

# KAZAKHSTAN 2012 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The Republic of Kazakhstan has a government system dominated by President Nursultan Nazarbayev and the ruling Nur Otan Party. The constitution concentrates power in the presidency. The president controls the legislature and the judiciary as well as regional and local governments. Changes or amendments to the constitution require presidential consent. The 2012 national elections for the Mazhilis (lower house of parliament) fell short of international standards, as did the 2011 presidential election in which President Nazarbayev received 95 percent of the vote. Some security forces reported to civilian authorities; intelligence services reported to an army general who was appointed as head of the Ministry of Internal Affairs.

The most significant human rights problems were severe limits on citizens' rights to change their government; restrictions on freedom of speech, press, assembly, religion, and association; and lack of an independent judiciary and due process, especially in dealing with pervasive corruption and law enforcement and judicial abuse.

Other reported abuses included: arbitrary or unlawful killings; military hazing that led to deaths; detainee and prisoner torture and other abuse; harsh and sometimes life-threatening prison conditions; arbitrary arrest and detention; infringements on citizens' privacy rights; restrictions on freedom of religion; prohibitive political party registration requirements; restrictions on the activities of nongovernmental organizations (NGOs); violence and discrimination against women; abuse of children; sex and labor trafficking; discrimination against persons with disabilities and ethnic minorities; societal discrimination against gay, lesbian, bisexual, and transgender (LGBT) persons and persons with HIV/AIDS; and child labor.

The government took modest steps to prosecute officials who committed abuses, especially in high-profile corruption cases; however, corruption was widespread and impunity existed, particularly for people with connections to government or law enforcement officials.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were reports that the government or its agents committed arbitrary or unlawful killings.

In December 2011 a seven-month strike of oil-workers in Zhanaozen and the nearby village of Shetpe disintegrated into violence between protesters and law enforcement officials, leaving at least 17 people dead and more than 100 injured. Videos posted online depicted law enforcement officials shooting into the crowds, chasing after fleeing protesters, and beating them with batons.

The government's efforts to hold individuals accountable for the violence raised concerns about due process, selective prosecutions, and the use of the court system to silence opposition voices and deter criticism of the government. In May the court sentenced five mid-level policemen to between five and seven years in prison for using excessive force in response to the events in Zhanaozen. They also were to be banned from working in law enforcement for five years upon their release from prison. The court sentenced the former director of the Zhanaozen police detention center to five years in prison and ordered him to compensate the family of a detainee who died after police beat him while in custody. A court sentenced three oil company managers to between seven and eight years in prison on financial corruption charges, which the government viewed as having escalated the social unrest and prolonged the oil workers' strike. In September the Special Inter District Court of Aktobe sentenced former mayor of Zhanaozen Orak Sarbopeyev to 10 years in prison for abuse of power and corruption.

In June the Aktobe regional court convicted 13 oil workers of instigating the violence, sentencing them to between three and seven years in prison. The court either acquitted or issued suspended sentences to an additional 24 workers (see section 1.c.). In October a court sentenced unregistered Alga party leader Vladimir Kozlov to seven and one-half years in prison for inciting social discord, calling for the violent overthrow of the government, and forming a criminal group in connection with the violence; most observers found the evidence against him unconvincing (see sections 1.d., 1.e., and 3).

Military hazing led to deaths, suicides, and serious injuries. In April a military court found Major Duman Aytkozhim, the deputy head of the Aktobe Military Unit, guilty of abuse of power in connection with the suicide of 20-year-old Private Olzhas Baytasov. The investigation determined that when Major Aytkozhim found Baytasov talking on his cell phone, the major humiliated and threatened Baytasov and broke his mobile phone. The military court sentenced Aytkozhim to five and one-half years in prison and ordered him to pay 500,000 tenge (\$3,333) in

reparations to Baytasov's family. There were several other reports of suicides in response to hazing.

While the government did not publish statistics on the number of deaths specifically linked to hazing of military recruits during the year, authorities reported the number of suicides in the army increased from two in 2011 to eight in 2012.

There were deaths reported in prisons due to abuse (see section 1.c.).

### **b. Disappearance**

There were no reports of disappearances during the year.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits torture; nevertheless, police and prison officials allegedly tortured and abused detainees, often in an effort to obtain or force confessions. For example, a representative from the Kazakhstan International Bureau for Human Rights reported seeing physical signs of torture, including scabbed skin, open wounds, bruises, and evidence of exposure to extreme cold on prisoners. The representative also asserted that authorities generally did not allow human rights observers to observe conditions in penal colonies. Members of the Public Monitoring Commission, a group comprised of NGO representatives, interviewed prisoners in a Kostanai penal colony. After the interview, authorities confiscated the group's notes and reportedly punished prisoners who had submitted complaints to the commission by beating them and placing them in punitive cells.

According to local NGOs, torture most often occurred in pretrial detention centers in order to obtain confessions.

Authorities charged two police officers from the Saragash District in South Kazakhstan with torture while trying to obtain confessions from three detainees accused of theft. The police officers allegedly placed plastic bags over the detainees' heads and subjected them to electric shocks.

The Public Committee on Human Rights, created in 2007 in the city of Kostanai by several local NGOs and representatives from the unregistered political party Alga, reported it received numerous complaints of torture from the pretrial detention

facility in Aktau City. Several of the oil workers accused of organizing mass rioting during the 2011 violent clashes between strikers and police in Zhanaozen alleged that police tortured them after they were arrested. Civil society activist Galym Ageleuov monitored the trial of the 37 oil workers and reported that Parakhat Dyusenbaev testified that on April 17 he was beaten, humiliated sexually, and threatened with rape and arson.

Human rights activists asserted that the legal definition of torture was too vague to meet UN standards and that the penalties for the crime were too lenient. They also asserted that in many cases perpetrators were charged with “abuse of power” rather than torture. The Kazakhstani Commission on Human Rights, which advises the president on human rights issues, reported in 2011 that some law enforcement officers used torture and other illegal methods of investigation. The commission stated that there were no independent institutions to effectively investigate complaints of torture.

The human rights ombudsman reviewed prisoner and detainee complaints and concluded that law enforcement officers used abuse or torture to gain confessions. The ombudsman can either issue a recommendation directly to the relevant agency or release a public statement, but cannot legally force agencies to comply with its recommendations. The Coalition of NGOs against Torture (CNGOT) also received complaints of torture during the year. The Prosecutor’s Office did not address these complaints.

In September the Taldykorgan City Court acquitted six policemen accused of torturing detainees and instead convicted them of abuse of power, sentencing them to one year in prison and fining them 500,000 tenge (\$3,333) each.

In October authorities fired the chief of the Starogorodsky Police Department in Temirtau and arrested three policemen in response to accusations that they detained and tortured two local residents. According to the Ministry of Interior, the police officers admitted using torture. The trial was not completed by year’s end.

According to the Ministry of Defense, there were 24 cases of military hazing reported during the year, but no military officers were convicted of hazing. The ministry continued unannounced inspections and required systematic reports from senior officers about hazing in their units.

## **Prison and Detention Center Conditions**

Prison conditions were harsh and sometimes life threatening, and facilities did not meet international health standards. Health problems among prisoners went untreated in many cases or were exacerbated by poor prison conditions. Medical care was inadequate.

Physical conditions: According to the latest government statistics, there were approximately 6,410 prisoners and detainees in pretrial facilities. Abuse occurred in police cells, pretrial detention facilities, and prisons. Observers cited severe overcrowding, poor treatment of inmates and detainees, and the lack of professional training programs for administrators. According to Penal Reform International (PRI), there were 4,817 prisoners infected with HIV. The chair of the Criminal Corrective Committee, Zhanat Keshubayev, stated that there were 1,677 prisoners infected with HIV. Aigul Katrenova, head of the Committee of the State Sanitary-Epidemiology Inspectorate of the Ministry of Health, reported there were 27 fewer cases of HIV-infected prisoners than in the previous year. However, she identified the following as persisting problems: insufficient access to medical care, lack of monitoring of antiretroviral treatment of HIV-infected prisoners, shortage of medical personnel, lack of infectious disease doctors, and shortages in medication. PRI stated that there was a widespread lack of heating and adequate ventilation within the prison system.

Prisoners had access to potable water.

The government reported 39 deaths in pretrial detention centers and police cells, compared with 45 in 2011. PRI reported 220 deaths in prisons as a result of illness and 59 due to other reasons, including suicide.

The government reported 14 suicides in pretrial detention facilities and police cells in 2011. At year's end the figures had not been released for 2012.

Incidents of inmates' self-mutilation as a protest against harsh prison conditions and abuse increased considerably, with 340 cases reported during the year.

Administration: Although alternatives existed for sentencing nonviolent offenders, officials and NGOs noted they remained underutilized. During the year the government instituted a transfer of responsibility for prisoners' health care to the Ministry of Health from the Ministry of Justice. NGOs reported it was too soon to judge the efficacy of this measure but complained of lack of transparency in the process.

According to observers, prisoners and detainees generally had reasonable access to visitors. Human rights activists reported complaints that prison administrators interfered with prisoners' religious observance. The CNGOT reported an increase in all categories of complaints from prisoners.

Monitoring: Civil society activists worked with the councils for public oversight of the Ministry of Justice and the Ministry of Internal Affairs (MIA), as well as the human rights ombudsman's Counter-Torture Working Group, to monitor the situation in prisons and detention facilities. Many observers criticized the councils for lacking independence and clearly defined authority or power.

The International Committee of the Red Cross did not monitor prison conditions in the country.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, but problems remained.

#### **Role of the Police and Security Apparatus**

The MIA supervises the national police force, which has primary responsibility for internal security, including investigation and prevention of crimes and administrative offenses, and maintenance of public order and security. The Agency for Combating Economic and Corruption Crimes (Financial Police) has administrative and criminal investigative powers. The Committee for National Security (KNB) plays a role in border security, internal security, antiterrorism efforts, and the investigation and interdiction of illegal or unregistered groups, such as extremist groups, military groups, political parties, religious groups, and trade unions. The KNB, Syrbar (a separate foreign intelligence service), and the Financial Police report directly to the president.

Many government ministers maintained personal blogs where citizens could register complaints. During the year the then prime minister Massimov received 147,544 complaints on his personal blog. Minister of Internal Affairs Kalmukhanbet Kassymov received 147,542 complaints on his personal blog.

The prosecutor general chaired a council for coordination of law enforcement operations. Staff included heads of other law enforcement agencies. Among its many duties, the council reviewed complaints against law enforcement.

The MIA cooperated with NGOs to provide human rights training programs for local police. The government cooperated with international organizations to provide a limited number of law enforcement training courses aimed at decreasing abuse by emphasizing investigative skill development.

### **Arrest Procedures and Treatment While in Detention**

Although the judiciary has the authority to restrict arrests, independent observers reported that judges usually authorized prosecutors' warrant requests. The Ministry of Justice reported 12,692 persons under procedural arrest in during the year, compared to 13,143 in 2011. During the year the courts authorized 11,263 or 95 percent of prosecutors' requests for warrant arrests, compared with 11,882 or 95.7 percent of requests in 2011. Prosecutors continued to have the power to authorize investigative actions, such as search and seizure.

Persons detained, arrested, or accused of committing a crime have the right to the assistance of a defense lawyer from the moment of detention, arrest, or accusation. The law does not require police to inform detainees that they have the right to an attorney, and in practice police did not do so. Human rights observers alleged that law enforcement officials dissuaded detainees from seeing an attorney, gathered evidence through preliminary questioning before a detainee's attorney arrived, and, in some cases, used corrupt defense attorneys to gather evidence. The law states that the government must provide an attorney for an indigent suspect or defendant when the suspect is a minor, has physical or mental disabilities, or faces serious criminal charges. In practice public defenders often lacked the necessary experience and training to assist defendants. The law bars defendants from freely choosing their defense counsel if the cases against them involve state secrets; it allows only lawyers who have special clearance to work on such cases.

Arbitrary Arrest: Prosecutors reported continuing problems with arbitrary arrest and detention of citizens. According to the Prosecutor General's Office, authorities released 668 persons illegally confined to pretrial detention centers and an additional 587 persons from holding centers at various law enforcement agencies.

The government frequently arrested and detained opponents and critics, sometimes for minor infractions such as unsanctioned assembly, which incurred either fines or 10 days of administrative arrest. According to the law, detainees may remain in pretrial detention for up to two months. Depending on the complexity and severity

of the alleged offense, the term may be extended for up to one year while the investigation takes place. The pretrial detention term cannot be longer than the potential sentence for the offense. Authorities detained opposition activist Vladimir Kozlov for almost nine months while he awaited trial on charges related to the December 2011 unrest in Zhanaozen.

Pretrial Detention: The law allows police to hold a detainee for 72 hours before bringing charges. Human rights observers criticized this period as too lengthy and said that authorities often used this phase of detention to torture, beat, and abuse inmates to extract confessions. A bail system exists but was not used widely, and many individuals remained in pretrial detention until their trial. The law grants prisoners prompt access to family members; however, authorities sometimes sent prisoners to facilities located far from their homes and relatives, which restricted access for those who could not afford to travel.

Amnesty: After the passage of an amnesty bill in December 2011, authorities released 2,628 prisoners, reduced the prison sentences of 859 inmates, and dismissed more than 8,000 criminal cases. Human rights activist Evgeniy Zhovtis was granted amnesty in February, after serving two and one-half years of a four-year jail term.

#### **e. Denial of Fair Public Trial**

The law does not provide for an independent judiciary. The executive branch sharply limited judicial independence. Prosecutors enjoyed a quasi-judicial role and had the authority to suspend court decisions.

Corruption was evident at every stage of the judicial process. Although judges were among the most highly-paid government employees, lawyers and human rights monitors alleged that judges, prosecutors, and other officials solicited bribes in exchange for favorable rulings in the majority of criminal cases. In June the Special Inter District Criminal Court of the Akmola Oblast found two former judges of the Supreme Court, Saylaubek Dzhakishev and Almaz Tashenova, guilty of accepting and giving bribes.

Military courts have jurisdiction over civilian criminal defendants allegedly connected to military personnel undergoing a criminal trial. Military courts use the same criminal code as civilian courts.

#### **Trial Procedures**

All defendants enjoy a presumption of innocence and are protected from self-incrimination. Trials are public except in instances that could compromise state secrets or when necessary to protect the private life or personal family concerns of a citizen. Nevertheless, there were several reported cases of journalists and observers denied access to open court hearings. Only defendants charged with capital crimes are entitled to trial by jury.

During the April 5 trial of oil workers involved in the protests in Zhanaozen, the judge denied the request of the lawyer of one of the defendants, Gulnara Zhauspayeva, to allow journalists in the courtroom. The journalists were allowed to observe the trial via video monitors in another room, but they were unable to see the defendants.

Courts conducted jury trials for aggravated murder cases. Observers noted that the juror selection process was inconsistent and that judges, who deliberated with the jurors, tended to dominate the process. The Supreme Court reported that there were 142 jury trials in the first half of the year, in which 188 defendants were convicted and 14 were acquitted.

Defendants in criminal cases have the right to counsel and to a government-provided attorney if they cannot afford counsel. Under the criminal procedure code a defendant must be represented by an attorney when the defendant is a minor, has mental or physical disabilities, does not speak the language of the court, or faces 10 or more years of imprisonment. Defense attorneys reportedly participated in only half of all criminal cases, in part because the government did not provide sufficient funds to pay them. The law also provides defendants the right to be present at their trials, to be heard in court, to confront witnesses against them, and to call witnesses for the defense. They have the right to appeal a decision to a higher court. According to observers, defense attorneys played a minor role in trials, which were dominated by prosecutors.

Domestic and international human rights organizations reported numerous problems in the judicial system, including lack of access to court proceedings; lack of access to government-held evidence; frequent procedural violations; poor explanations of rights to defendants; denial of defense counsel motions; and failure of judges to investigate allegations that authorities extracted confessions through torture or duress. Activists called for the use of juries for a wider range of trials.

Lack of due process was a problem, particularly in a handful of politically motivated trials involving protests by opposition activists and in cases in which improper political or financial influence was alleged. For example, NGOs indicated the indictment in the case against Vladimir Kozlov contained lengthy political opinions and charges based on assumptions rather than evidence.

In building a criminal case against a defendant, human rights and international legal observers noted investigative and prosecutorial practices overemphasized a defendant's confession of guilt as against other types of evidence. Courts generally ignored allegations by defendants that officials had obtained confessions by torture or duress.

### **Political Prisoners and Detainees**

On October 8, the Mangystau Inter District Court sentenced Vladimir Kozlov, leader of the unregistered opposition political party Alga, to seven and one-half years in prison for "forming a criminal group, inciting social discord, and calling for the violent overthrow of the constitutional order." The charges were linked to Kozlov's support of the striking oil workers in Zhanaozen. While Kozlov and Alga did provide the strikers with moral and financial assistance, authorities did not present evidence linking them to violence or the overthrow of the government to the court. The charge of inciting social discord was based on a strained interpretation of the law that established the government as a social group "analogous to a race, tribe, religion, or class." Most NGOs and international observers characterized the charges as politically motivated. The court also ordered the confiscation of all of Kozlov's personal property, most of which was used as office space and equipment for the Alga party.

In February authorities granted amnesty to human rights activist Evgeniy Zhovtis, who was convicted of vehicular manslaughter in 2009, stemming from an accident in which Zhovtis struck and killed a pedestrian. Local and international human rights NGOs contended that Zhovtis's sentence was politically motivated to silence a vocal critic of the government.

### **Civil Judicial Procedures and Remedies**

Economic and administrative court judges handle civil cases under a court structure that largely mirrors the criminal court structure. The law and constitution provide for the resolution of civil disputes in court. In practice observers viewed civil courts as corrupt and unreliable. Observers noted litigants experienced

difficulty having judgments enforced, particularly if they did not agree to pay a percentage of the proceeds to the court administrator.

#### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit privacy violations; however, the government at times infringed on these rights.

The law provides prosecutors with extensive authority to limit citizens' constitutional rights. The KNB, the MIA, the Financial Police, and other agencies, with the concurrence of the Prosecutor General's Office, may infringe on the secrecy of private communications and financial records, as well as on the inviolability of the home. Courts may hear an appeal of a prosecutor's decision but cannot issue an immediate injunction to cease an infringement. In June 2009 parliament amended the criminal procedure code to expand the range of cases in which police could wiretap and record communications without a warrant by allowing wiretapping in cases of medium gravity, as well as in urgent and grave ones, which was previously the standard.

Government opponents, human rights defenders, and their family members continued to report that the government occasionally monitored their movements and telephone calls.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Speech and Press**

The constitution and the law provide for freedom of speech and of the press; however, the government used a variety of means to control the media and limit freedom of expression, including laws, harassment, licensing regulations, Internet restrictions, and criminal and administrative charges. Judicial actions against journalists and media outlets, including civil and criminal libel suits filed by government officials, led to the suspension of media outlets and self-censorship.

Freedom of Speech: The government limited individuals' ability to criticize the country's leadership; regional leaders attempted to limit local media outlets' criticism of them. The law prohibits insulting the president, the president's family, and other senior officials.

Freedom of Press: According to official statistics, the government owned 16 percent of the country's 2,783 media outlets. Many privately owned newspapers and television stations received government subsidies. Companies allegedly controlled by members of the president's family or loyal associates owned the majority of those broadcast media outlets that the government did not control outright. Media observers believed that the government wholly or partly owned most of the seven nationwide television broadcasters. Regional governments owned several frequencies, and the Ministry of Culture and Information (MCI) distributed them to independent broadcasters via a tender system.

All media were required to register with the MCI, although Web sites were exempt from this requirement.

The law limits the live retransmission of foreign-produced programming to 20 percent of a station's weekly airtime. This provision burdened smaller, less developed regional television stations that lacked resources to develop programs, although the government did not sanction any media outlet under this provision.

In November the Almaty Prosecutor's Office initiated cases demanding that several opposition media outlets be banned for allegedly "inciting social discord" and "calling for the overthrow of the constitutional order." The accused media outlets include the newspapers *Golos Respubliki*, *Vzglyad*, the Respublika Web portal, and the Internet television stations K Plus and Stan TV. At year's end various Almaty courts ruled in favor of the prosecutor's request to ban *Respublika*, *Golos Respubliki*, *Vzglyad*, K Plus, and Stan TV as extremist. In December the Almaty City prosecutor petitioned the court to suspend the Guljan.org opposition Web site for three months for allegedly calling for an unsanctioned demonstration. The court ordered Guljan.org to cease all operations until the case could be heard. At year's end the case continued.

Violence and Harassment: Press advocacy NGO Adil Soz recorded 15 attacks on editorial offices and journalists, compared with 14 in 2011. According to the NGO, reporters were prevented from carrying out their professional duties in 34 instances, compared with 43 the previous year, and journalists were denied or given significantly restricted access to public information 190 times. Journalists working in opposition media and those covering corruption reported harassment and intimidation by government officials and private actors.

On April 19, unknown assailants attacked Lukpan Akhmedyarov, a journalist from the newspaper *Uralskaya Nedelya*. The assailants beat him, stabbed him eight

times, and shot him with an air gun. Akhmedyarov regained consciousness three days later. He believed that the attack was connected with his journalistic activity, and prompted by the publication of his article “Brother, Father of the Son-in-law and Pull,” published a few weeks before the attack. The article detailed the personal relationships between members of government bodies in the Oblast of West Kazakhstan. The head of the Department of Internal Police Tlekkabyt Imashev sued Akhmedyarov and the newspaper for defamation. In July Akhmedyarov and the founder of *Uralskaya Nedelya* were charged with a fine of five million tenge (\$33,333).

Censorship or Content Restrictions: The law enables the government to restrict media content under amendments that prohibit undermining state security or advocating class, social, race, national, or religious superiority, or cruelty and violence. Owners, editors, distributors, and journalists may be held civilly and criminally responsible for content unless it came from an official source. The government used this provision to limit media freedom.

The Uralsk City Court No. 2 ordered the newspaper *Uralskaya Nedelya* to pay 1.5 million tenge (\$10,000) in damages to Arman Kozhakhmetov, who was the subject of one of the paper’s articles. The article, written by journalist Lukpan Akhmedyarov and entitled “The Repeated Story,” reported accusations from an alleged witness that several local city and law enforcement officials, including Kozhakhmetov, had participated in the murder of a famous athlete in 1999. The court ordered *Uralskaya Nedelya* and Akhmedyarov to publish an apology and retract the allegations. The case was under appeal at year’s end.

Libel Laws/National Security: The law on state secrets makes it a criminal offense to release information regarding the health, finances, or private life of the president, as well as economic information, such as mineral reserves and government debts to foreign creditors. To avoid possible legal problems, media outlets often practiced self-censorship regarding the president or his family.

Private parties could initiate criminal libel suits without independent action by the government, and an individual filing such a suit is able to file a civil suit as well based upon the same allegations. Officials used the law’s libel and defamation provisions to restrict media outlets from publishing unflattering information. Both the criminal and civil codes contain articles establishing broad liability for libel, with no statute of limitation or maximum amount of compensation. The requirement that owners, editors, distributors, publishing houses, and journalists

prove the veracity of published information, regardless of its source, promoted self-censorship at each level.

In December 2011 Medeu District court in Almaty ordered the editor of the Web site Guljan.org, Gulzhan Yergaliyeva, to publish a retraction of statements made about the wife of the former chairman of the financial police, Saltana Akhanova. It also ordered Yergaliyeva to pay a fine of five million tenge (\$33,333) as compensation for moral damages to Akhanova. Akhanova, wife of the former chairman of the financial police and current akim of the Akmolinsk Region Kayrat Kozhamzharov, filed a lawsuit against Yergaliyeva in response to an article published on Guljan.org that alleged Akhanova had millions of dollars in foreign bank accounts.

NGOs and monitors reported that libel cases against journalists and media outlets remained a problem. Adil Soz cited 16 criminal and 86 civil charges against media outlets and journalists during the first 10 months of the year, compared with 27 total suits in all of 2011.

The Law on National Security prohibits “the influence of information on public and individual consciousness related to deliberate distortion and spreading of unreliable information to the detriment of national security.” According to experts, the term “unreliable information” is overly broad. The law also requires owners of communication networks and service providers to obey the orders of authorities in case of terrorist attacks or the government’s order to enact the suppression of mass riots.

Publishing Restrictions: The law prohibits publication of any statement that promotes or glorifies “extremism,” or “incites social discord,” terms that international legal experts said the government had not clearly defined. The government subjected media outlets willing to criticize the president directly to intimidation, such as law enforcement actions or civil suits. Although these actions had a chilling effect on media outlets, criticism of government policies continued. Incidents of local government pressure on the media continued.

In September the MCI reported it had taken preventive steps to ensure no unofficial reports on emergencies leaked into the media. According to Minister of Culture Darkhan Mynbai, the ministry reached an agreement with state-owned media to ban any unofficial reports or negative interpretation of the official information during the time of an emergency. He also stated that the ministry

would prevent the dissemination of any information from alternative sources during emergencies.

### **Internet Freedom**

Observers reported that the government monitored e-mail and Internet activity, blocked or slowed access to opposition Web sites, and planted progovernment propaganda in Internet chat rooms. The state regulated the country's three internet service providers, including the state-owned Kaztelecom. Nevertheless, Web sites expressed a wide variety of views, including viewpoints critical of the government. The UN Broadband Communications Commission reported that 45 percent of the population had Internet access.

The MCI controlled the registration of ".kz" Internet domains. Authorities may suspend or revoke registration for failure to situate servers in the country. Observers criticized the registration process as unduly restrictive and vulnerable to abuse.

Adil Soz reported cases of the government blocking or restricting access to Web sites and the government's intermittent blocking of the Web site *LiveJournal* throughout the year, although the site remained accessible through other servers. Bloggers reported anecdotally that their sites were periodically blocked; including the independent news sites *guljan.org*, *respublika-kaz.info*, *kplustv.net*, *krasnoetv.kz*, *podkazit.kz*, *socialismkz.info*, and *janaozen.net*. Throughout the year the Committee to Protect Journalists reported that the Web site of the opposition newspaper *Golos Respubliki* remained inaccessible by users of Kaztelecom, the government-owned Internet service provider.

In December courts in Almaty banned several opposition news Web sites as extremist, including the official Web sites of the opposition newspapers *Vzglyad* and *Golos Respubliki*, as well as their social networking pages.

Courts frequently suspended the activities of opposition Web sites while the courts considered claims against them.

The government implemented new regulations on Internet access that mandated surveillance cameras in all Internet cafes, required visitors to present identification to use the Internet, demanded that Internet cafes keep a log of visited Web sites, and authorized law enforcement to access the names and Internet histories of users.

## **Academic Freedom and Cultural Events**

The government generally did not restrict academic freedom, although academics, like other citizens, were prohibited from infringing on the dignity and honor of the president and his family. Many academics practiced self-censorship.

### **b. Freedom of Peaceful Assembly and Association**

#### **Freedom of Assembly**

The law provides for limited freedom of assembly. There were significant restrictions on this right in practice, and police used force to disrupt peaceful demonstrations. For example, on May 1, Almaty police disrupted an unsanctioned Socialist Movement rally and struck activist Aynur Kurmanov in the head, forcing him to spend a week in the hospital. Authorities briefly detained and fined a number of activists. According to Kurmanov, authorities rejected all of the organization's more than 100 requests to protest during the year.

The law defines national security threats to include unsanctioned gatherings, public meetings, marches, demonstrations, illegal picketing, and strikes that upset social and political stability.

Under the laws governing public assembly, organizations must apply to local authorities for a permit to hold a demonstration or public meeting at least 10 days in advance. Opposition figures and human rights monitors complained that complicated and vague procedures and the 10-day notification period made it difficult for groups to organize public meetings and demonstrations, and they noted that local authorities turned down many applications for demonstrations or allowed them to take place only outside the city center.

Authorities often briefly detained and fined organizers of unsanctioned gatherings, including political party gatherings. For example, representatives from the unregistered opposition party Alga reported that authorities interfered with protests to boycott the April 2011 presidential election. The Kazakhstan International Bureau for Human Rights and Rule of Law, which monitors demonstrations in the seven largest cities, recorded 162 peaceful demonstrations from July 2011 to April 2012, 92.5 percent of which were unsanctioned. During that period the government sanctioned 12 demonstrations, including by progovernment groups. When the government did sanction public protests, it frequently designated locations in less populous areas outside the city center. In 12 cases authorities

physically prevented protesters from meeting. In nine cases authorities detained participants of unsanctioned demonstrations and later charged them with administrative violations. Overall, however, the organization noted an increase in the civic activities of citizens and a decrease in the number of cases where police prevented peaceful demonstrations.

The National Human Rights Action Plan for 2009-12 noted that the country's legal norms on public gatherings at times contradicted international standards, but the government has not introduced changes recommended in the plan.

### **Freedom of Association**

The law provides for limited freedom of association. There were significant restrictions on this right in practice. Any public organization set up by citizens, including religious groups, must be registered with the Ministry of Justice, as well as with ministry branches in every region in which the organization conducts activities. The law requires public or religious associations to define their specific activities, and an association that acts outside the scope of its charter may be warned, fined, suspended, or ultimately prohibited. Participation in unregistered public organizations may result in administrative or criminal liability, such as fines, dissolution, probation, or imprisonment.

The prohibition on unregistered organizations often provided a pretext for authorities to interfere with the activities of organizations. "Membership organizations" other than religious groups, which are covered under separate legislation, must have 10 members in order to register at the local level and must have branches in more than half the country's regions for national registration. The government considered political parties and labor unions to be membership organizations but had additional specific registration requirements for them. The law requires 40,000 signatures for registration. If authorities challenge an application by alleging irregular signatures, the registration process can continue so long as the total number of eligible signatures remains above the minimum. The law prohibits parties established on an ethnic, gender, or religious basis. The law prohibits members of the armed forces, employees of national security and law enforcement organizations, and judges from participating in trade unions or political parties.

NGOs reported that the NGO registration process was straightforward, although corruption in the process was common. NGOs involved in human rights advocacy and political activities faced greater administrative delays and obstacles, although

there were no reports that the government denied registration or closed organizations.

### **c. Freedom of Religion**

See the Department of state's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and despite some regulatory restrictions, the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations to provide protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

In-country Movement: The government required citizens and foreigners who remained in the country for more than five days to register with migration police. Foreigners who entered the country had to register at certain border posts. Registration in most of the country generally was routine; nonetheless, some foreign citizens reported that local authorities occasionally requested bribes before completing registration. Migration police routinely checked the registration of foreigners, including labor migrants, and reportedly requested bribes. Some foreigners experienced problems travelling to regions outside their registration area. In 2011 amendments to the law on migration eased registration requirements for ethnic Kazakh returnees (oralmans). A 2011 agreement on the legal status of migrant workers granted an exemption for families of migrant workers from registration for a 30-day period after the worker started employment. The new migration law granted the government the authority to deport those who violate the regulations, while the previous law restricted deportation to certain cases.

The government did not report on the number of foreigners deported for gross violation of visitor rules during the year. During the first nine months of 2011, the Ministry of Internal Affairs deported 12,644 foreigners for alleged gross violations of the visitor rules, the majority of whom were citizens of countries in the Commonwealth of Independent States (CIS). Individuals facing deportation can request asylum if they fear persecution in their home country. The government

required persons who were suspects in criminal investigations to sign statements that they would not leave their place of residence and detained individuals routinely for identity checks without suspicion of a criminal offense.

Foreign Travel: Although the government did not require exit visas for the temporary travel of citizens, there were certain instances in which the government could deny exit from the country, including for travelers subject to pending criminal or civil legal proceedings, unfulfilled prison sentences, or compulsory military duty. Travelers who presented false documentation during the exit process could be denied exit, and authorities controlled travel by active-duty military personnel. The law on national security requires that persons who had access to state secrets obtain permission from their employing government agency for temporary exit from the country.

Emigration and Repatriation: The law provides for the right to emigrate and the right to repatriate, and the government generally respected these rights in practice. An exception is the law on national security, which prohibits persons who had access to state secrets from taking up permanent residence abroad for five years after leaving government service. The government required a permanent exit visa for emigration; obtaining this visa required criminal checks, credit checks, and letters from parents and any dependents over the age of 10 expressing no objection to exit visa issuance.

Authorities required foreigners to obtain prior permission to travel to certain border areas with China and cities in close proximity to military installations. The government continued to declare particular areas closed to foreigners due to their proximity to military bases and the space launch center at Baikonur. In practice foreigners could visit these areas with prior permission from the Ministry of Internal Affairs.

### **Protection of Refugees**

The government cooperated with the UNHCR and other organizations to provide some protection and assistance to refugees from countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The law does not prohibit forced exile if authorized by an

appropriate government agency or through a court ruling. The UNHCR legally can appeal to the government and interfere on behalf of an individual if facing deportation. The law on refugees, which a number of regulations and by-laws implement, regulates the granting of asylum and refugee status.

Access to Basic Services: The law on refugees outlines refugee status determination (RSD) procedures and access to state services, including the right to be registered and to be issued documents. The Committee on Migration under the Ministry of Labor and Social Protection conducts RSDs. Observers stated that committee representatives suffered from lack of expertise, which the UNHCR attributed to rushed implementation of the law. The law stipulates that refugees have the right to education and social services, but administrative regulations and the prohibitive cost of the services to refugees often precluded the exercise of this right in practice. Authorities formed an interministerial working group with UNHCR to address these problems.

The government generally registered asylum seekers and determined their status in consultation with UNHCR. In some cases the government allowed asylum seekers and refugees to stay in the country while UNHCR found third countries that would accept them. Although the government performed refugee status determinations and registered refugees present in the country, it did not accept any refugees for resettlement from third countries, nor did it facilitate local integration (including naturalization) of refugees on its territory.

In September the government detained Uzbek refugee Makset Djabbarbergenov in response to an extradition request by the government of Uzbekistan, accusing him of conducting illegal religious activity. He remained in detention for approximately three months while the government considered his case. In December, after discussing the situation with many international actors including UNHCR and the International Organization for Migration (IOM), the government released Djabbarbergenov for resettlement in a third country.

Temporary Protection: The government also provided temporary protection to approximately five individuals during the year, including some Afghans, who might not qualify as refugees.

During the year the UNHCR reported generally cordial relations with the government in assisting refugees and asylum seekers. The government usually allowed the UNHCR access to detained foreigners to ensure proper treatment and fair determination of status. The government was generally tolerant in its

treatment of local refugee populations, except for a few citizens from former Soviet republics. The government often did not allow refugees without passports or those who had entered the country illegally to register.

The Committee on Migration in the Ministry of Labor and Social Protection reviewed refugee claims, with the UNHCR and a local NGO, Kazakhstan International Bureau for Human Rights, participating as observers. Consistent with the Minsk Convention on Migration within the CIS, the government did not recognize Chechens as refugees. Chechens were eligible for temporary legal resident status for up to 180 days, as are any other CIS citizens. This temporary registration was renewable, but local migration officials have discretion over the renewal process. In some cases they solicited bribes, exploiting the vulnerability of Chechens due to their inability to return safely to Chechnya. The government has an agreement with China not to tolerate the presence of ethnic separatists from one country on the territory of the other. Human rights monitors remained concerned about the effect of this agreement on Uighurs from China living in the country, especially following the April 2010 transfer of RSDs for Uighurs from the UNHCR to the government. The government did not forcibly return any refugees protected under the UNHCR's mandate.

### **Stateless Persons**

Estimates of the number of stateless people in Kazakhstan vary. According to official government statistics, between 7,000 and 8,000 officially recognized stateless persons resided in the country. The Ministry of Justice estimated that the actual number of stateless persons was approximately 21,000, while 57,000 persons self-identified as stateless in the 2009 census. Stateless people were generally holders of Soviet passports who failed to renew their documents after independence, ethnic Kazakh repatriates, and labor migrants. Although provided with the same rights as individuals with resident permits, stateless persons reported difficulty finding legal employment and had limited access to education and health care. The UNHCR continued to work with government and parliamentary officials to obtain reliable data on stateless persons and improve the country's citizenship legislation.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution and law provide for a democratic government with universal suffrage for those older than 18 years of age; in practice the government severely limited the right of citizens to change their government.

Although 2007 constitutional amendments increased legislative authority in some spheres, the constitution continues to concentrate power in the presidency. The president appoints and dismisses most high-level government officials, including the prime minister, the cabinet, the prosecutor general, the KNB chief, Supreme Court and lower-level judges, regional governors, and the chairman and two members of the Central Election Commission (CEC), which oversees presidential and parliamentary elections. The lower house of parliament must confirm the president's choice of prime minister, and the senate must confirm the president's choice of prosecutor general, chief of the KNB, Supreme Court judges, and the head of the national bank. The parliament has never failed to confirm a presidential nomination. Modifying or amending the constitution effectively requires the president's consent. The 2007 constitutional amendments exempt President Nazarbayev from the two-term presidential term limit, and an amendment passed in 2010 gives him protection from prosecution.

Two 2010 laws termed "Leader-of-the-Nation laws" establish President Nazarbayev as chair of the Kazakhstan People's Assembly, grant him lifetime membership on the Constitutional and Security Councils, allow him "to address the people of Kazakhstan at any time," and stipulate that all "initiatives on the country's development" must be coordinated through him.

### **Elections and Political Participation**

Recent Elections: In November 2011 President Nazarbayev dismissed the lower house of parliament and called for early parliamentary elections on January 15. The early election resulted in the formation of a multiparty parliament, with the president's party, Nur Otan, holding the majority of the seats. No parties considered to oppose the president were elected. According to the Organization for Security and Cooperation in Europe (OSCE), the competitiveness and pluralism of the electoral environment was undermined because the government barred several political parties and candidates from competing. Many OSCE monitors reported instances of ballot stuffing, carousel voting, and proxy voting. The OSCE's assessment was that the election "did not meet fundamental principles of democratic elections."

Political Parties: Political parties must register members' personal information, including date and place of birth, address, and place of employment. This requirement discouraged many citizens from joining political parties. There were credible allegations that authorities pressured persons entering government service to join the Nur Otan party.

At year's end there were 10 registered political parties, including the parties Ak Zhol, Rukhaniyat, and Auyl. These parties did not generally oppose President Nazarbayev's policies. In April the appellate court of Kokshetau City extended the six-month suspension of the Communist Party for an additional six months, reportedly on the grounds that a local press article naming the party's first secretary was proof the party had failed to honor its suspension.

Additionally the effort of political parties Azat and the National Socialist Democratic Party (NSDP) to register as a joint party failed, with Azat losing its status as a registered political party. The unregistered political party Alga, which has sought registration since 2006, failed to achieve registration status. In November the Alga Party leader Vladimir Kozlov was sentenced to seven and one-half years in prison for creating and leading a criminal organization, inciting social discord, and calling for the violent overthrow of the government in connection to the support he and his party gave to striking oil workers prior to the 2011 violence in Zhanaozen. The Almaty prosecutor's office used the verdict against Kozlov to petition the court to ban Alga, the Khalyk Maidany political movement, and several opposition media outlets as extremist. The courts declared all of these organizations as extremist and banned their activities in the country's territory. Appeals of these rulings continued at year's end.

In order to register, a political party must hold a founding congress with minimum attendance of 1,000 delegates from two-thirds of the oblasts and the cities of Astana and Almaty. Parties must obtain at least 700 signatures from each oblast and the cities of Astana and Almaty, registration from the CEC, and registration from each oblast-level election commission.

Participation of Women and Minorities: Traditional attitudes sometimes hindered women from holding high office or playing active roles in political life, although there were no legal restrictions on the participation of women or minorities in politics. At year's end there were two female ministers; 27 members of the Mazhilis (lower house of parliament) and two Senators were women.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Corruption was widespread in the executive branch, various law enforcement agencies, local government administrations, the education system, and the judiciary. The MIA, the Financial Police, the KNB, and the Disciplinary State Service Commission are responsible for combating corruption. Opposition leaders and human rights NGOs accused the government of rampant corruption.

Although authorities arrested two Supreme Court justices and the head of the customs agency on corruption charges, the government generally focused on lower to middle-ranking officials and minor political figures. The government did not release statistics on corruption during the year. In the first 11 months of 2011, courts convicted 24 government officials and 78 police officers of corruption. According to Supreme Court Chairman Bektas Beknazarov, 16 judges were fired for incompetence during the year. The government did not report the number of judges convicted of corruption.

According to the law on the “Fight Against Corruption,” government officials, applicants for government positions, and those recently released from their jobs are required annually to declare their income and assets in Kazakhstan and abroad to tax authorities. The same requirement applies to their spouses, dependents, and adult children. Similar regulations exist for members of parliament and judges.

The law mandates that the government, public associations, officials, and media outlets provide citizens with information that affects their rights and interests; in practice citizens’ requests for information were not fulfilled in a timely manner. NGOs reported problems with access to information from state agencies and cited red tape, poor content on official Web sites, and long lines in state agencies. According to an assessment by the local branch of Transparency International, all governmental ministries received poor transparency ratings except for the MCI, which was evaluated as average.

Although parliament published several draft laws, some parliamentary debates, and occasionally its voting record, many parliamentary activities took place outside public view. Accredited journalists and representatives of public associations could observe some parliamentary sessions via video link from a separate room. Transcripts of parliamentary sessions were not available to the public. During the

year parliament barred the public and media from attending discussions of controversial legislation.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups generally operated effectively, with relative freedom to investigate and publish their findings on human rights cases. However, some government restrictions on domestic and international human rights NGO activities remained. International and local human rights groups reported that the government continued to monitor the activities of NGOs that worked on sensitive issues and noted government harassment, including police visits and surveillance, of NGO offices, personnel, and family members.

Television channel KTK's program "Weekly Portrait" featured an episode that spoke out against several international NGOs, including Freedom House, National Democratic Institute, and Human Rights Watch. The program accused the organizations of supporting the violence in Zhanaozen. A separate program accused international NGOs, and specifically Freedom House, of supporting nontraditional religious sects.

The Almaty Helsinki Commission, the Republican Network of Independent Monitors, the Kazakhstani International Bureau for Human Rights, PRI, and Adil Soz were among the most active local human rights NGOs and occasionally faced difficulties in registering and acquiring office space and technical facilities. They also reported that the government audited their records and imposed various legal constraints to their activities. Multiple NGO activists reported heightened government monitoring prior to the first anniversary of the December 2011 violence in Zhanaozen. In some instances government agents misrepresented themselves to attend and monitor NGO events. The government continued to participate in--and include NGOs in--roundtables and events on democracy and human rights.

NGOs affiliated or suspected of being affiliated with the opposition reported harassment.

UN and Other International Bodies: In general the government did not prevent international NGOs and multilateral institutions dealing with human rights from visiting the country and meeting with local human rights groups and government

officials. The government cooperated with the OSCE and its field mission. The UN, the IOM, and the Red Crescent Society also operated freely in the country.

National security laws prohibit foreigners, international organizations, NGOs, and other nonprofit organizations from engaging in political activities. The law stipulates that a noncommercial organization must provide information to tax authorities on its founders, activities, and foreign sources of funding, as well as income, property, expenses, and employee records. The law prohibits international organizations from funding unregistered entities.

Government Human Rights Bodies: The Presidential Commission on Human Rights is a consultative and advisory body that includes members of the public appointed by the president. The commission reviews and investigates complaints, issues recommendations, monitors fulfillment of international human rights conventions, and publishes annual human rights reports in close cooperation with several international organizations, such as the UNHCR, OSCE, IOM, and UNICEF. During the year the commission received approximately 2,000 written and oral complaints. The commission does not have legal authority to remedy human rights violations or implement its recommendations.

The presidentially appointed human rights ombudsman investigated approximately 1,300 complaints by citizens of violations of their rights by state agencies, although the ombudsman was not authorized to investigate complaints concerning the president, heads of government agencies, the parliament, the cabinet, the Constitutional Council, the Prosecutor General's Office, the CEC, or the courts. The ombudsman's office has the authority to appeal to the president, cabinet, or parliament to resolve citizens' complaints; cooperate with international human rights organizations and NGOs; meet with government officials concerning human rights violations; visit certain facilities, such as military units and prisons; and publicize the results of investigations in the media. The ombudsman's office also published an annual human rights report. During the year the office occasionally briefed the media and issued reports discussing complaints it had investigated.

Domestic human rights observers noted that although government human rights investigators advanced human rights in the country by publicizing statistics and individual cases, and aided citizens with less-controversial social problems and issues involving lower-level elements of the bureaucracy, the ombudsman's office and the human rights commission were unable to stop human rights abuses or punish perpetrators. The commission and the ombudsman avoided addressing underlying structural problems that led to human rights violations.

## Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, the government did not effectively enforce the law. Violence against women, trafficking in persons, and discrimination against nonethnic Kazakhs in government, persons with disabilities, and those in the LGBT community were problems.

### Women

**Rape and Domestic Violence:** The law criminalizes rape. The punishment for rape, including spousal rape, ranges from three to 15 years' imprisonment. Out of 1,715 officially reported rape cases during the first nine months of the year, courts convicted 1,821 persons of criminal rape. Under the law, a prosecutor cannot initiate a rape case absent aggravating circumstances, such as gang rape, unless the victim files a complaint. Once a complaint is filed, the criminal investigation cannot be dismissed if the rape victim recants or refuses to cooperate further with the investigation. This provision was intended to protect victims from coercion. There were anecdotal reports of police and judicial reluctance to act on reports of rape, particularly in spousal rape cases.

Violence against women, including domestic violence, was a problem. Legislation identifies various types of domestic violence, such as physical, psychological, sexual, and economic, and outlines the responsibilities of the local and national governments and NGOs in providing support to domestic violence victims. The law also outlines mechanisms for issuance of restraining orders and provides for 24-hour administrative detention of abusers. The criminal procedure code sets the maximum sentence for spousal assault and battery at 10 years in prison, which is the same as for any assault.

NGOs maintain that the domestic violence law does not have an effective mechanism for implementation. According to NGOs, domestic violence remained a serious problem. Although official statistics were scarce, activists estimated that one in four families suffered domestic violence. During the year the government registered 80,571 crimes against women.

Police intervened in family disputes only when they believed the abuse was life threatening. According to NGO estimates, police investigated approximately 10

percent of cases of life-threatening abuse. NGOs conducted training for police officers on how to handle victims of domestic violence.

NGOs reported that women often withdrew their complaints because of economic insecurity. When victims pressed charges for domestic violence or spousal rape, police occasionally tried to persuade them not to pursue a case. When domestic violence cases came to trial, the charge was most often light battery, for which judges sentenced domestic abusers to incarceration at a minimum-security labor colony and 120 to 180 hours of work. Sentences for more serious cases of battery, including spousal battery, range from three months to three years of imprisonment; the maximum sentence for aggravated battery is 10 years' imprisonment.

Although the government stated that 29 crisis centers assist women and two centers assist men, NGOs reported that the number of active centers was much smaller. All the crisis centers received funding through government and international grants to NGOs. A number of smaller NGOs assisted victims, and six of the crisis centers provided shelter for victims of violence.

Sexual Harassment: Sexual harassment remained a problem. The law prohibits some forms of sexual harassment, but legal and gender experts regarded the legislation as inadequate. There were reports of incidents of harassment, but in no instance was the law used to protect the victim, nor were there reports of any cases prosecuted.

Reproductive Rights: Couples and individuals had the right to decide the number, spacing, and timing of their children and have the means to do so free from discrimination, coercion, or violence. Modern contraceptive methods were widely available. Women and men received equal treatment for sexually transmitted infections. Skilled personnel attended almost all births and provided at least one postnatal care visit, according to the Population Reference Bureau. According to the Ministry of Health, the maternal mortality ratio was 13.3 deaths per 100,000 live births in 2011.

Discrimination: The constitution and law provide for equal rights and freedoms for men and women. The gender equality law defines the terms "gender," "gender equality," "sexual discrimination," and "equal opportunity" and prohibits discrimination based on gender. Despite the law, NGOs reported that no government body assumed responsibility for implementing the legislation and that the definition of gender discrimination did not comply with international standards. More women than men were self-employed or under-employed relative to their

education level. According to observers, women in rural areas faced greater discrimination than women in urban areas and suffered from a greater incidence of domestic violence, limited education and employment opportunities, limited access to information, and discrimination in their land and property rights. According to the World Bank's Women, Business and the Law report, women in the country faced discrimination obtaining work in the same industries as men, and there were no laws protecting women from sexual harassment in the workplace.

## **Children**

Birth Registration: Citizenship is derived both by birth within the country's territory and from one's parents. The government has a duty to register all births immediately.

Education: Education is mandatory through 16 years of age or secondary school; elementary schooling generally begins at age six. Primary and secondary education is free and universal. The law provides for access to public education for refugee and illegal migrant children. In some cases these children were denied access to schools, or their parents did not enroll them due to fear of discovery and deportation.

Child Abuse: There were reports of child abuse. NGOs estimated that more than half of all children younger than 14 experienced at least one incident of physical or psychological abuse by adults. Abuse was more common in rural areas. According to the Ministry of Education, courts terminated the custody rights of approximately 782 abusive parents. According to the Ministry of Interior, in the first 10 months of the year 21 criminal cases were initiated against parents charged with criminal abuse. Minors who are 16 or older have the right to file petitions related to their interests directly with a court.

The president of the NGO Union of Crisis Centers stated that the number of psychological abuse cases exceeds the number of physical abuse cases. In the first 11 months of the year, the Union of Crisis Centers' hotline for children received 3,730 calls regarding child abuse, 60 percent of which were complaints about abused girls.

Child Marriage: The legal minimum age for marriage is 18 years. However, it may be reduced to 16 years in the case of pregnancy or with the consent of the parents or legal guardian. NGOs noted several cases of underage marriage, especially in the southern part of the country. Traditionally couples first married in

mosques, and when the bride reached the legal age, the marriage would be registered officially.

Sexual Exploitation of Children: The minimum age for consensual sex is not specified in any article of the criminal code, but an article provides for eight to 15 years in prison as punishment for individuals who force boys or girls under the age of 18 to have sexual intercourse.

In 2010 the country introduced a criminal statute on the production and distribution of child pornography and expanded administrative penalties to cover the sale of pornographic materials to minors. The country retains administrative penalties for child pornography.

Displaced Children: According to the Ministry of Education, 3,984 children were identified as “street children” during the year. According to media reports, police placed homeless children in institutions run by the Ministry of Education for delinquent and street children. There they received medical and psychological assistance before they were released or sent to orphanages. During the year authorities sent 3,941 back to their families and placed 25 children in orphanages and institutions for children deprived of parental care.

Institutionalized Children: NGOs reported a high number of incidents of violence against children in orphanages, boarding schools, and detention facilities for delinquent children, and there were increased media reports of abuses in orphanages and other institutions. NGOs stated that half of children in orphanages or closed institutions suffered from abuse by teachers or other children.

International Child Abduction: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

## **Anti-Semitism**

Approximately 30,000 to 40,000 Jews lived in the country. There were no reports of anti-Semitic acts apart from the distribution of anti-Semitic literature by Hizb ut-Tahrir. Leaders of the Jewish community reported no incidents of anti-Semitism by the government or in society.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

According to the Ministry of Labor and Social Protection, in 2011 there were 506,000 persons with disabilities (3 percent of the total population) in the country, although analysts argued that the real number was higher. The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and in the provision of other state services or other areas, but significant discrimination existed in the areas of employment, education, and access to government services.

The law provides for access to information for persons with disabilities. The government produced periodicals, scientific journals, reference literature, and fictional works that were recorded either on disk or in Braille. The law requires one national television channel to broadcast news programs with sign-language translation. NGOs stated that implementation of the laws on disability was lacking, and the Nur Otan party's Institute of Parliamentary Development concluded that access for disabled persons to information and communications was insufficient.

The law requires companies to set aside 3 percent of their jobs for persons with disabilities. International and local observers noted some improvement regarding the rights of persons with disabilities. Nevertheless, there were reports that persons with disabilities faced difficulty integrating into society and finding employment. According to Ministry of Labor and Social Protection, 3,400 persons with disabilities registered for employment, but only 1,762 were employed. The law mandates access to buildings for persons with disabilities. Vice Minister of Labor and Social Protection Assel Nusupova identified the two biggest problems facing persons with disabilities as poor infrastructure and lack of access to education. Persons with disabilities had difficulty accessing public transportation. The government did not make a concerted effort to address these problems.

Citizens with mental disabilities could be committed to state-run institutions without their consent or judicial review. In practice the government committed persons at a young age with the permission of their families. Institutions were poorly managed and inadequately funded.

There are no regulations regarding the rights of patients in mental hospitals. Human rights observers believed this led to mass abuse of patients' rights. NGOs reported that patients often were drugged and isolated for minor infractions and that they experienced poor conditions and a complete lack of privacy. In 2011 prosecutors disclosed violations of mental patients' rights ranging from illegal institutionalization to restricting access to information and unlawful extension of patients' stays. Prosecutors punished some officials as a result of the investigation. NGOs reported that orphanages for children with physical and mental disabilities were overcrowded and unsanitary, with insufficient staff to care adequately for children's needs.

The government did not restrict the right of persons with disabilities to vote and arranged home voting for individuals who could not travel to polling places as a result of their disability.

The Ministry of Labor and Social Protection was the primary government agency responsible for protecting the rights of persons with disabilities; the Ministries of Health and Education also assisted in their protection. Statistics on disability issues were unavailable.

### **National/Racial/Ethnic Minorities**

The government continued to favor placing ethnic Kazakhs in senior government employment.

Ethnic Kazakh migrants who returned to the country from abroad experienced problems with housing, employment, and access to social services partly due to inadequate staffing and funding to meet their needs.

Kazakh is the official state language, although organizations and bodies of local self-administration officially may use Russian on an equal basis with Kazakh. By law the ability to speak Kazakh is not required for entry into the civil service, and there should be no discrimination on the basis of language, but Kazakh language ability was looked upon favorably. Non-Kazakh speakers protested that this was language discrimination. The Election Law requires presidential candidates to be fluent in Kazakh.

The creation of Kazakh language schools and the conversion of some Russian language schools to Kazakh reduced the overall number of Russian only-language schools.

## **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

Although there were no official statistics on discrimination or violence based on sexual orientation or gender identity, there were reports of such discrimination. Representatives of international and local organizations reported that negative social attitudes towards marginalized groups, including LGBT persons, impeded these groups' willingness to come forward, organize, or seek access to HIV/AIDS programs.

LGBT individuals, particularly gay men, were among the most oppressed groups, although the country does not outlaw consensual same-sex sexual activity. According to a 2009 Soros Foundation study, 64.1 percent of LGBT respondents said they did not face open discrimination in the workplace, although LGBT individuals often concealed their sexual orientation to avoid such discrimination. LGBT individuals whose sexual orientation became known publicly risked physical and verbal abuse, possible loss of employment, and unwanted attention from police and authorities. A local NGO working on LGBT issues noted that new regulations made gender reassignment more cumbersome but cited a slight improvement in public awareness of LGBT rights. Several LGBT organizations operating in the country reported that government-run HIV clinics occasionally breached confidentiality and reported patients' sexual orientation to their families and employers. The NGO Amulet reported that since the beginning of 2011 there were 16 attempts on the lives of LGBT persons and 298 cases of physical violence of varying degrees. There were 13 instances of LGBT persons being dismissed from work based on their sexuality, and two cases of landlords refusing to rent property to LGBT persons. The organization reported 115 cases of LGBT persons being denied the right to health care.

According to one NGO working on LGBT issues, in December a transgender person shared some of the challenges facing the LGBT community with the television program "Drugaya Pravda" that aired on the national channel KTK. When the program was aired, the presenter described him as gay and presented the information he gave in a negative light. After receiving numerous threats, the person's house was burned down. The victim appealed to police, who were investigating the situation. The victim believed the incident was related to his admission of being transgender.

NGOs reported that members of the LGBT community seldom turned to law enforcement agencies to report violence against them, because they feared they would be met with hostility, ridicule, and occasionally violence. Additionally they did not want law enforcement officers to notify their employers of their sexual orientation.

### **Other Societal Violence or Discrimination**

The law prohibits discrimination against persons with HIV and AIDS. Observers reported that cultural stigmas against drug users and other at-risk groups continued to affect general access to information, services, treatment, and care.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law and related regulations protect the right of workers to form and join independent unions, and bargain collectively. The law likewise protects the right of workers to form and join independent unions and bargain collectively.

The law protects workers' right to bargain collectively and negotiate collective agreements. Labor law provides that an individual contract between an employer and each employee sets the employee's wage and outlines the rights and responsibilities of the employee and the employer. The International Labor Organization observed that the country's labor code allows nonunion elected representatives to participate in collective bargaining in a way that could undermine the position of labor unions.

The law protects the right of workers to strike, but exercising this right is subject to numerous legal limitations. The law limits the conditions under which workers in certain professions that provide essential services, such as railway, civil aviation, military, law enforcement, fire services, and health, can strike. In general the law protects the right of workers to strike only if a labor dispute has not been resolved through existing compulsory arbitration procedures. Decisions to strike must be taken in a meeting where at least half of workers are present. Striking workers must give five days' advance notice to employers. The law neither sanctions nor prohibits the firing of employees for participation in an illegal strike.

The Law on Public Associations requires a minimum of 10 persons to establish a labor union. To obtain legal status, a trade union must apply for registration with

the Ministry of Justice. The registration procedure is broadly similar to that of other membership organizations.

Foreign workers have the right to join unions; however, the law prohibits the operation of foreign unions and prohibits the financing of unions by foreign legal entities and citizens, foreign states, and international organizations. The law prohibits antiunion discrimination, and a court can order a worker reinstated if the court found the worker was fired for union activity.

In practice the government continued to restrict the right to organize, and most workers were not able to join or form trade unions of their choice. The government exercised considerable influence on organized labor and favored state-affiliated unions over independent unions. The largest trade union association, the Federation of Trade Unions, the successor to formerly state-sponsored Soviet-era labor organizations, remained affiliated with the government. The federation unites 26 industrial national unions and 13 regional unions. The industrial unions represented workers in a wide range of industries, including oil and gas, construction, textiles, education, and public health. Each union elects its own leader and has a representative on the General Council, which elects the 14-member Executive Committee. The committee runs the federation's day-to-day operations and deals with issues of social and economic protection, labor protection, organization, and international cooperation.

Union demands that management finds unacceptable may be presented to a tripartite commission composed of government, employer association, and labor union representatives. Both state-affiliated and independent labor unions participate in tripartite commissions. The government was supposed to be the neutral broker on the commissions, but there were cases in which it favored the interests of labor unions or employers. The tripartite commission is responsible for developing and signing annual agreements governing most aspects of labor relations. Through this mechanism, labor unions raised the minimum wage for several industries, including mining and metallurgy, and employers were required to pay back salaries in a number of industrial areas during the year. Employers occasionally used individual contracts to weaken collective bargaining power. Activists stressed that political pressure on employers to avoid prolonged strikes following the violence in Zhanaozen was driving the rapid conclusion of agreements.

In practice there were reports of employers providing arbitrary justifications for firing employees who had attempted to organize strikes and there were multiple

violations of the law protecting workers from antiunion discrimination. The violations ranged from threats of being fired, which would lead to the loss of social benefits, to physical intimidation and assault. Activists and trade union leaders in a variety of sectors became victims of these firings, harassment campaigns, and physical attacks. According to activists, the government did not interfere with the formation and operation of independent labor unions. There were reports of employers trying to neutralize the activity of independent labor unions by creating “yellow unions” with which to negotiate and sign collective bargaining agreements.

The leader of Independent Labor Unions asserted some provisions of the collective bargaining agreement with PetroKazakhstan violated the rights of employees. At year’s end there was no information about the resolution of the conflict. The independent labor union For Decent Labor was unable to reach a collective bargaining agreement with EuroTechService. The company then negotiated and quickly signed an agreement with a newly formed union. For Decent Labor filed a complaint with the local labor department, which ordered EuroTechService to resume negotiations with the independent union. At year’s end negotiations continued.

On December 28, approximately 70 public sanitation contractors at a public utility company in the western city of Aktau staged an unsanctioned rally in response to rumors of pending layoffs and low wages. After regional government representatives pledged to address their concerns, the protesters disbanded.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, except at the sentence of the court or in conditions of a state of emergency or martial law; however, there were reports that such practices occurred. The government conducted joint-agency operations to find victims of forced labor and trafficking, but victim identification remained weak.

There were reports that some employers abused both male and female migrant workers by confiscating their passports or using debt bondage, violence, or threats of violence to compel them to work. Reports varied on the exact number of labor migrants in the country. Estimates ranged from 300,000 to one million, with the majority of migrant workers coming from Kyrgyzstan, Tajikistan, and Uzbekistan. Migrant workers were primarily employed in agriculture and construction. The

Ministry of Labor and Social Protection was responsible for handling issues related to migrant labor.

Also see the Department of State's *Trafficking in Persons Report* at [www.state/j/tip](http://www.state/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law protects children from exploitation in the workplace. The minimum age for employment is 16. With parental permission, children between 14 and 16 years of age can perform light work that does not interfere with their health or education. The law also restricts the length of the workday for employees younger than 18. During the year the government amended legislation to allow children of migrant workers access to schools, which was intended to reduce the risk of child labor within the migrant population. The government conducted labor inspections to enforce the minimum age for employment, but enforcement was insufficient due to the relatively small number of inspectors, restrictions on inspections, and weak victim identification.

The government approved a 2012-14 Joint Action Plan for the Elimination of the Worst Forms of Child Labor under which it conducted awareness campaigns and conferences. Nevertheless, NGOs contended that the government's efforts and resources dedicated to enforcement were insufficient to address fully the use of child labor.

The government concluded an agreement with national employer associations that committed them to eradicate the use of forced labor and the worst forms of child labor and to develop alternative employment opportunities for children and their families. However, NGOs contended that the government's efforts and resources dedicated to enforcement were insufficient to address fully the use of child labor.

The Ministry of Labor and Social Protection is responsible for enforcement of child labor laws and for administrative offenses punishable by fines. The MIA is responsible for investigating criminal offenses. During the year the government reported no crimes related to illegal child labor. The government cooperated with trade unions, employers, and NGOs to raise awareness and promote interagency cooperation in eliminating child labor.

Children, however, worked in agriculture, notably in tobacco and cotton, especially during the harvest season of the latter. Efforts by NGOs, the government, and

Philip Morris Kazakhstan, the sole purchaser of Kazakhstani tobacco, to eradicate child labor in its supply chain drastically reduced the numbers of migrant children in the tobacco fields and led to increased awareness among farmers and local officials. Concurrently the government improved enforcement of legislation to prevent child participation in the cotton harvest.

Past NGO studies found that more than 70 percent of the children employed in agricultural work were from migrant families, primarily Uzbek and Kyrgyz. Labor conditions in cotton fields frequently presented a physical health risk, and some children suffered from inadequate rest and nutrition. Many child workers in cotton lacked proper clothing to protect them from harmful chemicals used in agriculture and harsh weather conditions. In urban areas the country's increasingly formalized labor market led to a decrease in many forms of child labor, although there were still reports of children begging, unloading freight, delivering goods in markets, washing cars, and working at gas stations.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

The national monthly minimum wage was 17,439 tenge (approximately \$116). Most workers earned above the minimum wage in urban areas. As of 2009, 8.2 percent of the population lived below the poverty line. According to the government, the poverty line was 40 percent of the subsistence level income and was 6,247 tenge (\$41.65). The law does not require equal pay for equal work.

The law stipulates that the normal workweek should not exceed 40 hours and limits heavy manual labor or hazardous work to no more than 36 hours a week. The law limits overtime to two hours a day or one hour a day for heavy manual labor and requires overtime to be paid at least a 50 percent premium. The law prohibits compulsory overtime and overtime for work in hazardous conditions. The law provides that labor agreements may stipulate the length of working time, holidays, and paid annual leave for each worker. The government sets occupational health and safety standards. The law requires employers to suspend work that could endanger the life or health of workers and to warn workers about any harmful or dangerous work conditions or the possibility of any occupational disease. The law specifically grants workers the right to remove themselves from situations that endanger their health or safety without suffering adverse employment action.

The Ministry of Labor and Social Protection enforced minimum wages, workhour restrictions, overtime, and occupational safety and health standards. Ministry inspectors conducted random inspections of employers. The Ministry of Labor and Social Protection had 300 labor inspectors. Penalties were considered sufficient to deter violations, but the number of inspectors was not enough to cover all sectors and regions adequately.

Occupational safety and health conditions in the construction, industrial, agricultural, and industrial construction sectors were often substandard. Workers in factories usually lacked protective clothing and worked in conditions of poor visibility and ventilation.

Labor advocates also reported that some employers regularly violated these laws. There were reports that management ignored regulations concerning occupational health and safety. In the first 11 months of the year, the Ministry of Labor and Social Protection reported 15,824 inspections and 19,304 violations of occupational health and safety standards and rules. In addition to inspections by the ministry, unions conducted inspections of unionized enterprises and reported their findings to authorities for investigation.

Some workers, particularly in the construction industry, were not free to exercise the right to remove themselves from situations that endangered their health and safety without jeopardizing their employment. During the first nine months of the year the government reported 1,479 workplace injuries, compared with 2,179 during all of 2011. The government did not report on the number of workplace deaths during the year, but there were 365 workplace deaths in 2011. According to officials at the Federation of Trade Unions, many of the deaths were due to antiquated equipment, Soviet-era infrastructure, and disregard for safety regulations in the mining and metallurgy sectors. There were no major industrial accidents in which a significant number of workers were injured or killed.