take off his clothes, bound his hands, hanged him from the ceiling and beat him with truncheons. Mr Abdmuralov and his sister filed a complaint with the prison authorities. However, the investigations into the case reportedly did not lead to any measures being taken against the officers at issue.³⁴

Religious Intolerance

The situation with regard to religious freedoms deteriorated in 2001. A new controversial Law on Religion was prepared, and despite vocal protests against it, the law was passed by the Parliament in January 2002. However, at the time of writing, the President had not yet signed the law.³⁵

The new law was aimed to replace a 1992 law, which had been considered

rather liberal. Through its strict provisions, the new draft law foresees increased repression of so-called non-traditional religious groups. The draft law requests all religious communities to register with the authorities, and failure to comply with this requirement constitutes a reason to ban them. It would be particularly difficult for Muslim communities to meet this requirement since they need to prove membership in the Muslim Spiritual Administration of Kazakhstan. The draft law also states that religious communities may be banned if their activities contradict the aims and objectives set out in their statutes, they financially support political parties, they violate the legislation regarding religious meetings outside their operational bases, or they force citizens to carry out religious rituals. Further, the draft law restricts the right of religious communities to organise religious trainings and establishes that the “religious education of a child must not harm his/her overall development or his/her physical and moral health”. Foreign religious groups would be allowed to function only through particularly designated religious centres, and missionaries wishing to carry out activities in the republic would have to obtain permission from the authorities.³⁶

Minority religious communities feared that the new law would result in the banning of all religious groups except for the two major religions, i.e. the Orthodox Church and Sunni Islam. Both national and international human rights advocates consider it particularly disquieting that the draft law targets religious groups on the basis of their beliefs rather than their illegal activities, and that – by using vague definitions – it leaves wide latitude for arbitrary implementation and abuse on the part of the authorities.³⁷ In April 2002, the Constitutional Court ruled some provisions of the draft law unconstitutional, but it was not clear at the time of writing which provisions the ruling referred to.³⁸

Muslims

The authorities continued to target suspected members and supporters of the banned Hizb-ut-Tahrir, a movement advocating the peaceful establishment of an Islamic State in Central Asia. Following the 11 September events the authorities expressed full support for the US-led campaign against terrorism, and offered the US to use its airspace and bases³⁹, while domestically they moved ahead to arrest an increasing number of persons on charges of religious extremism.⁴⁰

Reportedly, the authorities considered the southern region of Chimkent, bordering Uzbekistan and home to a majority of the republic's Uzbek minority, a hotbed of Islamic radicalism. However, international observers found little evidence to support this attitude.⁴¹

◆ In May, four suspected members of Hizb-ut-Tahrir were convicted on charges of instigating religious and social hatred, attempting to overthrow the constitutional order and participating in an illegal organisation financed from abroad. Initially the men were charged with possession of narcotics, on the basis of allegedly planted evidence, but these charges were later dropped. The men believed that they were detained for having met with a Muslim missionary from Tashkent. The trial seriously violated due process standards.⁴²

◆ In October, NSC officials arrested 22-year-old Kanat Beyembetov for spreading leaflets of Hizb-ut-Tahrir in the town of Turkestan. The following month he died of acute kidney failure. The NSC investigated the case, but concluded that Mr Beyembetov's death had been natural, and that its officers were not to be blamed. Still, the NSC officers who arrested Mr Beyembetov were dismissed for having violated the Code on Criminal Proceedings when carrying out the arrest. Mr Beyembetov's lawyer believed that her client died due to beatings at the hands of the NSC officers and said that his only “crime” was that he had been a devout Muslim and had regularly visited a mosque.⁴³

Other Religious Communities

Although the Law on Religion in force did not impose any obligation on religious groups to register with the authorities, the authorities sometimes required minority communities to do so in order to be granted the right to operate. The Administrative Code also contained a provision that enabled the authorities to prosecute believers who refused to register.⁴⁴ Jehovah's Witnesses in particular experienced difficulties related to registration. According to Human Rights Without Frontiers, Jehovah's Witnesses were involved in lengthy and unclear registration processes in different parts of the country, and as of December, legal cases had been brought against more than 10 groups of Jehovah's Witnesses under the Administrative Code.⁴⁵ In addition, so-called non-traditional communities also faced other forms of harassment.

◆ In late October, Asylbek Nurdanov, a young Baptist pastor, was arrested in the town of Kazalinsk, close to the Aral Sea. Following the arrest he was intimidated and violently assaulted at a local police station. One police officer reportedly threatened to cut off his tongue unless he renounced his faith. Later he was taken to a psychiatric hospital, on the basis of a statement that his parents had been forced to write. A few days later he was released from the hospital.⁴⁶

◆ In March 2002, *Kazakhstanskaya Pravda*, a government-controlled newspaper published an article denouncing the Hare Krishna movement. The Hare Krishna considered the article to indulge in unproven accusations, and to reveal the authorities' hostile attitude toward freedom of conscience. The community also announced that it would sue the newspaper.⁴⁷

Freedom of Movement

The requirement for citizens to hold exit visas when leaving the country was abolished.⁴⁸ However, the authorities ap-

proved new regulations obliging citizens to register with Kazakh diplomatic representations in any other country where they resided, even if their stay there lasted only a few days. According to the local media, the regulations were motivated by the need "to monitor the compliance of citizens of Kazakhstan with the laws of Kazakhstan and the implementation of their duties." The new regulations also granted diplomatic representatives the right to order citizens liable for military service to return to Kazakhstan "in the event of a [military] emergency."⁴⁹

Asylum Seekers and Immigrants

As of mid-2001 there were about 20,500 persons in need of international protection in Kazakhstan, most of whom originated from Tajikistan, Afghanistan and Chechnya. Although fewer than 1,000 of them were officially recognized as refugees, they were generally treated benevolently according to the UNHCR.⁵⁰

Following the 11 September attacks in the US, the Government increased the number of security controls at the republic's borders, and unilaterally introduced restrictions on the entry of Tajik citizens into the country and prevented Tajik trains from crossing the borders. These measures were motivated by security concerns. Refugees from both Tajikistan and Afghanistan were also reportedly refused entry and sent back to their countries of departure.⁵¹

Death Penalty

The Criminal Code carried a death penalty for 18 crimes in peacetime, including 12 forms of murder and high treason.⁵² Proposed amendments to the anti-terrorist legislation, which were put forward in July but had not yet been adopted as of the end of the year, introduced the death penalty for the attempted assassination of the President.⁵³ Women and minors could not be sentenced to death. By way of pres-

idental pardon the death penalty could be commuted into a life sentence or 25 years' imprisonment.⁵⁴

No official statistics were published, but according to unofficial sources Kazakhstan was among the five countries in the world where the death penalty was most widely used.⁵⁵ Estimates put the number of persons sentenced to death annually at 40-60.⁵⁶ Relatives of persons on death row were typically not notified about the date of the execution and only learned about it after it had taken place. They were therefore deprived of the right to make burial arrangements, and had to deal with the fact that the bodies of their loved ones were buried in unmarked graves in unknown locations. There was also concern that persons on death row had been sentenced on the basis of confessions obtained under torture.⁵⁷

◆ On 28 September, the Almaty City Court sentenced Mikhail Vershinin, Sergey Kopay and Evgeniy Turochkin to death for premeditated aggravated murder. The three men, all of whom were ethnic Russians with no prior criminal records, were charged with murdering seven female prostitutes and with desecrating and cannibalising their corpses. (The murders took place in 1998 and 1999, and the men allegedly considered themselves to be acting for the benefit of society by purging morally degenerate persons from its ranks.) However, although the three men apparently confessed the murders during the initial interrogations, they subsequently withdrew their statements, claiming that they had been forced to confess. At the time of writing an appeal against the men's death sentences was believed to be pending with the Supreme Court.⁵⁸

Women's Rights⁵⁹

In January the Committee on the Elimination of Discrimination against Women (CEDAW) reviewed Kazakhstan's first report under the Convention on the Elimination of All Forms of Discrimination Against Wo-

men, which was ratified by the republic in 1998. The Committee welcomed the fact that the Government had demonstrated political will to implement the Convention, but also called for increased commitment with regard to a number of matters.

Noting that traditional attitudes against women prevailed in Kazakhstan, the Committee reminded the Government of its responsibility to combat gender stereotypes, and as one step toward fulfilling this obligation the Government was urged to initiate the inclusion of a definition of discrimination against women in the national legislation.

The Committee also regretted that women's high level of education did not correspond with their position in the job market. In those labour sectors where women were in the majority, e.g. health care and education, salaries were lower, and few women held managerial positions. The employment of women had notably decreased in the last few years, and with two-thirds of all unemployed persons being female, women appeared to be "the last to be hired and the first to be fired". While the Committee members called for special efforts to increase the presence of women in political and public life, they questioned the lower retirement age of women, as they feared that it rather undermined than strengthened the role of women in society.

Furthermore, the Committee considered it worrying that poverty, which persisted in the republic in spite of the revenues that the extraction of oil resources had resulted in, had a particularly negative impact on women, above all those living in the countryside. The most pertinent socio-economic problems included inadequate nutrition, a lack of social services and a high maternal mortality rate. In addition, abortion figures remained comparatively high, suggesting that abortion was used as a means of contraception.

The Committee welcomed the fact that public prosecutors could prosecute perpetrators of rape irrespective of whether the

victim had filed any complaint and that trafficking in women and children had been penalized. However, the Committee members also urged the Government to contin-

ue to give high priority to the combat of violence against women and exploitation of women, and thus to ensure effective implementation of the legislation in place.

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