

# KAZAKHSTAN 2022 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Kazakhstan is a constitutional republic with power concentrated in the presidency. The government and constitution concentrate power in the presidency. Kassym-Jomart Tokayev became president in 2019 and was re-elected in November 20 snap elections. These elections were marked by a lack of competitiveness and limitations on free speech and freedom of assembly that narrowed the space for critical voices, according to an observation mission by the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights. The executive branch controls the legislature and the judiciary, as well as regional and local governments. Changes or amendments to the constitution require presidential consent. On June 5, the country held a binding referendum on approval of 33 proposed constitutional changes to rebalance the division of state powers with the stated aim to reduce the influence of the presidency and strengthen other institutions. Many observers welcomed the initiative, which followed the political turmoil and violence of the January unrest. Independent observers, including the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights, stated that the referendum, which was announced one month prior on May 5, took place in an environment short of genuine political pluralism, with no active "No" campaign and a lack of meaningful political debate on the substance of the proposals.

The Ministry of Internal Affairs supervises the national police force, which has primary responsibility for internal security. The Committee for National Security oversees internal and border security, as well as national 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 committee reports directly to the president, and its chairman sits on the Security Council. Civilian authorities maintained effective control over the security forces. There were reports that members of the security forces committed abuses.

On January 5 through 8, as part of an apparent internal elite conflict, criminal

elements incited to violence initially peaceful protests in several cities, which led to attacks on government buildings, security service personnel, and critical infrastructure. During the government's response to the violence, authorities detained approximately 10,000 persons, most of whom were subsequently released. Two hundred thirty-eight persons, including 19 law enforcement and military personnel, died because of the violence, according to the government. Widespread allegations of torture and abuse in police custody were reported, including six deaths attributed by the government to unauthorized interrogation methods. Authorities restored order during a 15-day state of emergency that included a complete blocking of the country's internet for several days and a short-term deployment of peacekeeping units of the Collective Security Treaty Organization, of which the country is a member, to provide site security for critical infrastructure in Almaty and Astana. At year's end, investigations into the most sensitive cases, including those involving allegations of torture, abuse of power, and treason, were pending. On November 3, Tokayev signed a general amnesty applicable to over 1,400 of more than 1,600 civilian and police participants in the unrest who did not commit serious crimes such as torture, abuse of power, or treason. The government reported the amnesty had been applied to 1,086 individuals as of late December. On December 22, the Prosecutor General's Office announced that 1,249 persons had been convicted in connection with January events, with sentences including 160 prison terms for crimes including theft and participation in riots. Immediately after the January events, Tokayev announced several reform measures to address grievances raised in the initially peaceful protests, including reforms to reduce the power of the presidency, remove powers previously given to First President Nursultan Nazarbayev, whose family members appear to have been involved in inciting January violence, and strengthen political pluralism and human rights protections. Implementation of these reforms was underway as of December.

Significant human rights issues included credible reports of: unlawful or arbitrary killing by or on behalf of the government; torture by and on behalf of the government; harsh and sometimes life-threatening prison and detention conditions; arbitrary detention; political prisoners; transnational repression against individuals in another country; serious problems with the independence of the judiciary; serious restrictions on free expression and media, including violence or threats of

violence against journalists; serious restrictions on internet freedom; substantial interference with the rights of peaceful assembly and freedom of association; serious and unreasonable restrictions on political participation; serious government corruption; significant restrictions on workers' freedom of association; and existence of child labor.

The government selectively prosecuted officials who committed abuses, including in high-profile corruption and torture cases. Nonetheless, corruption remained widespread, and impunity existed for many in positions of authority as well as for members of law enforcement agencies.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were several reports that the government or its agents committed arbitrary or unlawful killings or beatings that led to deaths. Activists noted that abuse in prisons, particularly abuse carried out by so-called voluntary assistants – prisoners who received special privileges in exchange for carrying out orders of prison staff – remained frequent and occasionally led to death from abuse or suicide. The government stated 238 persons had been killed in connection with the January violence, of which it acknowledged six persons had died in custody due to use of unauthorized interrogation methods. Human rights observers reported the actual number of deaths due to excessive use of force was likely higher, possibly approximately 260. Lack of transparency into the specific names of the dead or the circumstances surrounding their deaths prevented nongovernmental organizations (NGOs) or the international community from estimating the true number of deaths following the January unrest. Government officials stated the lack of specificity was in line with privacy law protections and to protect family members from stigmatization.

Human Rights Watch (HRW) stated it had identified at least four cases in Almaty Region in which security forces used lethal force against protesters who posed no immediate threat to the lives of others, leading to at least 10 deaths. No officials were detained or charged in connection with excessive use of force for these

incidents. On November 16, a military court in Taldykorgan sentenced a servicemember to six years' imprisonment for abuse of power in the January 5 killing of a shepherd herding livestock by a military outpost near Taldykorgan. As of late November, this was the only known trial or conviction of a servicemember accused of using lethal force during the January events. Human rights organizations stated the government opened criminal cases against some of those who died or were victims of torture for their alleged participation in the mass riots.

In December 2021, Nurbolat Zhumabayev died in police custody in Shymkent after police arrested him for suspected carjacking. Zhumabayev's family said that his body was covered in bruises when they viewed it on December 9. A criminal trial began in Shymkent on July 18 against four police officers charged with abuse of power and use of torture that resulted in the death of the victim. The trial was underway as of December.

On July 2, a jury in Karaganda acquitted, for the second time, three defendants, including a former police officer and a local businessman, accused of ordering and organizing the 2019 killing of Galy Baktybayev. Baktybayev was a civil activist who raised problems of corruption, embezzlement, and other abuses by local government. One of the three defendants, the alleged triggerman, was convicted of beating Baktybayev several months prior to his death and sentenced to 10 years in prison.

## **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The law prohibits torture, but human rights activists asserted the domestic legal definition of torture does not meet the definition in the UN Convention against Torture. The National Preventive Mechanism against Torture (NPM) was established by law and is part of the government's Office of the Human Rights Ombudsperson.

Cases of prison officers being brought to justice for abuse were rare, and officers

often received light punishment. Human rights observers commented that only in rare incidents, such as when information regarding the abuse was publicized and caused a strong public reaction, were perpetrators held accountable. Abuse occurred in police cells, pretrial detention facilities, and prisons. Human rights observers stated that abuse was particularly prominent in pretrial facilities, including interrogation rooms, and that authorities sometimes used pretrial detention to beat and abuse detainees to extract confessions.

The number of torture complaints and criminal cases connected with January events remained unclear at year's end. As of October, the domestic NGO Coalition Against Torture reported it had received 188 complaints of torture during January events, including complaints of torture and mistreatment of minors, while the Office of the Human Rights Ombudsman reported it had received 110 complaints of torture and inhuman treatment. According to public statements by the Office of the Prosecutor General, 329 criminal cases of torture related to January events were opened, with cases of torture against 24 individuals sent to court as of year's end. Data from the Anticorruption Agency indicated 851 forensic investigations into torture had been opened, of which 347 were dismissed due to insufficient evidence of a crime. The human rights ombudsperson stated in November that 80 percent of torture cases had been dropped. Human rights activists expressed concerns that some victims of torture and abuse connected with January events might not have reported their cases due to intimidation or fear of social stigma in cases involving sexual violence, or that witnesses including doctors failed to provide accurate evidence in possible torture cases due to government pressure. Activists also reported some victims of torture agreed not to file complaints in exchange for lighter sentences for actual or purported petty crimes committed during January events. Investigations of torture cases were not transparent and did not involve international bodies, despite repeated calls for transparency from NGOs and the international community. Human rights defenders reported identifiable suspects in some torture cases were not charged, despite availability of witnesses and evidence. In one case, human rights defenders reported the officer assigned to investigate a torture complaint was the same officer charged with committing torture.

On January 5, Azamat Batyrbayev was detained following a protest in

Taldykorgan where he joined other protesters in demolishing a monument to Nursultan Nazarbayev on one of the main streets of the city. Media broadly published evidence that law enforcement officers tortured him, with methods including burning his body with a hot clothing iron. The government recognized 15 employees of special and law enforcement agencies as suspects in the case of torture. On July 6, the Taldykorgan City Court sentenced Batyrbayev to four and one-half years of probation for participation in mass riots. On July 16, Batyrbayev's lawyer announced that a police officer had admitted guilt in the torture case.

A trial of five suspects, accused of torturing 23 individuals with a hot clothing iron, was underway in Taldykorgan as of December, with local and international observers, including trial monitors from the Organization for Security and Cooperation in Europe (OSCE) and monitors from a foreign embassy, in attendance at some sessions.

On January 7, police detained Timur Radchenko in Almaty. Radchenko asserted he was beaten by police officers Khamit Batyr, Kalymbay Daulet, and Bimurzayev during subsequent interrogations. On November 22, the Bostandyk District Court in Almaty began a trial of the three police officers. Human rights defenders stated the victim had not been provided with a lawyer and needed psychological assistance. The trial was pending as of December.

The Office of the Human Rights Ombudsman was empowered to receive complaints and investigate abuses in prisons through oversight of the NPM. Human rights observers provided differing assessments of the ombudsman's effectiveness in preventing torture, with some credible sources assessing that visits to detention centers by the NPM and the Ombudsperson's Office during January events had helped prevent additional incidences of torture. According to the government, 133 official visits to detention centers were conducted in 16 regions of the country between January 13 and February 14 with the goal of preventing torture.

### **Prison and Detention Center Conditions**

Observers reported that prison conditions generally remained harsh and

occasionally life threatening and that facilities did not meet international health standards. Health problems among prisoners went untreated in many cases, or prison conditions exacerbated them.

**Abusive Physical Conditions:** The NPM reported poor health and sanitary conditions and poor medical services, including for prisoners suffering from HIV, AIDS, and diabetes. Treatment of tuberculosis patients improved but remained problematic in some facilities. The NPM also reported discrimination against prisoners in vulnerable groups, including prisoners with disabilities and prisoners with HIV or AIDS.

According to Prison Reform International, although men and women were held separately, and pretrial detainees were held separately from convicted prisoners, youth often were held with adults during transitions between temporary detention centers, pretrial detention, and prisons. Human rights observers reported that conditions during transportation to penal colonies were inhuman, that the process could take weeks, and that men and women were not always held separately during the transportation process. There was a high risk for abuse during searches, investigations, and transfer to other facilities.

In previous years, the NPM and members of public monitoring commissions (PMCs, quasi-independent bodies that carried out monitoring) reported infrastructure problems in prisons, including poor plumbing, poor sewage systems, and unsanitary bedding. PMC members previously reported that some prisoners with disabilities did not have access to showers for months. They also reported shortages of medical staff and insufficient medicine, access problems for prisoners with disabilities, restricted internet connectivity with the outside world, limited access to information on prisoner rights, and widespread concern regarding food and nutrition quality in prisons, including food served past its expiration date. The NPM's public consolidated report for 2021, published by the Office of the Ombudsperson for Human Rights, confirmed many of these trends. Among other problems, the 2021 report noted poor building quality, infrequent access to showers and sanitation facilities, lack of personal hygiene products, unsanitary food preparation facilities, insufficient heating or air conditioning, and insufficient medical staff and supplies as problems in some prisons and detention centers.

The government did not publish statistics on the number of deaths, suicides, or attempted suicides in pretrial detention centers or prisons during the year. The NPM's 2021 report noted at least one prisoner attempted suicide as a result of mistreatment in prisons and places of detention.

On October 13, the Kyzylorda City Court added seven years to the prison sentence of Yerzhan Elshibayev, on the grounds that he had attempted to commit suicide in prison. Elshibayev, who has been included in expert lists of political prisoners since 2019, was an activist who raised concerns regarding problems of the unemployed in Zhanaozen. He was sentenced in 2019 to five years' imprisonment for allegedly participating in a fight in 2017. According to Elshibayev's attorney, his client attempted suicide because he was unable to handle pressure from the prison administrators.

**Administration:** Authorities typically did not conduct proper investigations into allegations of mistreatment. Human rights observers noted that in many cases authorities did not investigate prisoners' allegations of torture, did not respond to complaints of abuse, or did not hold prison administrators or staff accountable. Despite installation of electronic complaint terminals in some locations, PMC members reported many prisoners did not have access to a secure channel for submission of complaints. In addition, human rights experts reported local prosecutor general's offices responsible for investigating abuse and torture complaints sometimes exploited bureaucratic loopholes to avoid investigating them. PMC members emphasized problems with prisoners who were selected as voluntary assistants for duties including control over other prisoners, which they often accomplished through means of abusive treatment.

The law does not allow unapproved religious services, rites, ceremonies, meetings, or missionary activities in prisons. By law a prisoner in need of "religious rituals" may ask his relatives to invite a representative of a registered religious organization to carry them out, provided the ceremonies do not obstruct prison activity or violate the rights and legal interests of other individuals. PMC members reported that some prisons prohibited Muslim prisoners from fasting during Ramadan. According to the NPM, prayer was permitted so long as it did not interfere with internal rules, although in some cases prisoners were prevented from praying more than once per day even when this would not interfere with internal



routines. Prayers were not allowed at nighttime or during inspections.

**Independent Monitoring:** There were no independent international monitors of prisons. The PMCs, which include members of civil society, can and do undertake monitoring visits to prisons. Human rights advocates stated that prison administrations occasionally created administrative barriers to prevent the PMCs from successfully carrying out their mandate, including creating bureaucratic delays, forcing the PMCs to wait to gain access to the facilities, or allowing the PMCs to visit for only a short time. The Office of the Human Rights Ombudsperson publishes an annual consolidated report on findings from NPM monitoring visits, including evidence of abuses and recommendations from the members to government agencies.

**Improvements:** The government made some efforts to improve the standard of living in prisons as part of a multiyear program. According to the Ministry of Internal Affairs Committee of the Penitentiary System, food allowances were increased by 40 percent and prisoners were provided with more opportunities for video calls with relatives. The government reported terminals had been installed in all prison facilities for prisoners to submit electronic appeals directly to the court, the prosecutor's office, and the anticorruption service. Video cameras were installed in interrogation rooms and "blind spots" within penitentiaries, with the goal of increasing transparency and reducing opportunities for abuse and torture.

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

The law prohibits arbitrary arrest and detention, but such incidents occurred.

Human rights observers reported arbitrary arrests and widespread failure to follow arrest and detention procedures in cases related to January events. Specific examples included failure to inform detainees concerning the grounds for their detention, failure to inform them of their rights, denial of prompt access to a lawyer, inability to choose their own lawyer, and lack of access to a phone call. Reliable data were not available on the specific number of cases of arbitrary arrest or failure to follow arrest and detention procedures during January events.

## **Arrest Procedures and Treatment of Detainees**

A person apprehended as a suspect in a crime is taken to a police office for interrogation. Prior to interrogation, by law the accused should have the opportunity to meet with an attorney. Upon arrest the investigator may do an immediate body search if there is reason to believe the detainee has a gun or may try to discard or destroy evidence. Within three hours of the arrest, the investigator is required to write an arrest statement declaring the reason for the arrest, the place and time of the arrest, the results of the body search, and the time of writing the statement, which is then signed by the investigator and the detained suspect. The investigator should also submit a written report to the prosecutor's office within 12 hours of the signature on the arrest statement.

By law an arrest must be approved by the court. It is a three-step procedure: (1) the investigator collects all evidence to justify the arrest and takes all case materials to the prosecutor; (2) the prosecutor studies the evidence and takes it to court within 12 hours; and (3) the court proceeding is held with the participation of the criminal suspect, the suspect's lawyer, and the prosecutor. If within 48 hours of the arrest the administration of the detention facility has not received a court decision approving the arrest, the administration should immediately release the suspect and notify the prosecutor and the police officer who handled the case. The duration of preliminary detention may be extended to 72 hours in a variety of cases, including grave or terrorist crimes, crimes committed by criminal groups, drug trafficking, sexual crimes against a minor, and others. The court may choose other forms of restraint, including house arrest or restricted movement. According to human rights activists, these procedures were frequently ignored.

Although the judiciary has authority to deny or grant arrest warrants, judges authorized arrest warrant requests in most cases.

The law allows conditional release on bail, although use of bail procedures was limited. Prolonged pretrial detention remained commonplace. The bail system was designed for persons charged with committing a criminal offense for the first time or a crime of minor or moderate severity. Thus, the bail system requires that the penalties for conviction include a fine as an alternative penalty. Bail is not available to suspects of grave crimes, crimes that led to death, organized crime,

terrorist or extremist crimes, or in situations where there is reason to believe the suspect, if released, would hinder the investigation of the case or would escape.

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 obliges police to inform detainees of their rights, including the right to an attorney. Human rights observers stated that prisoners were constrained in their ability to communicate with their attorneys, that penitentiary staff secretly recorded conversations, and that staff often remained present during the meetings between defendants and attorneys.

Human rights defenders reported that authorities dissuaded detainees from seeing an attorney, gathered evidence through preliminary questioning before a detainee's attorney arrived, and in some cases used defense attorneys to gather evidence.

The law states that the government must provide an attorney when the suspect is indigent, is a minor, has physical or mental disabilities, or faces serious criminal charges. Public defenders often lacked the necessary experience and training to assist defendants. Defendants are barred from freely choosing their defense counsel if the case against them involves state secrets. The law allows only lawyers who have special clearances to work on such cases.

**Arbitrary Arrest:** The government frequently arrested and detained political opponents and critics, sometimes for minor infractions such as unsanctioned assembly, that led to fines or up to 15 days' administrative arrest. During the year authorities detained many persons who participated in unsanctioned protests, for example, against Russia's war in Ukraine, and some pedestrians walking near protest sites.

The law grants prisoners prompt access to family members, although authorities occasionally sent prisoners to facilities located far from their homes and relatives, thus preventing access for relatives unable to travel.

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

The law does not provide for an independent judiciary, and both the executive and judicial branches limited judicial independence in practice. Freedom House's

*Nations in Transit 2022* report noted that while the constitution provides for judicial independence, courts had yet to prove this independence in cases involving high-profile officials, political activists, and independent NGOs. Evaluators from the Group of European States Against Corruption noted the president heavily influenced key appointments in the judiciary, prosecution, specialized anticorruption bodies, and law enforcement. Although judges were among the most highly paid government employees, lawyers and human rights monitors stated that judges, prosecutors, and other officials solicited bribes in exchange for favorable rulings in many criminal and civil cases.

The government made some efforts to decrease corruption in judicial processes, such as introducing new procedures for screening and testing the qualifications of judicial candidates.

On March 10, the Senate removed from office Supreme Court Judge Meiram Zhanguttinov, after a court convicted him of corruption on December 3, 2021, and sentenced him to five years' imprisonment and a lifetime ban on government employment. On April 9, Zhanguttinov was arrested for taking a \$27,000 bribe from his colleague, Judge Liza Turgumbayeva, in Shymkent. The president described the crime as "outrageous" and noted that the case was an example of "active cleaning of the judges' corps, and that process should not stop because we have to change the negative image of judges in the eyes of people."

Military courts have jurisdiction over civilian criminal defendants in cases allegedly connected to military personnel. Military courts use the same criminal law as civilian courts.

## **Trial Procedures**

The law provides for the right to a fair trial. 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.

Observers noted the juror selection process was inconsistent. Judges exerted pressure on jurors and could easily dissolve a panel of jurors for perceived disobedience. The law has no mechanism for holding judges liable for such actions. Activists criticized juries for a bias towards the prosecution because of the

pressure that judges applied on jurors, experts, and witnesses.

According to observers, prosecutors dominated trials, and defense attorneys played a minor role. Defense attorneys in human rights cases stated they experienced harassment from authorities. Attorneys also sometimes complained they and the defendants did not always have adequate time or facilities to prepare.

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, unfair denial of defense counsel motions, and failure of judges to investigate allegations that authorities extracted confessions through torture or duress.

Lack of due process remained a problem, particularly for cases arising from civil protests.

Human rights activists and international observers noted investigative and prosecutorial practices that made a confession of guilt more important than evidence when building a criminal case against defendants. Courts generally ignored allegations by defendants that officials obtained confessions through torture or duress.

### **Political Prisoners and Detainees**

As of late December, the civil society alliance Tirek maintained a list of seven individuals it considered detained or imprisoned based on politically motivated charges. Individuals on the Tirek list during the year included persons allegedly connected to the January unrest and persons who promoted anti-Russian positions online. Authorities detained Zhanbolat Mamay, the leader of the unregistered Democratic Party of Kazakhstan, on February 26, allegedly for insulting a police officer and spreading false information. On June 6, the government additionally charged Mamay with organizing mass unrest during January events. Amnesty International, Freedom House, HRW, and the European Parliament recognized Mamay as a political prisoner and called for his release. On November 2, Mamay was released to house arrest. His trial on charges of organizing an unsanctioned rally, defaming the police, and disseminating false information was pending as of December.

Authorities released from prison four political prisoners, Abai Begimbetov, Kairat Klyshev, Noyan Rakhimzhanov, and Askhat Zheksebayev, whom a court convicted in October 2021 of organizing or participating in the activities of a banned extremist or terrorist organization due to their work with the banned Koshe party. The four individuals remained subject to restricted movement, a form of parole. The government continued to ban the political party Democratic Choice of Kazakhstan and its alleged successor organization, the Koshe Party, as extremist organizations. Both organizations were led by or closely associated with fugitive banker and opposition leader Mukhtar Ablyazov.

Human rights organizations had access to prisoners through the NPM framework.

### **Transnational Repression**

The government engaged in acts of transnational repression, either direct or through others, to intimidate or exact reprisal against individuals outside the country.

**Threats, Harassment, Surveillance, and Coercion:** Human rights defenders alleged that authorities selectively prosecuted family members and former colleagues of outspoken opposition supporter and activist Barlyk Mendygazyev, who lived in the United States, to force Mendygazyev to stop his political activities.

Bekizhan Mendygazyev, Barlyk Mendygazyev's brother, continued to await trial for alleged involvement in an organized criminal group and money laundering, as well as tax evasion. In June 2021, authorities placed Bekizhan Mendygazyev in pretrial detention. He remained in pretrial detention as of November.

Mendygaziev was confined to a wheelchair due to physical disabilities, and human rights defenders reported pretrial detention center conditions were not appropriate for individuals with disabilities. In July 2021, three managers of Barlyk Mendygazyev's prior business, Karachaganak Support Services, an oil services company, were convicted of participation in an organized criminal group and tax evasion and were sentenced to five-and-one-half to seven years' imprisonment. Other Mendygazyev relatives with alleged politically motivated prosecutions against them included Kalyk and Erik Mendygazyev and Rasim Almukhanov for

alleged livestock theft; Abai Mendygaziyev for alleged drug possession; and Arman Mendygaziyev for alleged participation in an organized criminal group.

**Bilateral Pressure:** Human rights observers reported that from September to November, authorities detained five ethnic Karakalpak activists residing in the country legally, on charges of “distributing materials that threatened the public safety” of Uzbekistan and “attacking the constitutional order” of Uzbekistan. Authorities made the detentions in some or all cases at the request of the government of Uzbekistan and with the active cooperation of Uzbek security personnel. Karakalpak diaspora members asserted the charges were unfounded. The activists had criticized the government of Uzbekistan for its response to July protests in the Karakalpakstan region of Uzbekistan. On October 15, HRW said authorities should not extradite Karakalpak diaspora activists to Uzbekistan, where they would face a serious risk of politically motivated prosecution and torture. On December 5, media reported one of the five ethnic Karakalpaks had received asylum seeker status. Authorities may take up to 12 months to determine whether to grant refugee status to an asylum seeker.

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

Individuals and organizations may seek civil remedies for human rights violations through domestic courts. Economic and administrative court judges handle civil cases under a court structure that largely mirrors the criminal court structure. Although the law and constitution provide for judicial resolution of civil disputes, observers viewed civil courts as corrupt and unreliable.

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

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

The law provides prosecutors with extensive authority to limit citizens’ constitutional rights, in violation of internationally accepted norms. The law allows wiretapping in medium, urgent, and grave cases. The National Security Committee (KNB), the Ministry of Internal Affairs, and other agencies, with the

concurrence of the Prosecutor General's Office, may infringe on the privacy of communications and financial records, as well as on the inviolability of the home. Human rights activists reported incidents of alleged surveillance, including wiretapping and recording telephone conversations, posting on social media videos of private meetings, and KNB officers visiting activists' and their families' homes for "unofficial" conversations regarding suspect activities.

Courts hear appeals of prosecutors' decisions for a wiretap or surveillance but cannot issue an immediate injunction to cease an infringement.

Human rights defenders, activists, and their family members continued to report the government occasionally monitored their movements, contrary to international norms.

In June, the cybersecurity company Lookout's Threat Lab reported the government had used the Hermit spyware program to monitor activists' personal devices. The program is functionally like the Pegasus spyware program previously used in the country. On June 27, Inga Imanbay, activist and wife of opposition leader Zhanbolat Mamay, reported that her cell phone was infected with Hermit.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

While the constitution provides for freedom of speech and of the press, the government limited freedom of expression and exerted influence on media through a variety of unfair means, including detention, imprisonment, criminal and administrative charges, restrictive laws, harassment, licensing regulations, and internet restrictions. Human rights monitors and independent media outlets reported less harassment by government actors than in some years but an increased amount of harassment and intimidation by unidentified nonstate actors.

Nongovernment organizations noted law enforcement agents prevented journalists from monitoring and reporting during January events, detaining them alongside other citizens. Local news outlets reported media workers sustained serious injuries and at least one media worker was killed during the events.



**Freedom of Expression:** The government limited individuals' ability to criticize the country's leadership, and regional leaders attempted to limit criticism of their own actions. The law expressly prohibits insulting the sitting president or his family and imposes penalties of up to five years' imprisonment for conviction. The government removed a law criminalizing insulting First President Nazarbayev, in keeping with other reforms adopted in the June 5 constitutional referendum. The law penalizes "intentionally spreading false information" with large fines and imprisonment for up to five years if convicted.

Independent media were severely limited. Many privately owned newspapers and television stations received government subsidies. The lack of transparency in media ownership and the dependence of many outlets on government contracts for paid media coverage and advertising were significant problems.

Companies allegedly controlled by members of First President Nazarbayev's family or associates owned many of the broadcast media outlets that the government did not control outright. According to media observers, the government wholly or partly owned most of the nationwide television broadcasters. Regional governments owned several television frequencies, and the Ministry of Information and Social Development distributed those frequencies to independent broadcasters via a tender system.

All media are required to register with the Ministry of Information and Social Development, although websites are exempt from this requirement. The law limits the broadcast of foreign-produced programming to 50 percent of a locally based station's weekly broadcast time. This provision burdened smaller, less-developed regional television stations that lacked resources to create programs, although the government did not sanction any media outlet under this provision. Foreign-based media broadcasting companies did not have to meet this requirement.

**Violence and Harassment:** Some civil society experts stated that active government harassment of journalists and media decreased following January events, but that media continued to exercise self-censorship on many topics due to fear that decreased government harassment would be only temporary. Independent journalists and those working in opposition media or covering stories related to corruption, rallies, or demonstrations reported some incidences of violence as well

as increased harassment and intimidation by unidentified private actors.

On January 4, local media reported the attempted killing of Amangeldy Batyrbekov, editor of the Saryagash Info. Batyrbekov's son was reportedly wounded in the attack. On November 24, a local court sentenced five individuals including former head of the Saryagash district Department of Education Baurzhan Mairikhov to 11 years or more of imprisonment in a high-security institution for the attack.

Human rights observers said two reporters from the "Road Control" publication and nonprofit organization for the defense of drivers' rights were beaten, one in Atyrau in July and one in Ust-Kamenogorsk in August.

The independent media site Orda.kz reported repeated attacks that disabled access to its webpage. On October 5, Orda.kz editor in chief Gulnara Bazhkenova reported she had received by mail a pig's head with a torn photograph of herself in its mouth. She stated this was not the first instance of threats against Orda.kz staff.

On November 23, local media outlet Elmedia reported unknown persons had attacked its editorial office in Almaty four times in six weeks, causing minor damage, including broken windows. Police detained two suspects for interfering with the work of the media and committing acts of hooliganism but had not announced any conclusion to their investigation as of December.

On December 18, Financial Monitoring Agency officers arrested anticorruption journalist Mikhail Kazachkov, accusing him of releasing state secrets and helping a criminal group carry out illegal hostile business takeovers. Experts on local media condemned this as a political arrest and called it the most significant journalist detention since 2018. The investigation was pending as of year's end.

**Censorship or Content Restrictions for Members of the Press and Other Media, Including Online Media:** Journalists and media outlets exercised self-censorship to avoid pressure by the government.

The law enables the government to restrict media content through amendments that prohibit undermining state security or advocating class, social, racial/ethnic, national, or religious discord. Owners, editors, distributors, and journalists may be

held civilly and criminally responsible for content unless it came from an official source.

The law provides for additional measures and restrictions during “social emergencies,” defined as “an emergency on a certain territory caused by contradictions and conflicts in social relations that may cause or have caused loss of life, personal injury, significant property damage, or violation of conditions of the population.” In these situations, the government may censor media sources by requiring media to provide, for government approval, its print, audio, and video information 24 hours before publication or broadcasting.

Political parties and public associations may be suspended or closed if they obstruct the efforts of security forces. Regulations also allow the government to restrict or ban copying equipment, broadcasting equipment, and audio and video recording devices and to seize loudspeakers.

By law internet resources, including social media, are classified as forms of mass media, and are governed by the same rules and regulations as mass media. Authorities sometimes charged bloggers and social media users with criminal law violations based on their online posts.

On March 14, the Almaly District Court of the city of Almaty sentenced economist Danat Namazbayev to five years in prison under the article on “public calls for the seizure or retention of power.” Namazbayev’s lawyer and other activists stated the trial was politically motivated and was initiated based on Namazbayev’s social media posts condemning Russia’s invasion of Ukraine, and possibly due to his calls to introduce harsh measures for corrupt officials.

**Libel/Slander Laws:** There is no criminal liability for libel and slander, but the law imposes serious punishment for conviction of libel under the administrative code. Several articles in the law may also be applied against individuals insulting government officials, particularly the sitting president. Media activists raised concerns regarding the wide use of the legal provision imposing liability for dissemination of false information. The activists highlighted its use to pressure or silence journalists and civil society activists, including during and after January events.

The law includes penalties for conviction of defamatory remarks made in mass media or “information-communication networks,” including heavy fines and prison terms. Journalists and human rights activists believed these provisions strengthened the government’s ability to restrict investigative journalism.

**National Security:** The law criminalizes the release of information regarding the health, finances, or private life of the first president, as well as specific economic information such as data on mineral reserves or government debts to foreign creditors. To avoid possible legal problems, media outlets often practiced self-censorship regarding the president and his family.

Although these actions had a chilling effect on media outlets, some criticism of government policies continued. Activists and civil society members reported increased freedom to report on the personal and business affairs of former President Nazarbayev and his family members. Incidents of local government pressure on media continued.

The law prohibits “influencing public and individual consciousness to the detriment of national security through deliberate distortion and spreading of unreliable information.” Legal experts noted the term “unreliable information” was overly broad. The law requires owners of communication networks and other service providers to obey the orders of authorities in case of terrorist attacks or to suppress mass riots.

The law prohibits publication of any statement that promotes or glorifies “extremism” or “incites discord.” International legal experts noted these terms are not clearly defined.

On May 16, the al-Farabi District Court sentenced activist Yerulan Amirov to seven years in prison, finding him guilty of “inciting social discord,” “propaganda of terrorism,” and “participation in the activities of a banned organization.” Human rights observers highlighted this case as an example of the government using the broad definition of “terrorism” for purposes of political persecution.

## **Internet Freedom**

The government exercised comprehensive control over online content. Observers

reported the government blocked or slowed access to opposition websites. Many observers believed the government added progovernment postings and opinions in internet chat rooms. The government regulated the country's internet providers, including Kazakh Telecom, in which the state owned a majority interest. Websites carried a wide variety of views, including viewpoints critical of the government.

Media law prohibits citizens from leaving anonymous comments on media outlet websites. Websites must register all online commenters and make the registration information available to law enforcement agencies on request. As a result, most online media outlets chose to shut down public comment platforms.

The Ministry of Digital Development, Innovations, and Aerospace Industry controlled the registration of the country's (.kz) internet domains. Authorities may suspend or revoke registration as punishment for placing computer databases or servers outside the country. Observers criticized the registration process as unduly restrictive and vulnerable to abuse.

The government implemented regulations on internet access that mandate surveillance cameras in all internet cafes, require visitors to present identification to use the internet, demand internet cafes keep a log of visited websites, and authorize law enforcement officials to access the names and internet histories of users.

In several cases, the government denied it was behind the blocking of websites. Some bloggers reported anecdotally that their sites were periodically inaccessible, as did the publishers of some independent news sites.

The government has the power to suspend access to the internet and other means of communication without a court order. By law and a government decree, the Prosecutor General's Office, the KNB, and the ministries of Defense, Internal Affairs, and Emergency Situations are authorized to suspend communication networks in emergency situations or when there is a risk of an emergency.

Observers continued to rate the country's internet as "not free," citing several factors including extensive government authority to block online content, disruption of mobile internet connections, and restrictions on access to social media. Human rights observers also noted that individuals, including journalists,

were frequently penalized for online activities.

During January protests and subsequent violence, the government restricted internet access and mobile service across the country for several days, with localized internet outages starting from January 2 and continuing through January 11 in some locations. Authorities also blocked access to some independent websites throughout the year.

### **Restrictions on Academic Freedom and Cultural Events**

The government generally did not restrict academic freedom, although general restrictions, such as the prohibition on infringing on the dignity and honor of the president and his family also applied to academics. Many academics practiced self-censorship.

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

The law provides for limited freedom of assembly, but there were significant restrictions on this right.

#### **Freedom of Peaceful Assembly**

Opponents criticized laws on freedom of peaceful assembly as restrictive and falling short of international standards. Serious restrictions remained. Organizers must submit advance notification to the local government and await a response. The law states all gatherings except single-person pickets may only be held in areas designated by authorities, and persons holding single-person pickets were sometimes fined or harassed. Spontaneous gatherings are banned, and foreigners and stateless persons are denied the right to peaceful assembly.

A small group of individuals continued their daily protests in front of the consulate of the People's Republic of China (PRC) in Almaty to demand information regarding their family members in the PRC. Several protesters were arrested, some repeatedly, and fined, including in advance of PRC President Xi Jinping's September 14 visit to the country. The daily protests and police response, including occasional fines and detentions of participants, continued in Almaty at year's end.

## **Freedom of Association**

The law provides for limited freedom of association, but there were significant restrictions on this right. Any public organization set up by citizens, including religious groups, must be registered with the Ministry of Justice as well as with the local departments of justice in every region in which the organization conducts activities. The law requires public or religious associations to define their specific activities, and any association that acts outside the scope of its charter may be warned, fined, suspended, or banned. Participation in unregistered public organizations may result in administrative or criminal penalties, such as fines, imprisonment, the closure of an organization, or suspension of its activities. Activists reported authorities selectively denied applications to hold peaceful public assemblies on politically sensitive topics, often on specious grounds such as road construction in the vicinity or competing events at the assembly location. Activists and civil society members reported the government or persons loyal to the government sent individuals to join independent organizations and report on or undermine projects.

NGOs reported some difficulty in registering public associations. According to government information, these difficulties were due to discrepancies in the submitted documents (see section 5).

Authorities adopted reforms to simplify the registration of political parties and lower the number of required members from 20,000 to 5,000 in early November. The Justice Ministry reported in September that three parties, Namys (Dignity), Baitak Bolashak (Rich Future), and Halyqqa Adal Qyzmet (Honest Service for the People) were currently seeking registration, while registrations had lapsed for two other parties, Nashi Prava (Our Rights) and the Democratic Party of Kazakhstan. Baitak Bolashak was registered as the Baitak party on November 20.

Membership organizations other than religious groups, which are covered under separate legislation, must have at least 10 members to register at the local level and must have branches in more than one-half the country's regions for national registration (see sections 3 and 7.a.).

By law all “nongovernment organizations, subsidiaries, and representative offices

of foreign and international noncommercial organizations” are required to provide information on “their activities, including information regarding the founders, assets, sources of their funds and what they are spent on....” An “authorized body” may initiate a “verification” of the submitted information based on information received in mass media reports, complaints from individuals and entities, or other subjective sources. Untimely or inaccurate information contained in the report, discovered during verification, is an administrative offense and may carry moderate fines or suspension for three months if the infraction is not rectified or is repeated within one year. In extreme cases criminal penalties are possible, which may lead to a large fine and suspension or closure of the organization.

The law prohibits illegal interference by members of public associations in the activities of the government, with a moderate fine or imprisonment for up to 40 days if convicted. If the leader of the organization commits the interference, the fine may be slightly increased, or the imprisonment may be for up to 50 days. The law does not clearly define “illegal interference.”

The law establishes broad reporting requirements concerning the receipt and expenditure of foreign funds or assets. It requires labeling all publications produced with support from foreign funds. The law sets out administrative and criminal penalties for noncompliance with these requirements, including potential restrictions on the conduct of meetings, protests, and similar activities organized with foreign funds.

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

See the Department of State’s *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement and the Right to Leave the Country**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. Despite some regulatory restrictions, the government generally respected these rights.



## **e. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, or asylum seekers, as well as other persons of concern.

**Access to Asylum:** The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. UNHCR's contracted local partners may, if needed, appeal to the government and intervene on behalf of individuals facing deportation.

According to UNHCR, the refugee system falls short of the international standard regarding access to asylum procedures and access to the country's territory. Authorities remained reluctant to accept asylum applications at the border from persons who lacked valid identity documents, citing security concerns. Contrary to commitments under the 1951 Convention Relating to the Status of Refugees, a person who crosses the border illegally to escape persecution may be prosecuted for this in criminal court, and subsequently may be viewed as a person with criminal potential, a negative factor in the asylum decision.

According to UNHCR data, as of June, there were 1,000 refugees and asylum seekers in the country and 7,558 stateless persons.

The law does not provide for differentiated procedures for persons with specific needs, such as separated children and persons with disabilities. There are no guidelines for handling sensitive cases, including lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) cases.

The government has an agreement with China not to tolerate the presence of ethnic separatists from one country on the territory of the other.

In October 2021, the government renewed the one-year asylum status for all four ethnic-Kazakh persons from China (see Abuse of Migrants and Refugees below). As of November, two individuals had been granted new one-year extensions, while two more had received one- to three-month extensions while awaiting one-year renewals.

**Abuse of Migrants and Refugees:** There were no developments in the cases of asylees Murager Alimuly and Kaisha Khan from Xinjiang, China. They were attacked by unknown assailants in the Nur-Sultan and Almaty areas in January 2021. No suspects were identified during the year. Alimuly and Khan were two of the four ethnic Kazakhs who fled China and received asylum in 2020.

**Employment:** Refugees faced difficulties in gaining employment and social assistance from the government. By law refugees have the right to work but may not engage in individual entrepreneurship. Refugees faced difficulties in accessing the labor market due to local employers' lack of awareness of refugee rights, with the result that most refugees worked in the informal economy.

**Access to Basic Services:** Status as "temporarily residing aliens" hindered refugees' access to the full range of rights stipulated in the law. The law lacks provisions on the treatment of asylum seekers and refugees with specific needs. Refugees had access to education and health care on the same basis as citizens, but they had no access to social benefits or allowances. The government did not provide accommodation, allowances, or any social benefits to asylum seekers. Asylum seekers and refugees with specific needs are not entitled to financial assistance.

Stateless persons, asylum seekers, and foreigners who are temporarily staying as labor migrants or for other purposes must sign contracts for voluntary health insurance and register with a local clinic to be eligible for primary health services.

Despite a legislative change making refugee travel documents available to refugees and asylees beginning January 1, these documents were not available in the year due to pending regulatory and procedural changes needed to produce and issue the documents. Government officials stated that, when the refugee travel document becomes available, it would be valid for 12 months and resemble a passport.

## **f. Status and Treatment of Internally Displaced Persons**

Not applicable.

## **g. Stateless Persons**

The constitution and law provide procedures to deal with stateless persons, and the government generally made serious attempts to ease the burden of statelessness within the country. The law does not provide for a simplified naturalization procedure for stateless persons.

The country contributes to statelessness because its application for citizenship requires renunciation of citizenship of the country of origin, with no stipulation that citizenship would be granted. As of June a total of 7,558 persons were officially registered by the government as stateless, according to UNHCR. Most individuals residing in the country with undetermined nationality, with de facto statelessness, or at heightened risk of statelessness, were those who had no identity documents, had invalid identity documents from a neighboring CIS country, or were holders of Soviet-era passports. These individuals typically resided in remote areas without obtaining official documentation.

The law allows the government to deprive individuals of citizenship if convicted of a range of grave terrorism and extremism-related crimes, including for “harming the interest of the state.” According to UNHCR and the government, no one had been deprived of citizenship under this law. According to UNHCR, the law provides a range of rights to persons recognized by the government as stateless. The legal status of officially registered stateless persons was documented, and they were considered as having permanent residency, which was granted for 10 years in the form of a stateless person certificate. According to the law, after five years of residence in the country, stateless persons are eligible to apply for citizenship. Children born in the country to officially recognized stateless persons who have a permanent place of residence are recognized as nationals.

A separate legal procedure for citizenship exists for ethnic Kazakhs; those with immediate relatives in the country; and citizens of Ukraine, Belarus, Russia, and Kyrgyzstan, with which the country has agreements. The law gives the government six months to consider an application for citizenship. Some applicants complained that, due to the lengthy bureaucratic process, obtaining citizenship often took years.

In 2019, the government established procedures to allow children of parents without identity documents to receive birth certificates. Since that time, more than 1,500 children were registered under these provisions. UNHCR reported that some children born to undocumented parents were not issued medical birth certificates in full compliance with these provisions, possibly because administrators were not aware of the new procedures. In addition, the new procedures did not regulate the birth registration of children born to undocumented parents outside a medical institution, putting them at risk of statelessness. UNICEF reported that some children who were born or entered the country before these procedures were established also remained undocumented, particularly in rural areas. Lack of documentation hindered the children's access to education, free health care, and freedom of movement.

Persons whose citizenship applications are rejected or whose status as stateless persons has been revoked may appeal the decision, but such appeals involved a lengthy process.

Officially recognized stateless persons have access to free medical assistance on the level provided to other foreigners, but it is limited to emergency medical care and to treatment of 21 contagious diseases on a list approved by the Ministry of Health Care and Social Development. Officially recognized stateless persons have a right to employment, although not with the government. They may face problems when negotiating labor contracts, since potential employers may not understand or be aware of this legal right.

UNHCR reported that stateless persons without identity documents may not legally work, which led to the growth of illegal labor, corruption, and abuse of authority among employers. Children accompanying stateless parents were also considered stateless.

### **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage, but the government severely limited exercise of this right.

The constitution concentrates power in the presidency. The president appoints and dismisses most high-level government officials, including the prime minister, cabinet, prosecutor general, KNB chief, Supreme Court and lower-level judges, and regional governors. The law requires most of these appointments to be made in consultation with the chairman of the Security Council. Since January 5, the president also served as chairman of the Security Council.

The *Mazhilis* (the lower house of parliament) must confirm the president's choice of prime minister, and the Senate must confirm the president's choices of prosecutor general, KNB chief, Supreme Court judges, and National Bank head. The Mazhilis and the Senate always confirmed presidential nominations. Modifying or amending the constitution effectively requires the president's consent. The June 5 constitutional referendum occurred in accordance with a presidential decree signed on May 5.

## **Elections and Political Participation**

**Recent Elections:** On November 20, the country held early presidential elections. According to official data, President Tokayev received 81 percent of the popular vote with 69 percent nationwide turnout, while the five other contenders each received between 2 and 4 percent of the vote. An OSCE observation mission reported the election took place in a political environment lacking competitiveness, with overly restrictive eligibility requirements, no meaningful challenges from opposition candidates, and procedures in place that prevented independent candidates from running. The observation mission reported voting procedures were largely followed but procedural errors and omissions during counting and tabulation undermined transparency, while restrictive legal frameworks and intimidation and attacks against journalists resulted in self-censorship and lack of scrutiny. Observers reported increased police surveillance, harassment, and detentions of known activists and political opponents prior to and on election day. Several independent election monitors reported they were forced to leave polling places, in violation of their rights as observers. Independent election monitors were able to publish their findings. No reports were received of restrictions on voter registration.

In January 2021, the country held national elections for the 107-seat Mazhilis.

Five of the country's six officially registered political parties participated in the elections. The ruling Nur Otan Party won a reported 71 percent of the vote and received 76 seats in the Mazhilis, the Ak Zhol Party won 10.95 percent and received 12 seats, and the People's Party won 9.1 percent and received 10 seats. Political parties Auyl, with 5 percent of votes, and Adal, with 3.57 percent, did not surpass the 7 percent threshold for proportional representation in the Mazhilis and so received no seats. Independent observers criticized the elections for numerous irregularities and restrictions. According to the OSCE observation mission's report, the parliamentary elections lacked competition and transparency, and voters had limited opportunity to make an informed choice.

In 2020, the country held Senate elections, following the legal requirement that 17 of 49 senators rotate every three years. Senators were selected by members of *maslikhats* (local representative bodies) acting as electors to represent each administrative region and the cities of national significance. Four incumbent senators were re-elected. Most newly elected senators were affiliated with the local representative bodies that elected them.

Laws restrict public opinion surveys ahead of elections by requiring registration, five years of experience, and notification to the Central Election Commission (CEC). Violation of the law leads to moderate fines for individuals or organizations. The law prohibits publishing, within five days prior to elections, election forecasts and other research related to elections, or support for particular candidates or political parties.

**Political Parties and Political Participation:** Several groups tried to register as political parties but were rejected by the government. Various organizations nominated six individuals, including the president, to be candidates in the November 20 snap presidential elections. To qualify as a presidential candidate, individuals must be at least 40 years of age, have a higher education, have lived in the country for the past 15 years, have at least five years of experience working in public service or elected office, be fluent in Kazakh, and collect more than 118,000 signatures of support.

All three parties in parliament and a group of organizations including the National Volunteer Network, the Civil Alliance of Kazakhstan, the Qazaqstan Team Youth

Association, the Organization of Veterans, and the Kazakhstan Union of Athletes nominated the president. Other candidates that successfully registered included Zhiguli Dairabayev, the chairman of the Associations of Farmers of Kazakhstan, nominated by the Auyl (Village) Party; Nurlan Auesbayev, nominated by the National Social Democratic Party; Saltanat Tursynbekova, nominated by the NGO Kazakh Mothers Are the Path to Tradition; Meiram Kazhyken, nominated by the Atameken Trade Union; and Karaket Abden, nominated by the National Alliance of Professional Social Workers. Six other candidates' registrations were rejected by the Central Election Commission, including the registration from unregistered El Tiregi political party leader Nurzhan Altayev, who had unsuccessfully attempted several times to register El Tiregi.

**Participation of Women and Members of Minority Groups:** No law limits participation of women or members of minority groups, and they did participate. Traditional attitudes sometimes hindered women from holding high office or playing active roles in political life.

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

There were numerous reports of government corruption during the year. The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively. Although the government took some steps to prosecute officials who committed abuses, impunity existed, especially where corruption was involved or there were personal relationships with government officials.

**Corruption:** Corruption was widespread in the executive branch, law enforcement agencies, local government administrations, the education system, and the judiciary, according to human rights NGOs.

The Ministry of Internal Affairs, the Agency on Combatting Corruption, the KNB, and the economic investigations service of the Finance Ministry were responsible for combating corruption. The KNB investigated corruption crimes committed by officers of the security services, the anticorruption bureau, and the military.

The Agency for Combatting Corruption reported that from January to March, it registered and investigated 725 corruption cases; 241 officials were convicted. Of all corruption cases, 246 were for taking bribes and 198 for giving bribes. Other reported cases were for abuse of power and fraud. Of those convicted, 42 worked in municipalities and affiliated enterprises, 34 in law enforcement, and 27 in customs.

Following January events, high-profile corruption cases within the country focused primarily on family members and associates of former President Nazarbayev, including Nazarbayev's nephew Kairat Satybaldy. On September 26, Satybaldy received a six-year prison sentence after being found guilty of embezzlement from state-owned companies.

Investigative journalists outside of the country published reports of unexplained wealth belonging to president's family, held in bank accounts and real estate holdings dating back to 1998.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

Several domestic and international human rights groups operated with some freedom to investigate and publish their findings on human rights cases, although some government restrictions existed for human rights NGOs. International and local human rights groups reported the government monitored NGO activities on sensitive topics and practiced harassment, including police visits to and surveillance of NGO offices, personnel, and family members. Government officials often were uncooperative or nonresponsive to questions from NGOs.

Authorities had a mixed approach to relations with NGOs. Some NGOs faced difficulties in registering their organizations, receiving approval for events, and acquiring office space and technical facilities depending on their scope of work and relationship with authorities. On the other hand, government leaders participated and regularly included NGOs in roundtables and other public events on democracy and human rights.



National security laws prohibit foreigners, international organizations, NGOs, and other nonprofit organizations from engaging in political activities. The government prohibited international organizations from funding unregistered entities.

**Government Human Rights Bodies:** The Presidential Commission on Human Rights is a consultative and advisory body that includes top officials and members of the public appointed by the president. The commission reviews and investigates complaints, issues recommendations, and monitors implementation of international human rights conventions. The commission does not have legal authority to remedy human rights abuses or implement its recommendations.

The commissioner on human rights (ombudsman) is recommended by the president and is elected by the Senate for a five-year term. The ombudsman reviews and investigates complaints concerning abuses of human rights by officials and organizations. The ombudsman issues recommendations, publishes reports on human rights, and serves as the chair of the Coordinating Council of the NPM. On December 29, 2021, a new law was signed that granted the ombudsman immunity from criminal and administrative prosecution and prohibited interference with the ombudsperson's legitimate activities. The new law also established a representative of the ombudsperson in all regions of the country. The June 5 referendum further strengthened the protection and mandate of the ombudsperson and established the ombudsperson's right to file appeals with the Constitutional Court on the constitutionality of legal acts that affect the rights and freedoms of citizens.

The ombudsman does not have authority to investigate complaints concerning decisions of the president, heads of government agencies, parliament, cabinet, Constitutional Council, Prosecutor General's Office, CEC, or courts, although the ombudsman may investigate complaints against individuals. The Ombudsman's Office has authority to appeal to the president, cabinet, or parliament to resolve citizens' complaints. The ombudsman cooperated with international human rights organizations and NGOs; met with government officials concerning human rights abuses; visited certain facilities, such as military units and prisons; and publicized the results of investigations. The Ombudsman's Office also published an annual human rights report. During the year the office occasionally briefed media and

issued reports on complaints it had investigated.

Domestic human rights observers stated that the Ombudsman's Office and the human rights commission did not have the authority to stop human rights abuses or punish abusers. Some human rights observers assessed that the ombudsman played a positive role in securing the release of arbitrarily detained persons and preventing the wider use of torture during and after January events. The commission and ombudsman aided citizens with less controversial social problems and matters involving lower-level elements of the bureaucracy.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** The law criminalizes sexual abuse and rape, and imposes penalties up to eight years of imprisonment, or life imprisonment if the crime was committed against a minor. There were reports of police and judicial reluctance to act on reports of rape, particularly in spousal rape cases. According to human rights defenders, fewer than 1 percent of rape complaints made it to court.

NGOs estimated that more than 400 women died annually from spousal violence. Government data reported 48 deaths and 300 injuries from domestic violence in the first 10 months of 2021, a reported increase of approximately one third from prepandemic numbers. UN reporting indicated aggressors were brought to justice in approximately 25 percent of cases. The law specifies various types of domestic violence, such as physical, psychological, sexual, and economic violence. It outlines the responsibilities of local and national governments and NGOs in supporting victims of domestic violence. The law has mechanisms for issuing restraining orders and provides for administrative detention of alleged abusers for 24 hours. The law sets the maximum sentence for conviction of spousal assault and battery at 10 years in prison, the same as for assault. The law permits prohibiting offenders from living with the victim if the offender has alternatives. It allows victims of domestic violence to receive appropriate care regardless of the place of residence. The law replaces financial penalties with administrative arrest if having the perpetrator pay fines damages the victim's interests.

Research conducted by the Ministry of National Economy indicated that most victims of partner abuse never tell anyone of their abuse, due in part to social stigma. Police intervened in family disputes only when they believed the abuse was life threatening. Police often encouraged the two parties to reconcile. NGOs also noted that the lenient penalty for conviction of domestic violence – an administrative offense with a maximum sentence of 15 days' imprisonment – did not deter even previously convicted offenders.

The government maintained domestic violence shelters in each region. According to the Ministry of Internal Affairs, there were 49 crisis centers, 39 of which had shelters. The ministry instituted special inspectors for gender-based violence and reported it had 250 female sex crime inspectors on staff.

Activists criticized the government for failing to ensure that all persons in vulnerable situations were protected against domestic violence. Even when victims reported violence, activists stated police were reluctant to act. Police sometimes did not issue restraining orders to assailants and tried to dissuade the victim from filing a complaint, creating an environment of impunity for aggressors. According to the Ministry of Internal Affairs, reforms included a formal training for police and judges on domestic violence and a repeat-offender plan that increased the use of restraining orders and expanded penalties to include imprisonment.

**Other Forms of Gender-based Violence:** Although prohibited by law, the practice of kidnapping women and girls for forced marriage continued in some remote areas. The law prescribes a prison sentence of seven to 12 years for kidnapping. A person who voluntarily releases an abductee is absolved of criminal responsibility; consequently, a typical bride-kidnapper is not necessarily held criminally responsible. Law enforcement agencies often advised abductees to resolve their situations themselves. According to civil society organizations, making a complaint to police could be a very complex process and often subjected families and victims to humiliation.

**Sexual Harassment:** Sexual harassment remained a problem. No law protects women from sexual harassment, and only the use of force or taking advantage of a victim's physical helplessness during sexual assault carries criminal liability.

There were no reports of any prosecutions. Victims of sexual harassment in the workplace were hesitant to file complaints due to shame or fear of job loss.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Women were able to access emergency contraception as part of clinical rape management, but most women privately procured such treatment at their own expense to avoid state-run clinics' bureaucratic examination requirements. Access to government-provided sexual and reproductive health services was available for sexual violence survivors, but many victims were reportedly reluctant to use them, possibly also to avoid bureaucratic examination requirements at state-run clinics.

Practitioners noted women in rural areas or women whose communities adhered to traditional ways of life were likely to be less informed about or exercise personal choice in selection and use of contraception methods. Practitioners also reported many types of contraceptives were prohibitively expensive for some segments of the population.

**Discrimination:** The constitution and law provide for equal rights and freedoms for men and women. The law prohibits discrimination based on gender, but discrimination remained a problem. Significant salary gaps between men and women remained. 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 opportunities for education and employment, limited access to information, and discrimination in land rights and property rights. In some of the communities, cultural and religious norms may dictate the social roles of women and girls and the types of interactions permissible between males and females, thereby limiting women's employment opportunities.

Girls who wore headscarves based on their own or their families' religious beliefs were sometimes barred from receiving education in public schools and were not allowed to engage in homeschooling as an alternative. For more information on religious discrimination, see the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

Discrimination against specific racial or ethnic groups, individuals with

disabilities, LGBTQI+ persons, migrants, persons with refuges or asylum status, etc., including women who belong to these groups, is covered in sections of this report related to those groups.

## **Systemic Racial or Ethnic Violence and Discrimination**

The constitution and law prohibit discrimination based on race or ethnic origin and media content that promotes interethnic discord. The Assembly of the People of Kazakhstan is an advisory body to the president tasked to ensure the strict observance of the rights and freedoms of citizens irrespective of their ethnic affiliation. Following the June 5 constitutional referendum, five of the Senate's fifty seats are reserved for members of the Assembly. Ethnic minorities, however, faced problems in various areas of life. Only two of the 23 cabinet members were not ethnic Kazakhs. Ethnic minorities were underrepresented in other government bodies as well. Some human rights observers stated that ethnic minorities were not incorporated into the country's social and political mechanisms and their role was shrinking.

During the year, there were no reported cases of community-level interethnic violence, which occurred occasionally in previous years. In 2021, two persons were injured, and several private houses, businesses, and vehicles were damaged in a brawl between ethnic Kazakhs and Uzbeks in a small town near the Chinese border. In 2020, riots between ethnic Kazakhs and ethnic Dungans led to 11 deaths and the conviction of 50 individuals, both ethnic Kazakhs and ethnic Dungans, for various related crimes.

In October authorities declared their intent to place Uralsk resident Maksim Yakovchenko on international wanted lists after he failed to appear in court on charges of separatism and inciting ethnic hatred. Yakovchenko had written a social media post calling for several regions to be given to Russia and apparently referring to ethnic Kazakh officials as "monkeys." Yakovchenko reportedly sold his house and moved to Russia.

## **Children**

**Birth Registration:** Citizenship is derived by birth within the country's territory

and from one's parents. The government registers all births upon receipt of the proper documentation, which may come from the parents, other interested persons, or the medical facility where the birth occurred. Since 2019 most children born to undocumented mothers without legal status or identification received birth certificates. UNHCR reported that occasionally these procedures were not followed, possibly due to hospital staff's lack of awareness, and no clear procedures existed for providing birth certificates to such children if they were born outside medical facilities.

**Education:** Some children from migrant families, particularly undocumented migrants and stateless persons, could not enroll in school due to their lack of legal status.

**Child Abuse:** Child abuse was a serious problem. According to UNICEF, corporal punishment was permitted and practiced in residential care institutions and continued to be practiced in schools despite being prohibited. According to a survey, 40 percent of children in institutions and 18 percent of children attending regular schools stated they were subjected to physical abuse by adults. Children sometimes faced abusive, cruel, and disparaging treatment in families, schools (particularly special schools for delinquent children), and boarding schools. UNICEF reported that free legal aid available to children accused of crimes was of low quality and that free legal aid was not available to child victims of crimes. The law provides for eight to 15 years in prison for individuals convicted of forcing boys or girls younger than age 18 to have sexual intercourse.

**Child, Early, and Forced Marriage:** The legal minimum age for marriage is 18, but it may be reduced to 16 in the case of pregnancy or mutual agreement, including by parents or legal guardians. According to the UN Population Fund, approximately 3,000 early and forced marriages occurred annually. Many couples first married in mosques and then registered officially when the bride reached the legal age. The government did not take action to address the problem.

**Sexual Exploitation of Children:** The law does not specify the minimum age for consensual sex. UNICEF noted that 43 percent of crimes against children reported by the government in 2021 were of a sexual nature. Such crimes could include sexual abuse of children, child prostitution, child pornography, child trafficking,

bride kidnapping, and forced marriage of girls.

The law criminalizes the production and distribution of child pornography and provides administrative penalties to cover the sale of pornographic materials to minors. The country also retains administrative penalties for child pornography in addition to the criminal penalties. Perpetrators convicted of sexual offenses against minors received a lifetime ban on working with children. In the spring, the government opened pilot centers for provision of aid to female and minor victims of sexual abuse. The government also reported that it had established new units to investigate crimes involving sexual abuse of children, including 280 female investigators.

**Displaced Children:** Human rights observers noted that street children were not common. Street children who were identified were referred to centers for delinquent children or support centers for children in difficult life situations or were returned to their families. According to the 2021 *Report of the Committee for Protection of Children Rights of the Ministry of Education and Science*, there were 12 “adaptation” centers for delinquent children and 18 support centers for children in difficult life situations. As of 2021 1,645 children were reported to be living in the adaptation centers; no official data was reported on the number of children in support centers.

**Institutionalized Children:** Incidents of child abuse in state-run institutions such as orphanages, boarding schools, and detention facilities for delinquent children were “not rare,” according to government sources. NGOs stated one-half the children in orphanages and other institutions suffered from abuse by teachers or other children. Government policy required children who lost parental care to go into institutions at least temporarily, even when close relatives were willing to provide care. Many children up to age 3 who lacked parental care were placed in institutional care rather than foster families.

The government continued its policy of closing orphanages and referring children to foster families and other forms of home care. According to the Ministry of Education’s Committee for Protection of Children Rights, the number of orphanages decreased from 119 in 2018 to 89 by the end of 2021. The number of orphans in orphanages decreased from 6,223 in 2017 to 4,076 by the end of 2021,

with 18,616 children living in foster care or under guardianship of families. Activists criticized the government's policy as lacking a clear plan for children's deinstitutionalization, properly trained staff, infrastructure, and funds, with authorities focused on the closure of orphanages instead of working with families to prevent the placement of children in institutions. Activists also stated critical decisions on the removal of a child from its family and placement in an institution were based on police reports, not social workers' reports.

## **Antisemitism**

Leaders of the Jewish community estimated that the country's Jewish population was 20,000 persons. They reported no incidents of antisemitism by the government or in society.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics**

**Criminalization:** There are no laws criminalizing same-sex activity or conduct.

**Violence against LGBTQI+ Persons:** There were reports of anti-LGBTQI+ violence, but there were no government statistics on discrimination or violence based on sexual orientation or gender identity. The most frequent forms of abuse were verbal insults, harassment, interference in private life, and physical assaults. Activists reported that beating, extortion, and harassment of LGBTQI+ individuals were not uncommon, although typically unreported.

Prosecutions of anti-LGBTQI+ violence were rare. NGOs reported members of the LGBTQI+ community seldom turned to law enforcement agencies to report violence against them because they feared hostility, ridicule, and further violence. They were reluctant to use mechanisms such as the national commissioner for human rights to seek remedies for harms inflicted because they did not trust these



mechanisms to safeguard their identities, especially regarding employment.

Transgender persons were vulnerable to abuse during security checks by police patrols due to their lack of appropriate identification. Transgender persons were among the first whom employers dismissed from jobs because they often worked without official contracts. Due to their lack of appropriate documentation and contracts, transgender persons were often not eligible for relief programs offered by the government to support needy individuals.

**Discrimination:** The law does not specifically prohibit discrimination by state and nonstate actors based on sexual orientation, gender identity or expression, or sex characteristics and does not recognize LGBTQI+ individuals, couples, and their families. Individuals reported discrimination existed against persons who publicly acknowledge their LGTBQI+ identities but was underreported due to traditional societal attitudes and lack of appropriate government response. There was no information about specific instances of discrimination and violence targeting lesbian and bisexual women.

**Availability of Legal Gender Recognition:** Although a process for gender reassignment exists, the law requires a transgender person to fulfill psychiatric and physical requirements (such as undergoing gender reassignment surgery) before being able to receive identity documents that align with the person's outward gender. Many individuals lived with nonconforming documents for years and reported problems with securing employment, housing, and health care. The law includes behavioral disorders as reasons for denial of gender reassignment, which expanded the categories of persons who could be denied such treatments.

**Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals:** Activists reported that some families and private religious practitioners engaged in prayers and religious ceremonies intended to alter the sexual orientation or gender identities of LGBTQI+ individuals, who could come under social or family pressure to participate.

**Restrictions of Freedom of Expression, Association, or Peaceful Assembly:** Activists reported that obtaining permission to hold public assemblies in support of LGBTQI+ rights was difficult but sometimes possible in Almaty, and not possible

in most other locations. NGOs engaged in LGBTQI+ activism were unable to register as such and had to register as specializing in other areas of human rights.

## **Persons with Disabilities**

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 government services, but significant discrimination occurred. Human rights defenders were concerned regarding gaps in the country's legislation. The law does not give a clear definition of discrimination, making it impossible to protect the rights of persons with disabilities, particularly in instances of indirect discrimination. The government took steps to remedy some barriers to persons with disabilities, including providing access to information. NGOs stated implementation of the law on disability was poor. NGOs also noted ineffective implementation of some government disability programs, sometimes marred by corruption and a lack of trained staff.

Government programs and legal reforms intended to improve support to persons with disabilities and special needs included improving barrierless building access and subsidized transportation, creating employment opportunities and new care centers for persons with disabilities, and opening 14 regional resource centers for children with specific needs.

Employment for persons with disabilities remained a problem. The law requires companies to set aside 3 percent of their jobs for persons with disabilities; nevertheless, civil society reported that persons with disabilities faced difficulty integrating into society and finding employment.

On January 3, the government adopted a new law providing financial assistance to employers who develop jobs for persons with disabilities.

Human rights observers noted multiple types of discrimination against persons with disabilities. Doctors discouraged women who use wheelchairs from having children. The management of prisoners with disabilities in detention facilities remained a serious problem.

There are no regulations regarding the rights of patients in mental hospitals.

Human rights observers stated this situation led to widespread abuse of patients' rights. NGOs reported that patients often experienced poor conditions and a complete lack of privacy. Citizens with mental disabilities may be committed to state-run institutions without their consent or judicial review, and the government committed persons younger than age 18 with the permission of their families.

Members of the NPM may visit mental hospitals to monitor conditions. According to an NPM report, most mental hospitals required extensive renovations. Other observed problems included a shortage of personnel, unsatisfactory sanitary conditions, poor food supply, overcrowding, and lack of light and fresh air.

Education authorities reported that 55 percent of schools were equipped and staffed for inclusive education of children with specific needs but acknowledged more specialists in inclusive education were needed. Observers, including from parliament, alleged that the actual number of such schools was in fact much lower and was below 10 percent in some categories of accessibility. There were no statistics on the number of children with disabilities who attended preschool institutions. Of children with specific needs between ages seven and 18, 20 percent attended regular schools. The majority attended special education classes or were homeschooled. Some parents refused to send children with disabilities to school and viewed their education as unnecessary. Some children with Down syndrome were able to attend privately funded specialized education centers, but the centers had limited capacity, which resulted in waiting periods of up to a year and one-half.

## **Other Societal Violence or Discrimination**

The law prohibits discrimination against persons with HIV and AIDS, but stigma remained and resulted in societal discrimination that continued to affect access to information, services, treatment, and care. The National Center for AIDS provided free diagnosis and treatment to all citizens.

## **Section 7. Worker Rights**

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

The law provides for workers' rights to form and join unions, but it imposes

restrictions, such as a requirement that a registered sectoral or national union be represented in at least half of the country's regions. A presidential decree, effective from June 8, created three new regions, in addition to the existing 14 regions and three cities at the national level, raising the number of regions in which representative branches are required for registration of a labor union.

The government exercised considerable influence on organized labor and favored state-affiliated unions over independent ones. The Federation of Trade Unions of the Republic of Kazakhstan (FTUK) is the largest national trade union association, with approximately 90 percent of union members on its rolls. In 2018, the International Trade Union Confederation suspended the membership of the FTUK due to a lack of independence.

Effective April 29, 2021, the Specialized Interdistrict Economic Court in Shymkent suspended the independent Fuel and Energy Workers Union for six months after finding the union's original registration was "improper," as it did not have representation in at least half of the country's regions. The union remained unregistered as of September 26. The geographical representation requirement often prevented the registration and operation of independent sectoral unions, especially in geographically concentrated sectors.

The law provides for the right of workers to bargain collectively. The law prohibits antiunion discrimination, and a court may order reinstatement of a worker fired for union activity. Penalties for breaking these provisions include fines and imprisonment of up to 75 days, commensurate with penalties of other laws involving denials of civil rights. Penalties were rarely applied against violators of the law. In February, the city court of Kyzylorda Region ruled in favor of 12 fired workers who actively participated in organizing a labor union at KazPetroGroup LLP and ordered the company to reinstate the workers and compensate their salaries for the period following the forced layoff.

The law sharply limits workers' ability to strike, and most strikes were technically not considered in compliance with the law. By law there are a variety of circumstances in which strikes are illegal. Workers may not strike unless a labor dispute is unresolvable through compulsory arbitration procedures. Decisions to strike must be taken in a meeting where at least half of an enterprise's workers are

present. A written notice announcing a strike must be submitted to the employer at least five days in advance. It takes 15 days to initiate a strike in accordance with the law, during which time employers may pressure or even fire activists. A blanket legal restriction bars certain occupations from conducting a strike. Military and other security service members, emergency, ambulance, fire, and rescue crews, as well as those who operate “dangerous” production facilities are forbidden to strike. Workers employed in railways, transport, communications, civil aviation, health care, and public utilities may strike if they maintain minimum services to the public. Employers may take disciplinary actions against striking workers after a court declares a strike illegal. The government may file criminal charges against labor organizers for calls to participate in strikes declared illegal by the court. Civil society representatives reported that most strikes were spontaneous because of workers’ unawareness of legal requirements, the perception that established unions did not effectively represent their interests, and the lack of alternative means to address workplace grievances.

Disagreements between unions and their employers must be presented to a tripartite commission for arbitration if the disagreement cannot be settled between the employer and the union. The commission is composed of representatives of the government, labor unions, and employer associations. State-affiliated and independent labor unions participate in tripartite commissions. The tripartite commission is responsible for developing and signing annual collective agreements governing most aspects of labor relations.

In May the International Labor Organization (ILO), based on the visit of a Direct Contact Mission (DCM), reported that the country failed in legislation and in practice to meet ILO standards for the registration of trade unions. The DCM further reported that legal availability of punishments, which restrict the right of those convicted to hold trade union offices or participate in trade union activities, represented a restriction on freedom of association. The DCM also found that requirements for sectoral trade unions to have affiliated organizations or structures in more than 50 percent of the regions, cities of regional importance, and capital was too high, especially for industries such as the oil sector that were present only in a few regions. The DCM noted that all trade union representatives it had met with indicated that the organization of legal strikes was close to impossible in

practice.

In May 2021, the tripartite commission signed the general agreement for labor relations for 2021-23. In July 2021, the Ministry of Labor and Social Protection established a working group to ratify the ILO's Minimum Wage Fixing Convention, as recommended in the agreement.

Foreign workers have the right to join unions, but the law prohibits the operation of foreign unions and the financing of unions by foreign entities such as foreign citizens, governments, and international organizations. Irregular migrants and self-employed individuals residing in the country were not exempt from the laws regulating union participation.

Most labor strikes during the year took place in the oil services sector in Mangystau and Atyrau Regions. Employees expressed support for the initially peaceful January protests against a fuel price increase and on other socioeconomic grievances, and called for the nationalization of oil services companies, better employment with contracting companies, higher wages, more social benefits, and improved labor conditions. The strikes continued throughout the year. Employees in railway, communication, utilities, and mining sectors initiated a few strikes in six other regions. Most strikes ended with courts ruling them illegal and employers agreeing to a partial increase in wages and benefits.

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

The law prohibits all forms of forced or compulsory labor, except when it is a consequence of a court sentence or a condition of a state of emergency or martial law. The government generally enforced these laws. Penalties were commensurate with those for analogous crimes, such as kidnapping.

The law provides for the punishment of convicted labor traffickers and those who facilitate forced exploitation and trafficking, including labor recruiters who hire workers through deliberately fraudulent or deceptive offers with the intent to subject workers to forced labor, and employers or labor agents who confiscate passports or travel documents to keep workers in a state of involuntary servitude. The Ministry of Labor and Social Protection is responsible for regulating migrant labor. The ministry verifies employer compliance by conducting checks of

employers to reveal labor law violations, including provisions related to exploitation of foreign workers. Labor inspectors report suspected trafficking or forced labor to the Ministry of Internal Affairs or the local police. The Ministry of Internal Affairs is responsible for formally identifying victims of forced labor and sexual exploitation and initiating criminal proceedings against perpetrators.

In 2019, the president signed a revised moratorium on government inspections for 2020-23 that reduced previous restrictions on labor inspectors. The moratorium allows inspections of medium and large businesses. In addition, inspectors' job descriptions include the responsibility for reporting potential forced labor cases to law enforcement agencies. Indicators for the identification of forced labor are part of their inspectors' checklists.

The Ministry of Internal Affairs is responsible for identifying victims of forced labor and initiating criminal proceedings. Compared with previous years, the ministry generally enforced laws to identify foreign and domestic victims of forced labor. According to the ministry, one person was convicted during the year to 4.6 years in prison for labor exploitation of a disabled male victim in the farm during the past 12 years. Authorities identified at least five victims of forced labor. In 2021, authorities identified four victims of forced labor, including three citizens and one from Uzbekistan. Workers from rural areas may be lured through fraudulent offers of employment and then exploited in forced labor in agriculture, construction, and other sectors. Foreign national victims of forced labor may go unidentified in farms located in remote rural areas, such as in Karaganda. An increasing number of Turkmenistani citizens entering the country without proper documentation were vulnerable to forced labor on farms. The government lacked current, comprehensive, and detailed research on child labor, including in cotton production. Migrant workers were considered most at risk for forced or compulsory labor. Most migrant workers came from Uzbekistan, with lesser numbers from Tajikistan and Kyrgyzstan. Migrant workers worked primarily in agriculture and construction. Some migrant workers suffered difficult working conditions, with long hours and withheld wages.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings/> and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods/>.

### **d. Discrimination with Respect to Employment and Occupation**

Laws and regulations prohibit discrimination with respect to employment and occupation based on gender, age, disability, race, ethnicity, language, place of residence, religion, political opinion, affiliation with tribe or class, origin, public associations, or property, social, or official status. The law does not specifically prohibit discrimination with respect to sexual orientation, gender identity, HIV-positive status, or having other communicable diseases. Transgender individuals are effectively barred from working in law enforcement or serving in the military. The law prohibits persons with specific, listed medical conditions or diseases from working in law enforcement agencies or serving in the military. Officially recognized stateless persons have the right to work, but not in the public sector. Refugees faced some restrictions on their right to work, including prohibitions on starting their own businesses (see sections 2.e. and 2.g.). Most discrimination violations are an administrative offense punishable by a fine that is not commensurate with those for similar abuses. Cases such as illegal termination of labor contracts due to pregnancy, disability, or minority status are considered criminal offenses and are punishable by penalties that are commensurate with penalties related to civil rights. The government did not effectively enforce the law and regulations on discrimination or consistently apply relevant penalties. NGOs reported no government body assumed responsibility for implementing antidiscrimination legislation. Penalties were never applied against violators.

Discrimination occurred with respect to employment and occupation for persons with disabilities, transgender persons, orphans, and former convicts. Transgender persons experienced workplace discrimination and were repeatedly fired for their gender identity. Disability NGOs reported that obtaining employment was difficult for persons with disabilities.



The law does not require equal pay for equal work for women and men. In 2021, the average monthly salary of women was 21.7 percent less than that of men. According to the national statistics bureau, the wage gap between men and women was 25 percent in 2020. Victims of sexual harassment in the workplace were hesitant to file complaints due to shame or fear of job loss. Laws preventing termination of contracts based on pregnancy were reportedly enforced but did not prevent hiring discrimination because of pregnancy. In October 2021, the president signed into law amendments that removed prohibitions on women from performing work in difficult, harmful, and hazardous working conditions. The list previously had prohibited women from working in 213 professions and jobs.

### **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The national monthly minimum wage was above the poverty line. Every region estimated its own poverty line. The law stipulates the normal workweek should not exceed 40 hours. It limits heavy manual labor or hazardous work to 36 hours per week. The law limits overtime to two hours per day, or one hour per day for heavy manual labor, and requires overtime to be paid at least at a 50 percent premium. The law prohibits compulsory overtime and any 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. By law employees are entitled to 24 days of paid annual leave per year. In general, the government enforced these laws, and violations could be brought to court. According to labor inspectors, most violations centered on wage arrears and delays incurred by individual entrepreneurs and small and medium businesses.

**Occupational Safety and Health:** The government set occupational safety and health (OSH) standards that were appropriate to the main industries. The law requires employers to suspend work that could endanger the life or health of workers and to warn workers of any harmful or dangerous work conditions or the possibility of any occupational disease. Government experts inspected OSH conditions. The law specifically grants workers the right to remove themselves from situations that endanger their health or safety without suffering adverse employment action. In June 2021, the government approved the *Occupational Health and Safety Action Plan*, effective until 2025. The plan aims to achieve a 10

percent reduction of industrial injuries and a 20 percent decrease in the number of workers laboring in hazardous conditions. In January, the national tripartite commission for social partnership and regulation of social and labor issues approved the National Concept of Safe Labor until 2030, which seeks to reduce the number of workers laboring in hazardous environments and decrease the number of occupational accidents as well as reduce the frequency of labor safety violations.

The Ministry of Labor and Social Protection reported approximately 1,465 occupational injuries, including 200 fatalities, in 2021. Of the injuries, 18.8 percent occurred in the mining sector and 11.3 percent in the construction sector. In April, the Prosecutor General's Office reported on the results of inspections of 49 large companies, stating that violations centered on nonpayment of allowances for work in hazardous environments, lack of protective gear and employer-provided meals, and noncompliance with training, insurance, and medical checkup requirements. Many companies reportedly also concealed instances of occupational injuries and fatalities.

In 2021, the national statistics bureau identified 1.6 million workers who labored in hazardous conditions.

The labor code gives employers the right to place blame on an employee for an occupational accident. The employer's record of the accident then directly affects the size of compensation for injury. Employees of companies with trade unions tended to receive blame for no more than 10 percent of accidents because trade unions protected the interests of workers, whereas companies without trade unions tended to place more blame on employees. On June 13, the Karaganda Regional Court upheld the February 25 decision of a lower-tier court to mandate the Temirtau City Office of Employment and Social Programs resume special medical aid and other means for recreation and rehabilitation to a former worker who was injured at work and became disabled. On June 25, the labor commission found Kurylysmet LLP, a daughter company of Arcelor Mittal Temirtau (AMT), guilty of a June 10 accident that killed four workers and injured one. The commission concluded that AMT and Kurylysmet grossly violated safety regulations. On June 16, a worker of AB Construction LLP, another contractor of AMT, died during maintenance work in the boiler house of the AMT coal-fired power plant. On April 3, a worker of UgleSpetsMontazh (USM), another AMT contractor, suffered

fatal injuries after an occupational accident in the AMT's Kostenko mine on April 2. A May inspection of AMT facilities by the Ministry of Emergency Situations revealed 471 industrial safety violations, resulting in administrative fines. The ministry also appealed to the special interdistrict economic court of Karaganda Region with 21 distinct requests to suspend AMT operations due to risks to life and health of workers.

**Wage, Hour, and OSH Enforcement:** The Ministry of Labor and Social Protection enforced standards for minimum wages, work hour restrictions, overtime, and OSH. By law labor inspectors have the right to conduct routine and spontaneous inspections of workplaces to detect violations. Both types of inspections take place only after written notification, except in cases where the inspection is conducted based on a request from law enforcement authorities or a complaint related to certain extreme health and safety hazards.

In August, the Ministry of Labor and Social Protection reported more than 7,000 inspections conducted in 2021 and the first half of 2022. The law provides for so-called employer's declarations. Under this system, labor inspectors may extend a certificate of trust to enterprises that complied with labor legislation requirements. Certified enterprises are exempt from labor inspections for three years. In the opinion of labor rights activists, the practice may worsen labor conditions and conceal problems. In December 2021, the Ministry of Labor and Social Protection and Center for Development of Labor Resources launched the Online Labor Consultant service to enable employers to check their compliance with labor safety regulations, receive clarifications on requirements of labor inspectors, learn about the specific violations of the labor code, and receive recommendations on their remedy. The online service is anonymous for employers and does not require a preliminary registration.

By law any enterprise or company may form a production council to address labor safety problems between representatives of an employer and employees. These councils are eligible to assign technical labor inspectors to conduct their own inspections of the employees' work conditions, and their resolutions are mandatory for both employers and employees. In January, there were more than 18,000 production councils and 17,595 volunteer labor inspectors, according to the government.

The government did not consistently enforce the law. Violations of law are considered administrative offenses, and penalties for violations of minimum wage and overtime law were not commensurate with crimes such as fraud. For example, a minimal punishment for conviction of fraud is a substantial fine or imprisonment for up to two years, while violations of wage or overtime payment provisions result in fines. Penalties for violations of OSH law were also not commensurate with crimes such as negligence. There were reports some employers ignored OSH regulations.

**Informal Sector:** The government reported in 2021 that 1.2 million citizens of the country's workforce of 8.8 million persons worked in the informal economy. Government statistics defined the informally employed as those who belong to one of six categories: individuals who work in organizations without state registration; self-employed individuals; employees of informal economy organizations; members of informal production cooperatives; unpaid employees of family businesses; individuals employed by farms; other individuals, who either have no written employment agreements, or have no social insurance, or are not entitled to paid sick leave, or are not entitled to paid annual leave. In 2020, informal workers were concentrated in agriculture, retail trade, transport services, warehousing, and construction. Informal sector workers are not covered by wage, hour, OSH, and other labor laws and inspections.